

CONFORMED COPY

LOAN NUMBER 7375-ME

Project Agreement

(Environmental Services Project)

between

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

and

COMISIÓN NACIONAL FORESTAL

Dated May 11, 2006

LOAN NUMBER 7375-ME

PROJECT AGREEMENT

AGREEMENT, dated May 11, 2006, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and *COMISIÓN NACIONAL FORESTAL (CONAFOR)*.

WHEREAS (A) by agreement of even date herewith entered into between United Mexican States (the Borrower) and the Bank (the Loan Agreement), the Bank has agreed to make a loan to the Borrower in the amount of forty five million Dollars (\$45,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that CONAFOR agree to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) by the Global Environment Facility (GEF) Trust Fund Grant Agreement (GEF Grant Agreement) of even date herewith between the Borrower (therein called the Recipient), *Nacional Financiera, S.N.C.*, and the Bank, the Bank has agreed to make a grant to the Borrower in the amount of fifteen million Dollars (\$15,000,000), on the terms and conditions set forth in the GEF Grant Agreement, but only on condition that CONAFOR agree to undertake such obligations toward the Bank as are set forth in this Agreement;

WHEREAS CONAFOR, in consideration of the Bank's entering into the Loan Agreement and the GEF Grant Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Loan Agreement and the GEF Grant Agreement, the Preamble to this Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) CONAFOR declares its commitment to the objective of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out the Project with the assistance of *inter alia*:

- (i) CNA and the Technical Support Agencies, States and Municipalities, in respect of Part A of the Project;
- (ii) CNA in respect of Part B of the Project; and
- (iii) Federal Agencies in respect of all Parts of the Project,

all with due diligence and efficiency and in conformity with appropriate administrative, financial, economic, environmental and social practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) CONAFOR shall not later than two months from the date of this Agreement establish, and thereafter maintain, during the implementation of the Project:

- (i) an advisory committee which shall include a scientific and technical group to advise CONAFOR with regard to the Project; and
- (ii) a Project team,

all with functions and responsibilities satisfactory to the Bank, and those referred to in (ii) above, at all times headed by a Project coordinator and sub-unit managers, and assisted by administrative and technical staff in adequate numbers, and with qualifications and experience satisfactory to the Bank; with procurement and financial management experts employed no later than three months after the date of this Agreement and other key staff, not later than six months thereafter.

(c) CONAFOR shall enter into an agreement with each Community and/or *Ejido* carrying out a Technical Strengthening Activity (the Implementation Agreement) prior to submitting (through NAFIN) the respective withdrawal application, under terms and conditions substantially similar to those of the model form contained in the Operational Manual (the Implementation Agreement), such agreement to provide for the Community's and/or *Ejido*'s, and CONAFOR's respective responsibilities in the carrying out of the Technical Strengthening Activity in accordance with the requirements of the Operational Manual.

(d) CONAFOR shall enter into an agreement with each Community, *Ejido* and/or land user providing Environmental Services under terms and conditions substantially similar to those of the model form contained in the Operational Manual, which shall include, *inter alia*, their respective responsibilities in the carrying out and financing of the Environmental Services (the PES Contracts).

(e) CONAFOR shall, not later than six months from the date of this Agreement, or such later date as the Bank may agree, enter into an agreement or agreements, with: (a) CAN; and (b) at least two Technical Support Agencies to assist in

the development of Water Environmental Services and Biodiversity Environmental Services respectively under terms and conditions satisfactory to the Bank.

(f) CONAFOR shall enter into an agreement with each Environmental Services provider, recipient of a Local Financing Grant, under terms and conditions substantially similar to those of the model form contained in the Operational Manual, which shall include, *inter alia*, their respective responsibilities in the carrying out and financing of the Environmental Services (the Financing Agreements).

