

CONFORMED COPY

LOAN NUMBER 3086 ME

(Public Enterprises Reform Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

NACIONAL FINANCIERA, S.N.C.

Dated June 16, 1989

LOAN NUMBER 3086 ME

LOAN AGREEMENT

AGREEMENT, dated June 16, 1989 between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and NACIONAL FINANCIERA, S.N.C. (the Borrower).

WHEREAS (A) the Bank has received two letters both dated May 12, 1989 from the UNITED MEXICAN STATES (the Guarantor), such letters together describing a program of actions, objectives and policies designed to achieve restructuring of the Guarantor's public enterprises (hereinafter called the "Program"), declaring the Guarantor's commitment to the execution of the Program, and requesting assistance from the Bank in the financing of imports and services required during such execution;

(B) it is contemplated that the Guarantor may require assistance from the Bank in the implementation of a Debt Reduction Plan (as hereinafter defined);

(C) the Guarantor and the Borrower, having been satisfied as

to the feasibility and priority of the Project described in Schedule 2 to this Agreement, have requested the Bank to assist in the financing of the Project;

(D) by an agreement (the Guarantee Agreement) of even date herewith between the Guarantor and the Bank, the Guarantor has agreed to guarantee the obligations of the Borrower in respect of the Loan and to undertake all other obligations set forth in the Guarantee Agreement; and

(E) on the basis, inter alia, of the foregoing, the Bank has decided, in support of the Program and the Project, to provide such assistance to the Guarantor by making the Loan in two tranches to the Borrower on the terms and conditions set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee Agreements" of the Bank, dated January 1, 1985, (the General Conditions) with the modifications set forth below constitute an integral part of this Agreement:

(a) Section 9.07 (c) shall be modified to read:

"(c) Not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Guarantor, the Borrower and the Bank, the Guarantor and the Borrower shall prepare and furnish to the Bank a joint report, of such scope and in such detail as the Bank shall reasonably request, on the execution of the Program referred to in the Preamble to the Loan Agreement, the carrying out of the Project, the performance by the Guarantor, the Borrower and the Bank of their respective obligations under the Guarantee and Loan Agreements, and the accomplishment of the purposes of the Loan."; and

(b) the last sentence of Section 3.02 is deleted.

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) "peso" means the currency of the Guarantor;

(b) "CGF" means Comision Intersecretarial Gasto - Financiamiento (Expenses and Financing Committee), an interministerial committee of the Guarantor;

(c) "UCD" means Unidad de Convenios de Desempeno, (Public Enterprises Performance Agreements Directorate), established as part of CGF;

(d) "UCD Mandate" means the mandate of responsibilities to be carried out by UCD issued by the Guarantor, provided to the Bank on April 19, 1989;

(e) "UCD Action Plan" means the plan of action to be carried out by UCD for purposes of Part B.2 of the Project and furnished to the Bank on April 28, 1989;

(f) "PE" means an entity or enterprise which is established as a public enterprise under the laws of the Guarantor and which is wholly-owned or majority-owned by the Guarantor;

(g) "PE Subsidiaries" means an entity or enterprise which is

established under the laws of the Guarantor and which is wholly-owned or majority-owned by one or more PEs;

(h) "PE Law" means La Ley Federal de las Entidades Paraestatales (Parastatal Entities Federal Law) published in the Diario Oficial of the Guarantor of May 14, 1986;

(i) "PE Regulations" means the regulations to the PE Law to be issued by the Guarantor pursuant to the provisions of Schedule 1, paragraph 4 of the Guarantee Agreement;

(j) "PE Divestment Program" means Programa de Desincorporacion de Empresas Publicas, a program to sell, transfer, liquidate, merge or otherwise dispose of, PEs provided by the guarantor to the Bank on April 27, 1989;

