

Public Disclosure Authorized

CONFORMED COPY

LOAN NUMBER 7328-ME

Loan Agreement

**(Second Programmatic Environment
Development Policy Loan)**

between

UNITED MEXICAN STATES

and

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

Dated September 23, 2005

Public Disclosure Authorized

LOAN NUMBER 7328-ME

LOAN AGREEMENT

AGREEMENT, dated September 23, 2005, between UNITED MEXICAN STATES (the Borrower) represented by its signatory on page 10 of this Agreement, and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS (A) Pursuant to the loan provided to the Borrower under the Loan Agreement dated September 30, 2002 (Loan No. 7136-ME), the Bank provided assistance to the Borrower in support of the first phase of the Borrower's program of actions, objectives and policies to support appropriate environmental management across a multitude of sectors of the Borrower's economy (the Program), as such program was described in a letter, dated May 26, 2002, from the Borrower (represented by its *Secretaría de Medio Ambiente y Recursos Naturales* - SEMARNAT) to the Bank;

(B) the Bank has received a letter, dated May 27, 2005, from the Borrower (represented by SEMARNAT): (i) describing the Program as revised since the date of the letter referred to in (A) above, which Program consists of actions taken under the first phase referred to in (A) above, actions taken as described in Schedule 2 to this Agreement (the Second Phase of the Program), and actions and policies that the Borrower intends to take and adopt in the future; (ii) declaring the Borrower's commitment to the objectives of the Program; and (iii) requesting assistance from the Bank in support of the Second Phase of the Program during the execution thereof;

(C) the Borrower has carried out the measures and taken the actions described in Schedule 2 to this Agreement to the satisfaction of the Bank and has maintained a macroeconomic policy framework satisfactory to the Bank; and

(D) on the basis, inter alia, of the foregoing, the Bank has decided in support of the Second Phase of the Program to provide such assistance to the Borrower by making the loan provided for in Article II of this Agreement (the Loan) as hereinafter provided;

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 for Fixed-Spread Loans" of the Bank dated September 1, 1999 (as amended

through May 1, 2004), with the modifications set forth below (the General Conditions) constitute an integral part of this Agreement:

(a) Section 2.01, paragraph 41, is modified to read:

“ ‘Project’ ” means the program, referred to in the Preamble to the Loan Agreement, in support of which the Loan is made.”;

(b) Section 3.08 is modified to read:

“Each withdrawal of an amount of the Loan from the Loan Account shall be made in the Loan Currency. The Bank, at the request and acting as an agent of the Borrower, shall purchase with the Loan Currency withdrawn from the Loan Account such currencies as shall be required to meet payments to be financed out of the proceeds of the Loan.”;

(c) Section 5.01 is modified to read:

“The Borrower shall be entitled to withdraw the proceeds of the Loan from the Loan Account in accordance with the provisions of the Loan Agreement and of these General Conditions.”;

(d) the last sentence of Section 5.03 is deleted;

(e) Section 9.07 (c) is 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 Borrower and the Bank, the Borrower shall prepare and furnish to the Bank a 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 performance by the Borrower and the Bank of their respective obligations under the Loan Agreement and the accomplishment of the purposes of the Loan.”; and

(f) Section 9.05 is deleted in its entirety and Sections 9.06, 9.07 (as modified above), 9.08 and 9.09 are renumbered, respectively, Sections 9.05, 9.06, 9.07 and 9.08.

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) “BANSEFI” means *Banco del Ahorro Nacional y Servicios Financieros, S.N.C., Institución de Banca de Desarrollo*, a Mexican development bank serving as the Borrower’s financial agent for purposes of the Loan;

(b) “Clean Development Mechanism Office” means an office, ministry, or other official entity created in support of the Clean Development Mechanism (as hereinafter defined) to review and give national approval to projects under said mechanism;

(c) “Clean Development Mechanism” means a procedure under which developed countries may finance greenhouse-gas emissions-avoiding projects in developing countries in order to receive credits for doing so which they may apply towards meeting mandatory limits on their own emissions;

(d) “CNA” means *Comisión Nacional de Agua*, the Borrower’s National Water Commission;

(e) “Deposit Account” means the account referred to in Section 2.02 (b) of this Agreement;

(f) “Disbursed Amount” means, in respect of each Interest Period, the aggregate principal amount of the Loan withdrawn from the Loan Account in said Interest Period;

(g) “*Licencia Ambiental Unica*” means a license necessary for the operation of industrial facilities in the Borrower’s territory, issued by SEMARNAT, covering the following aspects: (i) atmospheric emissions; (ii) solid waste production; (iii) toxic waste production and treatment; and (iv) wastewater discharges;

(h) “Maturity Fixing Date” means, for each Disbursed Amount, the date on which the amortization schedule for said Disbursed Amount is established, such date being the first day of the Interest Period next following the Interest Period in which said Disbursed Amount is withdrawn; and

(i) “SHCP” means *Secretaría de Hacienda y Crédito Público*, the Borrower’s Secretariat of Finance and Public Credit.