(g) CONAFOR shall exercise its rights and carry out its obligations under each of the Implementation Agreements, Cooperation Agreements, PES Contracts and Financing Agreements in such a manner as to protect the interests of the Borrower and the Bank and to accomplish the purposes of the Loan and the GEF Trust Fund Grant, and, except as the Bank shall otherwise agree, CONAFOR shall not assign, amend, abrogate, suspend, waive, terminate or fail to enforce any of the Implementation Agreements, Cooperation Agreements, PES Contracts, Financing Agreements or any provision thereof.

Section 2.02. (a) Except as the Bank shall otherwise agree, procurement of the goods and services required for the Project and to be financed out of the proceeds of the Loan and the GEF Trust Fund Grant shall be governed by the provisions of the Schedule to this Agreement, as said provisions may be further elaborated in the Procurement Plan.

(b) CONAFOR shall update the Procurement Plan in accordance with guidelines acceptable to the Bank, and furnish such update to the Bank not later than 12 months after the date of the preceding Procurement Plan, for the Bank's approval.

Section 2.03. CONAFOR shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 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 the Project Agreement.

Section 2.04. CONAFOR shall duly perform all its obligations under the GEF Subsidiary Contract and the *MANDATO* Contract. Except as the Bank shall otherwise agree, CONAFOR shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the GEF Subsidiary Contract or the *MANDATO* Contract or any provision thereof.

Section 2.05. CONAFOR shall carry out the Project in accordance with the Operational Manual, said manual to include, *inter alia*:

(a) the procedures for the carrying out, monitoring and evaluation of the Project (including the procurement, financial management and disbursement requirements thereof);

(b) the Operational Rules;

(c) other criteria for the approval, implementation and monitoring of Technical Strengthening Activities, Local Financing Grants and Environmental Services complementary to those of the Operational Rules;

(d) model agreements for implementation of Technical Strengthening Activities, Environmental Services and Local Financing Grants;

(e) the Environmental Management Plan, and the IPDP;

(f) the Performance Indicators; and

(g) the organization of the Advisory Committee and the Project Team.

In case of any conflict between the terms of the Operational Manual and those of this Agreement, the terms of this Agreement shall prevail.

Section 2.06. CONAFOR shall during the execution of the Project:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, and in accordance with the Performance Indicators the carrying out of the Project (including the Technical Strengthening Activities, Local Financing Grants and Environmental Services), and the achievement of its objective;

(b) furnish to the Bank, not later than March 15 and September 15 of each year, commencing September 15, 2006, a progress report on the execution of the Project during the period immediately preceding the date of each such report, said report to be of such scope and detail as the Bank may reasonably request and to include the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section;

(c) carry out, jointly with the Bank, not later than April 30 and October 31 of each year, commencing October 31, 2006, reviews of the progress of the Project and the attainment of Project objective on the basis of the reports referred to in paragraph (b) of this Section; and

(d) thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of its objective, based on the conclusions and recommendations of the said reports, and the Bank's views on the matter.

Section 2.07. CONAFOR shall, in the event that the provision of Local Financing Grants in Eligible Pilot Areas involve indigenous peoples, comply with the requirements of the IPDP, and:

(a) prepare, and prior to the submission of the respective withdrawal application (through NAFIN) seek the Bank's approval of the respective IAP, and

(b) thereafter carry out the IAP as set forth therein.

Section 2.08. CONAFOR shall issue directives, satisfactory to the Bank, setting forth specific rules and procedures for the operation of the Endowment Fund including, *inter alia*, the Endowment Fund's:

(a) governance structure;

(b) financial structure and asset management agency's role;

(c) mechanisms to finance Biodiversity Environmental Services;

(d) the disbursement, auditing and reporting requirements, including those set forth in Section 2.09 of this Agreement;

(e) the expenditures eligible for financing as Biodiversity Environmental Services;

(f) the criteria for eligibility of Biodiversity Environmental Services and institutional arrangements required therefor; and

(g) monitoring and evaluation requirements.