(k) "PE Transfers" means all transfers from the Guarantor to a PE to cover operational deficits, non-financial and financial investments, and other expenses except transfers for the payment of interest or principal on existing or new debt of such PE, estimated monthly by Direccion Estadistica de Planeacion Hacendaria de la Secretaria de Hacienda y Credito Publico, as published in the monthly Flujo de Fondos del Gobierno Federal, or, when available, the total annual transfers indicated in Estado de Cuenta Publica provided to Congress during March of each Fiscal Year (hereinafter defined);

(l) "Performance Agreement" means an agreement, satisfactory to the Bank, to be entered into between the Guarantor and a PE, for purposes of establishing financial, managerial and other performance criteria;

(m) "Performance Agreement Plan" means the plan to improve the efficiency of operations of selected PEs by means of Performance Agreements, provided by the Guarantor to the Bank on April 27, 1989;

(n) "Public Procurement Law" means La Ley de Adquisiciones, Arrendamientos y Prestaciones de Servicios Relacionados con Bienes Muebles, published in the Diario Oficial of the Guarantor of February 8, 1985 and La Ley de Obras Publicas, published in the Diario Oficial of the Guarantor of December 30, 1980, as the same may have been amended through the date of this Agreement;

(o) "SHCP Document" means the document prepared by the Guarantor's Secretaria de Hacienda y Credito Publico entitled "Mexico's Economic Strategy - Past, Present and Future" and submitted to the Bank on April 28, 1989;

(p) "QRs" means quantitative restrictions placed by the Guarantor on imported goods;

(q) "Non-tariff Barriers" means any form of restriction, other than the levy of a tariff, on imports, including QRs;

(r) "Fiscal Year" means the fiscal year of the Guarantor, beginning on January 1 of each year;

(s) "CFISP" means Catalogo de Formatos e Instructivos del Sector Paraestatal issued by the Secretaria de Programacion y Presupuesto of the Guarantor on November 30, 1988.

(t) "National Development Plan" means Plan Nacional de Desarrollo 1989-1994 issued by the Guarantor in June 1989; and

(u) "Debt Reduction Plan" means a plan of the Guarantor submitted to the Bank for partial funding under this Agreement to reduce the Guarantor's principal payments on its external loans from non-official creditors.

ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Loan Agreement, an amount in various currencies equivalent to five hundred million dollars (\$500,000,000).

Section 2.02. The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made or, if the Bank shall so agree, to be made, in respect of the reasonable cost of goods required for the Project described in Schedule 2 to this Agreement and to be financed out of the proceeds of the Loan.

Section 2.03. The Closing Date shall be June 30, 1991 or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower and the Guarantor of such later date.

Section 2.04. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one percent ($3/4$ of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.05. (a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate per annum for each Interest Period equal to one-half of one percent per annum above the Cost of Qualified Borrowings for the last Semester ending prior to the commencement of such Interest Period.

(b) As soon as practicable after the end of each Semester, the Bank shall notify the Guarantor and the Borrower of the Cost of Qualified Borrowings for such Semester.

(c) For purposes of this Section:

- (i) "Interest Period" means the six-month period commencing on each date specified in Section 2.06 of this Agreement, including the Interest Period in which this Agreement is signed.
- (ii) "Cost of Qualified Borrowings" means the cost of the outstanding borrowings of the Bank drawn down after June 30, 1982, expressed as a percentage per annum, as reasonably determined by the Bank.
- (iii) "Semester" means the first six months or the second six months of a calendar year.

Section 2.06. Interest and other charges shall be payable semiannually on February 15 and August 15 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

ARTICLE III

Transfer of Funds; Other Covenants

Section 3.01. The Borrower shall enter into contractual arrangements, satisfactory to the Bank, with the Guarantor providing, inter alia, for relending the proceeds of the Loan to the Guarantor in various currencies and on the same terms and conditions as are set forth in Sections 2.04, 2.05, 2.06 and 2.07 of this Agreement. Except as the Bank may otherwise agree, the Borrower shall not change or fail to enforce any provision of such contractual arrangements.

Section 3.02. (a) The Borrower and the Bank, and the Guarantor pursuant to the provisions of Section 3.02 (a) of the Guarantee Agreement, shall, on a quarterly basis and at the

request of either party, exchange views on the progress achieved in carrying out the Program and the actions specified in the Schedules to the Guarantee Agreement.