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 this Agreement, an amount equal to two hundred million five hundred ten thousand Dollars (\$200,510,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.09 of this Agreement.

Section 2.02. (a) Subject to the provisions of paragraphs (b) and (c) of this Section, the Borrower shall be entitled to withdraw the amount of two hundred million eight thousand seven hundred twenty-five Dollars (\$200,008,725) from the Loan Account in support of the Program.

(b) Except as the Bank may otherwise agree: (i) all withdrawals from the Loan Account shall be deposited by the Bank into an account designated by the Borrower and acceptable to the Bank; and (ii) the Borrower shall ensure that upon each deposit of an amount of the Loan into said account, an equivalent amount is accounted for in the Borrower's budget management system, in a manner acceptable to the Bank.

(c) The Borrower undertakes that the proceeds of the Loan shall not be used to finance expenditures excluded pursuant to the provisions of Schedule 1 to this Agreement. If the Bank determines at any time that an amount of the Loan was used to make a payment for an expenditure so excluded, the Borrower shall, promptly upon notice from the Bank, refund an amount equal to the amount of said payment to the Bank. Amounts refunded to the Bank upon such request shall be cancelled.

Section 2.03. The Closing Date shall be January 31, 2006 or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a fee in an amount equal to one percent (1%) of the amount of the Loan, subject to any waiver of a portion of such fee as may be determined by the Bank from time to time. On or promptly after the Effective Date, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amount of said fee.

Section 2.05. The Borrower shall pay to the Bank a commitment charge on the principal amount of the Loan not withdrawn from time to time, at a rate equal to: (i) eighty five one-hundredths of one per cent (0.85%) per annum from the date on which such charge commences to accrue in accordance with the provisions of Section 3.02 of the General Conditions to but not including the fourth anniversary of such date; and (ii) seventy five one-hundredths of one per cent (0.75%) per annum thereafter.

Section 2.06. The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, in respect of each Interest Period at the Variable Rate; provided, that upon a Conversion of all or any portion of the principal amount of the Loan, the Borrower shall, during the Conversion Period, pay interest on such amount in accordance with the relevant provisions of Article IV of the General Conditions.

Section 2.07. Interest and commitment charges shall be payable semiannually in arrears on June 15 and December 15 in each year.

Section 2.08. (a) Subject to the provisions of paragraph (b) of this Section, the Borrower shall repay each Disbursed Amount in semiannual installments payable on each June 15 and December 15, the first such installment to be payable on the tenth (10th) Interest Payment Date following the Maturity Fixing Date for said Disbursed Amount and the last such installment to be payable on the twenty ninth (29th) Interest Payment Date following the Maturity Fixing Date for said Disbursed Amount. Each installment except for the last one shall be equal to one-twentieth (1/20) of said Disbursed Amount. The last installment shall be equal to the remaining outstanding amount of said Disbursed Amount.

(b) Notwithstanding the provisions of paragraph (a) of this Section, if any one or more installments of principal of any Disbursed Amount would, pursuant to the provisions of such paragraph (a), be payable after December 15, 2020, the Borrower shall also pay on such date the aggregate amount of all such installments.

(c) The Bank shall notify the Borrower of the amortization schedule for each Disbursed Amount promptly after the Maturity Fixing Date for said Disbursed Amount.

(d) Notwithstanding the provisions of paragraphs (a) through (c) of this Section, in the event of a Currency Conversion of all or any portion of a Disbursed Amount to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by the Bank by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by the Bank under the Currency Hedge Transaction relating to said Conversion; or (ii) if the Bank so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

Section 2.09. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, withdrawn or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan from a Variable Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Variable Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Variable Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by the Bank shall be considered a "Conversion", as defined in Section 2.01(7) of the General Conditions, and shall be effected in accordance with the provisions of Article IV of the General Conditions and of the Conversion Guidelines.

Section 2.10. The *Director General de BANSEFI, the Director General Adjunto de Finanzas de BANSEFI*, and any person or persons whom either shall designate in writing are designated as representatives of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

ARTICLE III

Particular Covenants

Section 3.01. (a) The Borrower and the Bank shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program and the actions specified in Schedule 2 to this Agreement.

(b) Prior to each such exchange of views, the Borrower, through BANSEFI, shall furnish to the Bank for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Bank shall reasonably request.

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Borrower shall exchange views with the Bank on any proposed action to be taken after the disbursement of the Loan which would have the effect of materially reversing the objectives of the Program, or any action taken under the Program including any action specified in Schedule 2 to this Agreement.

Section 3.02. Without limitation upon the provisions of Section 9.01(a) of the General Conditions, the Borrower, through BANSEFI, shall promptly furnish to the Bank such information relating to the provisions of Article II of this Agreement as the Bank may, from time to time, reasonably request.