In case of any conflict between the terms of this Agreement and those of the Endowment Fund Directives, the terms of this Agreement shall prevail.

Section 2.09. With respect to Part A.2 (b) (iii) of the Project:

(a) CONAFOR shall deposit within the Endowment Fund all proceeds of the GEF Trust Fund Grant disbursed under Category (2) of the table in paragraph A. 1 of Schedule 1 to the Loan Agreement. Once so deposited, said proceeds shall constitute part of the Endowment Fund's capital.

(b) The Endowment Fund's capital shall be invested by CONAFOR through an asset management agency contracted under a contract, satisfactory to the Bank, between CONAFOR and said management agency, which contract shall require said agency to:

(i) invest the Endowment Fund capital in accordance with the instructions issued by CONAFOR and set forth in the Endowment Fund Directives;

- (ii) for each year of Project implementation, only release to CONAFOR investment income derived from the Endowment Fund's capital (and a portion of the Endowment Fund's capital in case the use of such portion has been given prior explicit approval in writing by the Bank);
- (iii) not later than one month after the end of each semester in the relevant year of Project implementation, provide to CONAFOR bi-annual reports regarding management performance, capital value, asset allocation, and investment income (including dividends) with respect to the Endowment Fund; and
- (iv) provide CONAFOR with information required by CONAFOR to comply with its obligations under Section 4.02 of this Agreement in respect of the Endowment Fund.

(c) CONAFOR shall exercise its rights and carry out its obligations under the Asset Management Contract in such a manner so as to protect the interests of the Bank and to accomplish the purposes of the GEF Trust Fund Grant. Except as the Bank may otherwise agree, CONAFOR shall not amend, waive or fail to enforce any provision of the Asset Management Contract. In case of any conflict between the terms of the Asset Management Contract and those of this Agreement, the terms of this Agreement shall prevail.

(d) CONAFOR shall provide the Bank with plans for the use of the proceeds of the Endowment Fund for each year of the Project.

Section 2.10. Amounts released by the Asset Management Agency to CONAFOR under Section 2.09 (b) (ii) of this Agreement shall be used for financing the costs of Biodiversity Environmental Services, all as prescribed, *inter alia*, in this Agreement, and the Endowment Fund Directives.

Section 2.11. CONAFOR shall furnish to the Bank for its review and approval:

(a) not later than six months after the Effective Date, the proposed revisions to the Operational Rules that may be required: (i) to comply with the environmental and social requirements of the Project; and (ii) for the financing of Local Financing Grants; and

(b) thereafter any other proposed changes to the Operational Rules, including all those developed under Part B.1 (b) of the Project.

Section 2.12. For the purposes of Section 9.07 of the General Conditions applicable to the Loan Agreement, the GEF Grant Agreement and this Agreement and without limitation thereto, CONAFOR shall:

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

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

ARTICLE III

Management and Operations of CONAFOR

Section 3.01. CONAFOR shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, economic, forestry, water management, environmental and social practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. CONAFOR shall at all times operate and maintain its offices, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and environmental practices.

Section 3.03. CONAFOR shall take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) CONAFOR shall maintain a financial management system, including records and accounts, and prepare financial statements, in accordance with consistently applied accounting standards acceptable to the Bank, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to the Project.

(b) CONAFOR shall:

- (i) have its financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year (or other period agreed to by the Bank) audited, in accordance with consistently applied auditing standards acceptable to the Bank, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year (or such other period agreed to by the Bank): (A) certified copies of the financial statements referred to in paragraph (a) of this Section, for such year (or such other period agreed to by the Bank), as so audited; and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Bank; and
- (iii) furnish to the Bank such other information concerning such records and accounts and the audit of such financial statements, and concerning said auditors, as the Bank may from time to time reasonably request.