(b) At least ten days prior to each such exchange of views, the Borrower, and the Guarantor pursuant to the provisions of Section 3.02 (b) of the Guarantee Agreement, shall furnish to the Bank for its review and comment, a report in such detail as the Bank may reasonably request on the progress achieved in carrying out the Program and the actions specified in the Schedules to the Guarantee Agreement.

Section 3.03. The Bank and the Borrower agree that the obligations set forth in Section 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating respectively to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition) shall be carried out by the Guarantor in respect of Part B of the Project.

Section 3.04. Except as the Bank may otherwise agree, procurement of goods and services required for the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to this Agreement.

Section 3.05. Subject to agreement by the Borrower, the Guarantor and the Bank on the terms and conditions to be applied in such case, the Borrower may use a portion of the proceeds of the loan as provided in Schedule 1 to this Agreement for the implementation of a Debt Reduction Plan under Part C of the Project described in Schedule 2 to this Agreement.

ARTICLE IV

Financial Covenants

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

(b) The Borrower shall:

- (i) have the accounts referred to in paragraph (a) above and its financial statements (balance sheets, statements of income and expenses and related statements), for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent and qualified auditors;
- (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: (A) certified copies of such financial statements so audited; and (B) the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning such records, accounts and financial statements and the audit thereof as the Bank shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Loan 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, separate records and accounts reflecting such expenditures;

- (ii) retain, or cause to be retained, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the Loan Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Bank'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.

ARTICLE V

Remedies of the Bank

Section 5.01. Pursuant to Section 6.02 (k) of the General Conditions, the following additional event is specified, namely, that a situation has arisen which shall make it improbable that the Program, or a significant part thereof, will be carried out.

ARTICLE VI

Effective Date; Termination

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

- (a) that the contractual arrangements referred to in Section 3.01 of this Agreement shall have been executed;
- (b) that the Guarantor has furnished to the Bank a draft, acceptable to the Guarantor and the Bank, of the PE Regulations; and
- (c) that the Guarantor shall have made substantial progress, satisfactory to the Bank, in obtaining adequate financing for its requirements for Fiscal Years 1989 and 1990 in the context of its adjustment program and growth targets as such requirements are set forth in the SHCP Document.

Section 6.02. The following is specified as an additional matter, within the meaning of Section 12.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank, namely, that the contractual arrangements referred to in Section 3.01 of this Agreement have been duly executed and delivered on behalf of the parties thereto and are legally binding upon them in accordance with their terms.

Section 6.03. The date September 19, 1989 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 Director Internacional 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 Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INTBAFRAD
Washington, D.C.

Telex:

440098 (ITT)
248423 (RCA) or
64145 (WUI)

For the Borrower:

Direccion Internacional
Nacional Financiera, S.N.C.
Plaza NAFINSA, Insurgentes Sur 1971
11o. Piso, Torre Sur
C.P. 01020, Mexico, D.F.
Mexico

Cable address:

NAFIN
Mexico City

Telex:

NAFIME 1772809
1772654
Mexico City

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

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ S. Shahid Husain
Regional Vice President
Latin America and the Caribbean

NACIONAL FINANCIERA, S.N.C.

By /s/ Luis Nava
Authorized Representative

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

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

Category	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(1) Imported goods under Part A of the Project	374,000,000	100% of foreign expenditures

(2) Consultants' services and training under Part B of the Project	1,000,000	100%
(3) Debt Reduction Plan	125,000,000	To be agreed by the Bank, the Guarantor and the Borrower, subject to paragraph 6 below
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TOTAL	500,000,000	

2. For the purposes of this Schedule the term "foreign expenditures" means expenditures in the currency of any country other than that of the Guarantor for goods or services supplied from the territory of any country other than that of the Guarantor.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) expenditures for goods included in the following SITC groups or sub-groups, or any successor groups or sub-groups under future revisions to the SITC, as designated by the Bank by notice to the Borrower:

Group	Sub-group	Description of Items
112	-	Alcoholic beverages
121	-	Tobacco, unmanufactured, tobacco refuse
122	-	Tobacco, manufactured (whether or not containing tobacco substitutes)
525	-	Radioactive and associated materials
667	-	Pearls, precious and semi-precious stones, unworked or worked
718	718.1	Nuclear reactors, and parts thereof, fuel elements (cartridges), non-irradiated for nuclear reactors
897	897.3	Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971	-	Gold, non-monetary (excluding gold ores and concentrates)

(b) payments made for expenditures prior to the date of this

Agreement except that withdrawals in an aggregate amount not exceeding the equivalent of \$100,000,000 may be made on account of payments made for such expenditures before that date but after February 15, 1989;

(c) expenditures for goods procured under contracts costing less than \$10,000 equivalent;

(d) expenditures for goods supplied under a contract which any national or international financing institution or agency other than the Bank shall have financed or agreed to finance;

(e) expenditures for crude oil, foodstuffs or goods intended for a military or para-military purpose or luxury consumption; and

(f) expenditures for goods the importation of which is subject to Non-tariff Barriers in Mexico.

4. Subject to the provisions of paragraph 6 hereunder, no withdrawal shall be made and no commitment shall be entered into to pay amounts to, or on the order of, the Borrower or the Guarantor in respect of expenditures to be financed under Category (1) of the proceeds of the Loan after the aggregate of the proceeds of the Loan withdrawn under Category 1 from the Loan Account and the total amount of such commitments shall have reached the equivalent of \$250,000,000 for Part A of the Project unless the Bank shall be satisfied, after an exchange of views as described in Section 3.02 (a) of this Agreement and Section 3.02 (a) of the Guarantee Agreement based on evidence satisfactory to the Bank:

(a) with the progress achieved by the Guarantor in carrying out the Program;

(b) that the Guarantor's macroeconomic framework is consistent with the Program;

(c) that the Guarantor has continued to make substantial progress in obtaining adequate financing for its requirements for Fiscal Years 1989 and 1990, and over the medium term in the context of its adjustment program and growth targets as such requirements are set forth in the SHCP Document; and

(d) that all actions described in Schedule 1 to the Guarantee Agreement have been taken in a manner satisfactory to the Bank; provided, however, that in no case shall any withdrawal be made and any commitment be entered into in excess of such aggregate amount of the equivalent of \$250,000,000 for Part A of the Project prior to November 30, 1989.

5. If, after the exchange of views described in paragraph 4 above, the Bank shall have given notice to the Borrower and the Guarantor that the progress achieved and actions taken are not satisfactory and, within ninety days after such notice, the Guarantor shall not have achieved progress and taken actions satisfactory to the Bank, then the Bank may, by notice to the Borrower and the Guarantor, cancel the unwithdrawn amount of the Loan or any part thereof.

6. If an agreement by the Bank, the Guarantor and the Borrower for the use of the portion of the proceeds of the Loan designated for the implementation of a Debt Reduction Plan shall not have been entered into by December 13, 1989, or such later date as approved by the Bank, then the amount of \$125,000,000 under Category (3) shall, at the request of the Borrower and the Guarantor, be reallocated to Category (1) for Part A of the Project.

7. The provisions of this Schedule are without prejudice to the provisions of Section 3.05 of the Loan Agreement.

Description of the Project

The objectives of the Project are to assist the Guarantor in carrying out reform of the Public Enterprises, and, if so determined under Section 3.05 of this Agreement, in the implementation of a Debt Reduction Plan.

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

Part A: Imports

Financing of imported goods required during the execution of the Program.

Part B: Public Enterprise Reform and Studies

1. Carrying out the reforms and studies described in Schedule 2 to the Guarantee Agreement.

2. Provision of technical assistance consisting of: (i) employing consultants for the operation of UCD in accordance with the UCD Mandate; (ii) development and monitoring by UCD of Performance Agreements; (iii) training of UCD's staff; and (iv) training of the staff of selected PEs in financial management.

