

Public Disclosure Authorized

CONFORMED COPY

CREDIT NUMBER 3790 BD

Development Credit Agreement

(Telecommunications Technical Assistance Project)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated June 30, 2003

Public Disclosure Authorized

CREDIT NUMBER 3790 BD

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated June 30, 2003, between PEOPLE'S REPUBLIC OF BANGLADESH (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Association to assist in the financing of the Project;

(B) Part B of the Project will be carried out by the Bangladesh Telecommunication Regulatory Commission (BTRC) with the Borrower's assistance and, as part of such assistance, the Borrower will make the proceeds of the credit provided for in Article II of this Agreement (the Credit) available to BTRC, as set forth in this Agreement; and

WHEREAS the Association has agreed, on the basis, *inter alia*, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement and in the agreement of even date herewith between the Association and BTRC (the Project Agreement);

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985 (as amended through October 6, 1999), (the General Conditions), constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Bangladesh Telecommunication Act" means the Bangladesh Telecommunication Act of April 2001 (Act No. XVIII of 2001);

(b) "BTRC" means the Bangladesh Telecommunication Regulatory Commission, established under Section 6 of the Bangladesh Telecommunication Act;

(c) “BTTB” means the Bangladesh Telegraph and Telephone Board, constituted under Section 3 of the Bangladesh Telegraph and Telephone Board Ordinance of 1979 (Ordinance No. XII of 1979) (the Ordinance);

(d) “Financial Monitoring Report” or “FMR” means each report prepared in accordance with Section 4.02 of this Agreement;

(e) “Fiscal Year” means the fiscal year of the Borrower commencing on July 1 and ending on June 30 of the following year;

(f) “MOPT” means the Borrower’s Ministry of Post and Telecommunications;

(g) “Project Agreement” means the agreement between the Association and BTRC of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement;

(h) “Project Management Consultants” or “PMC” means the team of consultants to be appointed pursuant to Section 6.01(b) of this Agreement for the purpose of providing project management, procurement, financial management and implementation support to MOPT and BTRC;

(i) “Special Accounts” means the Convertible Taka Special Accounts referred to in Section 2.02(b) of this Agreement, and described in the Circular dated September 2, 1991, as revised on May 4, 1992 and December 24, 1992 of the Finance Division of the Borrower’s Ministry of Finance entitled “Procedures for Operation of Convertible Taka Special Account (CONTASA) of IDA Aided Development Projects Under Government-Departments, Autonomous and Semi-Autonomous Bodies,” as such Circular may be amended from time to time in agreement with the Association;

(j) “Subsidiary Grant Agreement” means the agreement to be entered into between the Borrower and BTRC pursuant to Section 3.01(c) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the Subsidiary Grant Agreement; and

(k) “Taka” means the currency of the Borrower.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to six million seven hundred thousand Special Drawing Rights (SDR 6,700,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit.

(b) The Borrower shall open and maintain in Taka, in a commercial bank acceptable to the Association, and on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure or attachment, the following two separate special deposit accounts: (i) MOPT Special Account for Part A of the Project; and (ii) BTRC Special Account for Part B of the Project. Deposits into, and payments out of, the Special Accounts shall be made in accordance with the provisions of Schedule 5 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2008 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or canceled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on June 1 and December 1 in each year.

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each June 1 and December 1 commencing December 1, 2013, and ending June 1, 2043. Each installment to and including the installment payable on June 1, 2023, shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the repayment of installments under paragraph (a) above by:

- (A) requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid; and
- (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(d) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end: (i) shall carry out Part A of the Project through MOPT with due diligence and efficiency and in conformity with appropriate administrative, engineering, financial and telecommunications practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for Part A of the Project; and (ii) without any limitation or restriction upon any of its other obligations under this Development Credit Agreement, shall cause BTRC to perform in accordance with the provisions of the Project Agreement all the obligations of BTRC therein set forth, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable BTRC to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower and the Association shall otherwise agree, the Borrower shall carry out Part A of the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement.

(c) The Borrower shall make available to BTRC the proceeds of the Credit allocated from time to time to the Categories (1)(b), (2)(b) and (3)(b), under a Subsidiary Grant Agreement to be entered into between the Borrower and BTRC under terms and conditions satisfactory to the Association.

(d) The Borrower shall exercise its rights under the Subsidiary Grant Agreement in such manner as to protect the interests of the Borrower and the Association and to accomplish the purposes of the Credit, and, except as the Association shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the Subsidiary Grant Agreement or any provision thereof.