Section 3.03. (a) The Borrower, through SHCP, shall enter into a contract (*Contrato de Mandato*) with BANSEFI, satisfactory to the Bank, whereby:

- (i) BANSEFI agrees to act as financial agent of the Borrower with regard to the Loan, meaning that, *inter alia*, BANSEFI agrees to represent the Borrower *vis-à-vis* the Bank for purposes of submitting Loan withdrawal applications to the Bank in form and substance sufficient to justify disbursement by the Bank to the Borrower of Loan proceeds and agrees to maintain and

operate the Deposit Account in compliance with the terms of this Agreement; and

- (ii) the Borrower agrees that, through SHCP, the Borrower shall cooperate fully with BANSEFI to ensure that BANSEFI is able to comply with all of BANSEFI's obligations referred to in paragraph (a) of this Section.

(b) The Borrower shall exercise its rights and carry out its obligations under the *Contrato de Mandato* in such a manner as to protect the interests of the Bank and to accomplish the purposes of the Loan. Except as the Bank may otherwise agree, the Borrower shall not amend or fail to enforce any provision of the *Contrato de Mandato*. In case of any conflict between the terms of the *Contrato de Mandato* and those of this Agreement, the terms of this Agreement shall prevail.

ARTICLE IV

Additional Events of Suspension

Section 4.01. Pursuant to Section 6.02 (p) of the General Conditions, the following additional events are specified:

(a) A situation has arisen which shall make it improbable that the Program, or a significant part thereof, will be carried out.

(b) The Borrower's macroeconomic policy framework has become inconsistent with the objectives of the Program.

(c) An action has been taken or a policy has been adopted to reverse any action or policy under the Program, including any action listed in Schedule 2 to this Agreement, in a manner that would, in the opinion of the Bank, adversely affect the achievement of the objectives of the Program.

ARTICLE V

Effective Date; Termination

Section 5.01. The following event is specified as an additional condition to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions, namely, that the *Contrato de Mandato* has been executed by the parties thereto.

Section 5.02. 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 Borrower (in its legal opinion) and BANSEFI (in a separate legal opinion satisfactory to the Bank, issued by BANSEFI counsel acceptable to the Bank), indicate that the *Contrato de Mandato* has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and BANSEFI and is legally binding upon the Borrower and BANSEFI in accordance with *the Contrato de Mandato's* terms.

Section 5.03. The date December 22, 2005 is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. Except as provided in Section 2.10 of this Agreement, the *Titular de la Unidad de Crédito Público* of SHCP is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Secretaría de Hacienda y Crédito Público
Unidad de Crédito Público
Palacio Nacional
Patio Central
3er piso, oficina 3010
Colonia Centro
06000 México, D.F.

Facsímile: 011-52-55-9158-1156

For the Bank:

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

Cable address:

Telex:

Facsimile:

INTBAFRAD
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 the District of Columbia, United States of America, as of the day and year first above written.

UNITED MEXICAN STATES

By /s/ Francisco Gil Díaz

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Pamela Cox

Authorized Representative

SCHEDULE 1

Excluded Expenditures

For purposes of Section 2.02 (c) of this Agreement, the proceeds of the Loan shall not be used to finance any of the following expenditures:

1. expenditures for goods or services supplied under a contract which any national or international financing institution or agency other than the Bank or the Association shall have financed or agreed to finance, or which the Bank or the Association shall have financed or agreed to finance under another loan, credit, or grant;
2. expenditures for goods included in the following groups or subgroups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Bank by notice to the Borrower:

<u>Group</u>	<u>Subgroup</u>	<u>Description of Items</u>
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 semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors

728	728.43	Tobacco processing machinery
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)

3. expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;
4. expenditures for environmentally hazardous goods (for purposes of this paragraph the term "environmentally hazardous goods" means goods, the manufacture, use or import of which is prohibited under the laws of the Borrower or international agreements to which the Borrower is a party;
5. expenditures on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and
6. expenditures under a contract in respect of which the Bank determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Borrower or of a beneficiary of the Loan during the procurement or execution of such contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation.

SCHEDULE 2

Second Phase of the Program

1. The Borrower (through its Secretariat of Tourism) has established a set of indicators and benchmarks to measure good environmental performance of tourist facilities and destinations.
2. The Borrower (through its Secretariat of Energy) has approved, pursuant to a letter dated May 16, 2005, from the Deputy Secretary of the Secretariat of Energy, the design of a national fund for renewable energy promotion.
3. The Borrower has established, pursuant to *Acuerdo Presidencial* (Presidential Accord) published in the *Diario Oficial* on January 23, 2004, and begun operation of, a Clean Development Mechanism Office operating in accordance with guidelines and procedures established by the United Nations Framework Convention on Climate Change (UNFCCC).
4. The Borrower (through CNA) has taken the following actions: it has made publicly available through its website (www.cna.gob.mx) water availability data and a national water rights registry towards the implementation of an improved functioning water rights market.
5. The Borrower (through SEMARNAT) has started decentralization of environmental management functions in several of its States, as evidenced by: (a) capacity building agreements in ten states; and (b) the following signed agreements with the following States: (i) Tamaulipas, Nuevo León and Coahuila for the decentralization wildlife management functions; (ii) Estado de México for the decentralization of forestry management functions; and (iii) Chihuahua and Guanajuato for the decentralization of the *Licencia Ambiental Unica*.

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08/04/2005

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PM