Part C: Debt Reduction Plan

Assistance to the Guarantor in the implementation of a Debt Reduction Plan which, in the judgement of the Guarantor and of the Bank, shall meet the requirements of the Bank's support of debt reduction.

* * *

The Project is expected to be completed by December 31, 1990.

SCHEDULE 3

Amortization Schedule

Date Payment Due	Payment of Principal (expressed in dollars)*
On each February 15, and August 15 beginning February 15, 1995 through February 15, 2006	20,835,000
On August 15, 2006	20,795,000

* The figures in this column represent dollar equivalents determined as of the respective dates of withdrawal. See General Conditions, Sections 3.04 and 4.03.

Premiums on Prepayment

Pursuant to Section 3.04 (b) of the General Conditions, the premium payable on the principal amount of any maturity of the Loan to be prepaid shall be the percentage specified for the applicable time of prepayment below:

Time of Prepayment	Premium
	The interest rate (expressed as a percentage per annum) applicable to the Loan on the day of prepayment, multiplied by:

Not more than three years before maturity	0.18
More than three years but not more than six years before maturity	0.35
More than six years but not more than eleven years before maturity	0.65
More than eleven years but not more than fifteen years before maturity	0.88
More than fifteen years before maturity	1.00

SCHEDULE 4

Procurement

Section I. Procurement of Goods

Part A: International Competitive Bidding

1. Except as provided in Part B hereof, contracts for the procurement of goods estimated to cost the equivalent of \$5,000,000 or more each shall be awarded through international competitive bidding in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1985 (the Guidelines), subject to the following modifications:

(a) Paragraph 2.8 of the Guidelines is deleted and the following is substituted therefore:

"2.8 Notification and Advertising

The international community should be notified in a timely manner of the opportunity to bid. This will be done by advertising invitations to apply for inclusion in a bidder's invitation list, to apply for prequalification, or to bid; such advertisements should be placed in at least one newspaper of general circulation in the Borrower's country and, in addition, in at least one of the following forms:

- (i) a notice in the United Nations publication, Development Business; or
- (ii) an advertisement in a newspaper, periodical or technical journal of wide international circulation; or
- (iii) a notice to local representatives of countries and territories referred to in the Guidelines, that are potential suppliers of the goods required."

(b) The following is added at the end of paragraph 2.21 of the Guidelines:

"As a further alternative, bidding documents may require the bidder to state the bid price in a single currency widely used in international trade and specified in the bidding documents."

(c) Paragraphs 2.55 and 2.56 of the Guidelines are deleted.

Part B: Other Procurement Procedures

Contracts for goods estimated to cost the equivalent of less

than \$5,000,000 each shall be awarded: (a) for private sector purchasers on the basis of established commercial practices; and (b) for public sector purchasers on the basis of governmental procedures.

Part C: Review by the Bank of Procurement Decisions

1. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract referred to in Part A, paragraph 1 of this Schedule, the Borrower shall furnish to the Bank, prior to the submission to the Bank of the first application for withdrawal of funds from the Loan Account in respect of such contract, two conformed copies of such contract, together with the analysis of the respective bids and recommendations for award, a description of the advertising and tendering procedures followed and such other information as the Bank shall reasonably request.

2. With respect to each contract referred to in Part B of this Schedule, the Borrower shall furnish to the Bank, prior to the submission to the Bank of the first application for withdrawal of funds from the Loan Account in respect thereof, such documentation and information as the Bank may reasonably request to support withdrawal applications in respect of such contract.

3. The provisions of the preceding paragraphs 1 and 2 shall not apply to contracts on account of which the Bank has authorized withdrawals from the Loan Account on the basis of statements of expenditure. Such contracts shall be retained in accordance with Section 4.01 (c) (ii) of this Agreement.

4. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II. Employment of Consultants

In order to assist the Guarantor in carrying out Part B of the Project, the Guarantor shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Bank on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by the World Bank as Executing Agency" published by the Bank in August 1981.