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods and consultants' services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.03. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, a plan for the future operation of Part A of the Project; and

(b) afford the Association a reasonable opportunity to exchange views with the Borrower on said plan.

Section 3.04. The Borrower and the Association hereby agree that the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of Part B of the Project shall be carried out by BTRC pursuant to the provisions of Section 2.03 of the Project Agreement.

Section 3.05. The Borrower shall, by no later than January 1, 2004, appoint a Project Accountant in MOPT, with terms of reference satisfactory to the Association.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain and cause to be maintained records and accounts, adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of Part A of the Project.

(b) The Borrower shall:

(i) have the records and accounts referred to in paragraph (a) of this Section including those for the Special Accounts for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;

(ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

(iii) furnish to the Association such other information concerning said records and accounts, and the audit thereof, as the Association may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Association's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

Section 4.02. (a) Without limitation upon the provisions of Section 4.01 of this Agreement, the Borrower shall prepare and furnish to the Association quarterly financial monitoring report, in form and substance satisfactory to the Association, which:

- (i) sets forth sources and uses of funds for Part A of the Project, both cumulatively and for the period covered by said report, showing separately expenditures financed out of the proceeds of the Credit during the period covered by said report, and explains variances between the actual and previously forecast uses of such funds;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and previously forecast implementation targets; and
- (iii) sets forth the status of procurement under Part A of the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Association not later than 45 days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each FMR shall be furnished to the Association not

later than 45 days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Remedies of the Association

Section 5.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional events are specified:

(a) BTRC shall have failed to perform any of its obligations under the Project Agreement.

(b) As a result of events which have occurred after the date of this Development Credit Agreement, an extraordinary situation shall have arisen which shall make it improbable that BTRC will be able to perform its obligations under the Project Agreement.

(c) The Bangladesh Telecommunication Act shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of BTRC to perform any of its obligations under the Project Agreement.

Section 5.02. Pursuant to Section 7.01(h) of the General Conditions, the following additional events are specified:

(a) the event specified in paragraph (a) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty (60) days after notice thereof shall have been given by the Association to the Borrower.

(b) The event specified in paragraph (c) of Section 5.01 of this Agreement shall occur.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) the Subsidiary Grant Agreement has been executed on behalf of the Borrower and BTRC;

(b) the Borrower has selected and recruited the PMC, in accordance with the provisions of Section II of Schedule 3 to this Agreement; and

(c) BTRC has selected and recruited a Project Implementation Specialist, in accordance with the provisions of Section II of Schedule 3 to this Agreement.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02(b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association:

(a) the Project Agreement has been duly authorized or ratified by BTRC and is legally binding upon BTRC in accordance with its terms; and

(b) the Subsidiary Grant Agreement has been duly authorized by the Borrower and BTRC and is legally binding upon the Borrower and BTRC in accordance with its terms.

Section 6.03. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VII

Representative of the Borrower; Addresses

Section 7.01. The Secretary, or the Additional Secretary, or any Joint Secretary, or Deputy Secretary or Senior Assistant Secretary or Assistant Secretary or Joint Chief, or Deputy Chief or Senior Assistant Chief or Assistant Chief of the Economic Relations Division of the Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

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

Cable address:

Telex:

Facsimile:

BAHIRSAMPAD
Dhaka

642226 SETU BJ

88028113088

For the Association:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:	Telex:	Facsimile:
INDEVAS Washington, D.C.	248423 (MCI) or 64145 (MCI)	(202) 477-6391

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Dhaka, People's Republic of Bangladesh, as of the day and year first above written.

PEOPLE'S REPUBLIC OF BANGLADESH

By /s/ Mirza Tasadduq Hossain Beg
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Frederick Temple
Country Director
Bangladesh

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Credit, the allocation of the amounts of the Credit to each Category and the percentage of expenditures for items so to be financed in each Category:

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Goods:		100% of foreign expenditures; 100% of local Expenditures (ex-factory costs) and 70% of local expenditures for items procured locally
(a) Under Part A of the Project	30,000	
(b) Under Part B of the Project	2,910,000	
(2) Consultants' Services:		80%
(a) Under Part A of the Project	1,850,000	
(b) Under Part B of the Project	1,050,000	
(3) Training:		100%
(a) Under Part A of the Project	30,000	
(b) Under Part B of the Project	70,000	

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(4) Unallocated	760,000	
TOTAL	<u>6,700,000</u> =====	

2. For the purposes of this Schedule:

(a) the term “foreign expenditures” means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower; and

(b) the term “local expenditures” means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement .

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures for: (i) goods under contracts costing less than \$30,000 equivalent each; (ii) services of firms under contracts costing less than \$100,000 equivalent each; (iii) services of individual consultants under contracts costing less than \$50,000 equivalent each; and (iv) all training, workshops and seminars; all under such terms and conditions as the Association shall specify by notice to the Borrower.

SCHEDULE 2

Description of the Project

The objective of the Project is to improve the performance of the Borrower's telecommunications sector through the strengthening of elements of the policy and the institutional and regulatory framework in order to promote the competitive provision of telecommunications infrastructure and services.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

Part A: Separation of MOPT's Policy and Operational Roles

1. Restructuring of BTTB

(a) In order to facilitate the restructuring of BTTB, provision of technical advisory services to MOPT, to:

- (i) carry out the re-examination of the Ordinance, including its drafting and amendment, as necessary, and preparation of legal instruments for BTTB's restructuring;
- (ii) carry out BTTB's asset/liability allocation, including the development of an inventory and valuation of fixed assets, negotiation of land and building ownership or use, and finalization of the appropriate levels of debt-to-fund ratio of assets to be transferred to BTTB;
- (iii) carry out financial audit to identify BTTB's operating position and to create the initial financial statements for the restructured BTTB to maintain;
- (iv) carry out a cost-based tariff study and to prepare a plan to transition to new rates with a monthly change in tariffs to rebalance tariffs in two years;
- (v) carry out the examination of options for a rationalization of labor force;

- (vi) manage public relations throughout the BTTB restructuring planning period, including educational visits by MOPT, BTTB and Union officials;
- (vii) develop a business plan;
- (viii) develop a model performance contract for BTTB; and
- (ix) carry out other functions on a need basis.

2. Strengthening MOPT's Policy Function

(a) Provision of technical advisory services to MOPT to: (i) carry out policy review and formulation; (ii) establish processes and procedures for policy monitoring and evaluation; (iii) re-examine the Borrower's WTO commitments and prepare a new telecommunications offer; (iv) develop a universal access strategy for ICT services; (v) carry out technical studies on a need basis; and (vi) develop a website.

(b) Provision of services of an in-house policy advisor.

(c) Carrying out of a professional development program supported through technical cooperation arrangements with policy agencies in different countries, information sharing and contacts, seminars, training, study tours.

(d) Provision of hardware, software, computers and office equipment to assist MOPT to establish a local area network.

3. Project Management

Provision of technical advisory services and training to strengthen MOPT's capacity to manage and implement Part A of the Project.

Part B: BTRC Strengthening

1. Regulatory Capacity Strengthening

(a) Strengthening BTRC's regulatory capacity through: (i) the provision of technical advisory services for the development and implementation of tariff and pricing regime, and to establish technical standardization processes, quality of service standards for all licensed operators and carrier monitoring process and procedures; (ii) the provision of technical advisory services for licensing new operators; and (iii) the provision of technical services on specific regulatory issues on a need basis.

(b) Implementation of a professional development program supported through technical cooperation arrangements with regulatory agencies in different

countries, information sharing and organization of seminars, study tours, as well as on the job, in-country and external training programs.

(c) Provision of office equipment, including computer hardware and software.

2. Spectrum Management

(a) Provision of technical advisory services to strengthen BTRC's spectrum management function including: (i) assistance in reviewing and rationalizing spectrum use, development of a spectrum allocation plan and a database of spectrum use; (ii) development of a spectrum pricing policy; and (iii) training of BTRC staff in addressing spectrum management and monitoring issues.

(b) Provision of technical advisory services to BTRC, *inter alia*, in the development of technical specifications of the Spectrum Management Monitoring System (SMMS), finalization of bidding documents, bid evaluation, contract administration, and design and implementation of an appropriate arrangement with private sector to operate and maintain the SMMS.

(c) Acquisition of a Spectrum Management Monitoring System and related accessories.

3. Project Management

Provision of technical advisory services and training to strengthen BTRC's capacity to manage and implement Part B of the Project.

* * *

The Project is expected to be completed by December 31, 2007.

SCHEDULE 3

Procurement

Section I. Procurement of Goods

Part A: General

Goods shall be procured in accordance with the provisions of Section I of the “Guidelines for Procurement under IBRD Loans and IDA Credits”, published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines) and the following provisions of Section I of this Schedule.