Section 4.02. (a) Without limitation upon CONAFOR's reporting obligations set out in Section 2.06 of this Agreement, CONAFOR shall prepare and furnish to the Bank a financial monitoring report, in form and substance satisfactory to the Bank, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Loan, and explains variances between the actual and planned 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 planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Bank 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 Bank not later than 45 days after each subsequent calendar quarter, and shall cover the period not covered by the previous FMR until the end of such calendar quarter.

ARTICLE V

Effective Date; Termination;

Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement and the Global Environment Facility Trust Fund Grant Agreement become effective.

Section 5.02. This Agreement and all obligations of the Bank and of CONAFOR thereunder shall terminate on the date on which the Loan Agreement and the Global Environment Facility Trust Fund Grant Agreement shall terminate in accordance with their respective terms, and the Bank shall promptly notify CONAFOR thereof.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this 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 or by mail, telex or facsimile to the party to which it is required or permitted to be given or made at such party's 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. Deliveries made by facsimile transmission shall also be confirmed by mail. The addresses so specified are:

For the Bank:

International Bank for
Reconstruction and Development
1818 H Street, NW
Washington, DC 20433
United States of America

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

For CONAFOR:

Periférico Poniente No. 5360,

Col. San Juan de Ocotán
CP 45019
Zapopan, Jalisco
Mexico

Facsimile: 52-33-3777-7085

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of CONAFOR may be taken or executed by its Director General or such other person or persons as its Director General shall designate in writing, and CONAFOR shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

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

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Isabel Guerrero

Authorized Representative

COMISIÓN NACIONAL FORESTAL

By /s/ Carlos González Vicente

Authorized Representative

SCHEDULE

Procurement

Section I. General

A. All goods and services (other than consultants' services) shall be procured in accordance with the provisions of Section I of the "Guidelines: Procurement under IBRD Loans and IDA Credits" dated May 2004 (the Procurement Guidelines), and with the provisions of this Schedule.

B. All consultants' services shall be procured in accordance with Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" dated May 2004 (the Consultant Guidelines), and with the provisions of this Schedule.

C. The capitalized terms used below in this Schedule to describe particular procurement methods or methods of review by the Bank of particular contracts, have the meanings ascribed to them in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

Section II. Particular Methods of Procurement of Goods and Services (other than Consultants' Services)

A. Procurement Procedures

1. National Competitive Bidding. Except as provided in paragraph 2 below, goods and non-consultants' services shall be procured under contracts awarded on the basis of National Competitive Bidding and the following additional provision: The invitation to bid for each contract shall be advertised in the Borrower's public electronic advertising and bidding system (COMPRANET) and in the Borrower's Official Gazette (*Diario Oficial de la Federación*).

2. Shopping. Goods and non-consultants' services estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded on the basis of Shopping.

Section III. Particular Methods of Procurement of Consultants' Services

A. Quality- and Cost-based Selection. Except as otherwise provided in Part B of this Section, consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection. For purposes of paragraph 2.7 of the Consultant Guidelines, the short list of consultants for services estimated to cost less than \$500,000 equivalent per contract may comprise entirely national consultants.

B. Other Procedures

1. Quality-based Selection. Services for assignments which the Bank agrees meet the requirements set forth in paragraph 3.2 of the Consultant Guidelines may be procured under contracts awarded on the basis of Quality-based Selection in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

2. Least-cost Selection. Services for assignments which the Bank agrees meet the requirements of paragraph 3.6 of the Consultant Guidelines may be procured under contracts awarded on the basis of Least-cost Selection in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

3. Individual Consultants. Services for assignments that meet the requirements set forth in the first sentence of paragraph 5.1 of the Consultant Guidelines may be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.2 through 5.3 of the Consultant Guidelines. Under the circumstances described in paragraph 5.4 of the Consultant Guidelines, and for services for Technical Strengthening Activities under Part C.4 (b) of the Project, such contracts may be awarded to individual consultants on a sole-source basis.

Section IV. Review by the Bank of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Bank's Prior Review. All other contracts shall be subject to Post Review by the Bank.