Part B: International Competitive Bidding

Except as otherwise provided in Part C of this Section, goods shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

Part C: Other Procurement Procedures

1. National Competitive Bidding

(a) Goods estimated to cost less than \$100,000 per contract, shall be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

(b) Improvement of Bidding Procedures

In order to ensure economy, efficiency, transparency and broad consistency with the provisions of Section I of the Procurement Guidelines:

- (i) standard bidding documents approved by the Association shall be used;
- (ii) invitations to bids shall be advertised in at least one widely circulated national daily newspaper and bidding documents shall be made available to prospective bidders, at least 28 days prior to the deadline for the submission of bids;
- (iii) bids shall not be invited on the basis of percentage premium or discount over the estimated cost;
- (iv) bidding documents shall be made available, by mail or in person, to all who are willing to pay the required fee;

- (v) foreign bidders shall not be precluded from bidding and no preference of any kind shall be given to national bidders;
- (vi) qualification criteria (in case pre-qualifications were not carried out) shall be stated in the bidding documents, and if a registration process is required, a foreign firm determined to be the lowest evaluated bidder shall be given reasonable opportunity of registering, without any let or hindrance;
- (vii) bidders may deliver bids, at their option, either in person or by courier service or by mail;
- (viii) all bidders shall provide bid security as indicated in the bidding documents. A bidder's bid security shall apply only to a specific bid;
- (ix) bids shall be opened in public in one place immediately, but no later than one hour, after the deadline for submission of bids;
- (x) evaluation of bids shall be made in strict adherence to the criteria disclosed in the bidding documents, in a format and specified period agreed with the Association;
- (xi) a bid shall not be rejected merely on the basis of a comparison with an official estimate without the prior concurrence of the Association;
- (xii) split award or lottery in award of contracts shall not be carried out. When two or more bidders quote the same lowest price, an investigation shall be made to determine any evidence of collusion, following which: (A) if collusion is determined, the parties involved shall be disqualified and the award shall then be made to the next lowest evaluated and qualified bidder; and (B) if no evidence of collusion can be confirmed, then fresh bids shall be invited after receiving the concurrence of the Association;
- (xiii) contracts shall be awarded to the lowest evaluated bidders within the initial period of bid validity so that extensions are not necessary. Extension of bid validity may be sought only under exceptional circumstances;

- (xiv) extension of bid validity shall not be allowed without the prior concurrence of the Association: (A) for the first request for extension if it is longer than eight weeks; and (B) for all subsequent requests for extensions irrespective of the period;
- (xv) negotiations shall not be allowed with the lowest evaluated or any other bidders;
- (xvi) re-bidding shall not be carried out without the Association's prior concurrence; and
- (xvii) all contractors or suppliers shall provide performance security as indicated in the contract documents. A contractor's or a supplier's performance security shall apply to a specific contract under which it was furnished.

2. National Shopping

Goods (excluding computer hardware, software and local area network) estimated to cost less than \$20,000 equivalent per contract, and hardware, software and local area network estimated to cost less than \$40,000, up to an aggregate amount not to exceed \$90,000 equivalent, may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

3. Direct Contracting

Computer software, trade journals, books and magazines, or all other items, costing less than \$2,000 equivalent per contract, up to an aggregate amount not to exceed \$10,000, equivalent may, with the Association's prior agreement, be procured in accordance with the provisions of paragraph 3.7 of the Guidelines.

Part D: Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods shall be undertaken in accordance with such procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

With respect to all contracts awarded on the basis of the International Competitive Bidding method, the first contract awarded on the basis of national competitive bidding, irrespective of value, all contracts above \$30,000 awarded on the basis of national competitive bidding, and the first two contracts each under Part A and Part B of the Project, procured in accordance with the National Shopping method specified in paragraph 2 of Part C of this Section, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

Part A: General

Consultants' services shall be procured in accordance with the provisions of Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers", published by the Bank in January 1997 and revised in September 1997, January 1999 and May 2002 (the Consultant Guidelines), paragraph 1 of Appendix 1 thereto, Appendix 2 thereto and the following provisions of Section II of this Section.

Part B: Quality- and Cost-based Selection

1. Except as otherwise provided in Part C of this Section, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provision shall apply to consultants' services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph: the short list of consultants for services, estimated to cost less than \$100,000 equivalent per contract, may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 and footnote 8 of the Consultant Guidelines.

Part C: Other Procedures for the Selection of Consultants

1. Selection Based on Consultants' Qualifications

Services for MOPT website development estimated to cost less than \$10,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

2. Individual Consultants

Services of individual consultants for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines shall be procured under contracts awarded in accordance with the provisions of paragraphs 5.1 through 5.4 of the Consultant Guidelines.

Part D: Review by the Association of the Selection of Consultants

1. Selection Planning

A plan for the selection of consultants, which shall include contract cost estimates, contract packaging, and applicable selection criteria and procedures, shall be furnished to the Association for its review and approval prior to the issuance to consultants of any requests for proposals. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Association.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 2, 3 and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more, the report on the comparison of the qualifications and experience of candidates, terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after the said approval shall have been given. The provisions of paragraph 3 of Appendix 1 to the Consultant Guidelines shall also apply to such contracts.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

SCHEDULE 4

Implementation Program

1. The Borrower shall carry out Part A of the Project through MOPT which shall also be responsible for the overall coordination of the Project and for providing oversight.
2. (a) The Borrower shall:
 - (i) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the performance indicators set forth in Schedule 6 to this Agreement, the carrying out of Part A of the Project and the achievement of the objectives thereof;
 - (ii) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about September 1, 2005, a report integrating the results of the monitoring and evaluation activities performed pursuant to sub-paragraph (i) above, on the progress achieved in the carrying out of Part A of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of Part A of the Project and the achievement of the objectives thereof during the period following such date; and
 - (iii) review with the Association, by December 1, 2005, or such later date as the Association shall request, the report referred to in sub-paragraph (ii) above, and, thereafter, take all measures required to ensure the efficient completion of Part A of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.
- (b) The review referred to in (a) above shall be aimed at, *inter alia*:
 - (i) assessing progress in the implementation of key actions and performance indicators described in Schedule 6 to this Agreement;
 - (ii) verifying the continued validity of the design assumptions in light of implementation experience and the evolving environment;
 - (iii) identifying remedial actions that might prove necessary to achieve the Project's objectives.

SCHEDULE 5

Special Account

1. For the purposes of this Schedule:

(a) the term “eligible Categories” means: (i) Categories 1(a), 2(a), and 3(a) set forth in the table in paragraph 1 of Schedule 1 to this Agreement, in respect of Part A of the Project; and (ii) Categories 1(b), 2(b) and 3(b) set forth in the table in paragraph 1 of Schedule 1 to this Agreement, in respect of Part B of the Project;

(b) the term “eligible expenditures” means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term “Authorized Allocation” means: (i) in respect of the MOPT Special Account, an amount of Taka 5,000,000 to be withdrawn from the Credit Account and deposited into the MOPT Special Account pursuant to paragraph 3(a) of this Schedule; and (ii) in respect of the BTRC Special Account, an amount of Taka 10,000,000 to be withdrawn from the Credit Account and deposited into the BTRC Special Account pursuant to paragraph 3(a) of this Schedule.

2. Payments out of the respective Special Accounts shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Association has received evidence satisfactory to it that the respective Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the respective Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for deposit into the respective Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the respective Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the respective Special Account, the Borrower shall furnish to the Association requests for deposits into the respective Special Account at such intervals as the Association shall specify.

- (ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the respective Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the respective Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the respective Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Association shall not be required to make further deposits into any Special Account:

- (a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement;

- (b) if the Borrower shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b)(ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of the records and accounts for the Special Accounts;

- (c) if, at any time, the Association shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account pursuant to the provisions of Section 6.02 of the General Conditions; or

- (d) once the total unwithdrawn amount of the Credit allocated to the eligible Categories for the respective Special Account, minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the respective Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time that any payment out of any Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the respective Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Association shall otherwise agree, no further deposit by the Association into any Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association shall have determined at any time that any amount outstanding in any Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

(c) The Borrower may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in the Special Accounts.

(d) Refunds to the Association made pursuant to paragraphs 6(a), (b) and (c) of this Schedule shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

SCHEDULE 6

Performance Indicators

Unless otherwise agreed between the Borrower and the Association, the following performance indicators shall be used to measure the achievement of Part A of the Project:

- (a) Increase in overall telephone penetration from 0.83 percent in 2002 to 3.3 percent by end of 2006.
- (b) BTTB restructured by end of 2004.
- (c) Increase in BTTB or its successor's lines per employee from 29 in 2002 to 40 by end of 2006.
- (d) Review of Telecommunications Policy of 1998 and announcement of new policy by end of 2005.
- (e) Adoption of Universal access policy by the Borrower by end of 2005.