

**CONFORMED COPY**

**LOAN NUMBER 7697-MX**

# **Loan Agreement**

**(Customs Institutional Strengthening Project)**

**between**

**UNITED MEXICAN STATES**

**and**

**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT**

**Dated August 10, 2009**

**LOAN AGREEMENT**

Agreement dated August 10, 2009, between UNITED MEXICAN STATES (“Borrower”) as represented by its SHCP and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (“Bank”).

Whereas the Borrower has informed the Bank that the proceeds of the Loan (as set forth in the table in Schedule 2 to this Agreement and for purposes of supporting the Project described in Schedule 1 to this Agreement), shall be used in conformity with the requirements of the Borrower’s income, budgetary and public debt laws and the terms of this Agreement, the Borrower and the Bank hereby agree as follows:

**ARTICLE I — GENERAL CONDITIONS; DEFINITIONS**

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

**ARTICLE II — LOAN**

- 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, the amount of ten million twenty five thousand Dollars (\$10,025,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.07 of this Agreement (“Loan”), to assist in financing the project described in Schedule 1 to this Agreement (“Project”).
- 2.02. The Borrower may withdraw the proceeds of the Loan in accordance with Section IV of Schedule 2 to this Agreement. The Borrower’s Representative for purposes of taking any action required or permitted to be taken pursuant to this Section is the *Director Internacional* of NAFIN or any person or persons whom he or she shall designate in writing.
- 2.03. The Front-end Fee payable by the Borrower shall be equal to one quarter of one percent (0.25%) of the Loan amount.
- 2.04. The interest payable by the Borrower for each Interest Period shall be at a rate equal to LIBOR for the Loan Currency plus the Variable Spread; provided, that upon a Conversion of all or any portion of the principal amount of the Loan, the interest payable by the Borrower during the Conversion Period on such amount shall be determined in accordance with the relevant provisions of Article IV of the General Conditions.

- Notwithstanding the foregoing, if any amount of the Withdrawn Loan Balance remains unpaid when due and such non-payment continues for a period of thirty days, then the interest payable by the Borrower shall instead be calculated as provided in Section 3.02 (d) of the General Conditions.
- 2.05. The Payment Dates are April 15 and October 15 in each year.
- 2.06. The principal amount of the Loan shall be repaid in accordance with the provisions of Schedule 3 to this Agreement.
- 2.07. (a) The Borrower may (or may cause NAFIN) 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 withdrawn and outstanding 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 the 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 the General Conditions, and shall be effected in accordance with the provisions of Article IV of the General Conditions and of the Conversion Guidelines.
- (c) Promptly following the Execution Date for an Interest Rate Cap or Interest Rate Collar for which the Borrower (or NAFIN at the request of the Borrower) has requested that the premium be paid out of the proceeds of the Loan, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amounts required to pay any premium payable in accordance with Section 4.05 (c) of the General Conditions up to the amount allocated from time to time for the purpose in the table in Section IV of Schedule 2 to this Agreement.

### **ARTICLE III — PROJECT**

- 3.01. The Borrower declares its commitment to the objective of the Project. To this end, the Borrower shall carry out the Project through SAT in accordance with the provisions of Article V of the General Conditions.
- 3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Borrower and the Bank shall otherwise agree, the Borrower shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

### **ARTICLE IV — REMEDIES OF THE BANK**

- 4.01. The Additional Events of Suspension consist of the following:
- (a) Any of the parties to the *Contrato de Mandato* shall have failed to perform any of its obligations under the *Contrato de Mandato*.
  - (b) The SAT Law shall have been amended, suspended, abrogated, repealed, waived or not enforced in such a manner so as to affect materially and adversely, in the opinion of the Bank, the ability of the Borrower to carry out the Project.
- 4.02. The Additional Event of Acceleration consists of the following, namely that any of the events specified in Section 4.01 of this Agreement occurs and is continuing for a period of 60 days after notice of the event has been given by the Bank to the Borrower.

#### **ARTICLE V — EFFECTIVENESS; TERMINATION**

- 5.01. The Additional Conditions of Effectiveness consist of the following:
- (a) the *Contrato de Mandato* has been duly executed by the parties thereto; and
  - (b) the Borrower (in SHCP's and SAT's legal opinions) and NAFIN (in a separate legal opinion satisfactory to the Bank, issued by NAFIN 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 NAFIN and is legally binding upon the Borrower and NAFIN in accordance with the *Contrato de Mandato*'s terms.
- 5.02. Without prejudice to the provisions of the General Conditions, the Effectiveness Deadline is the date ninety (90) days after the date of this Agreement, but in no case later than the eighteen (18) months after the Bank's approval of the Loan which expire on October 21, 2010.

#### **ARTICLE VI — REPRESENTATIVE; ADDRESSES**

- 6.01. Except as set forth in Section 2.02 of this Agreement, the Borrower's Representative is the *Titular de la Unidad de Crédito Público* of SHCP. The authorized representative to make requests for Currency Conversions on behalf of the Borrower shall be the *Titular de la Unidad de Crédito Público* of SHCP or NAFIN's *Director Internacional* (or any person or persons whom he or she shall designate in writing for this particular purpose).
- 6.02. The Borrower's Address for the purposes of Section 10.01 of the General Conditions:

Secretaría de Hacienda y Crédito Público  
Unidad de Asuntos Internacionales de Hacienda  
Palacio Nacional  
Edificio 12, segundo piso  
Colonia Centro  
06000 México, D.F.

Facsímile: 011-52-55-3688-1216

6.03. The Bank's Address is:

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)	1-202-477-6391

AGREED at Mexico City, Mexico, as of the day and year first above written.

**UNITED MEXICAN STATES**

**By /s/ Gerardo Rodríguez Regordosa**  
**Authorized Representative**

**INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT**

**By /s/ Mark V. Hagerstrom**  
**Authorized Representative**

## SCHEDULE 1

### Project Description

The objective of the Project is to improve the efficiency of the Borrower's custom processes and, therefore, improve the Borrower's competitiveness and facilitate trade with foreign parties.

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

#### **Part 1: Institutional Re-design**

Provision of technical assistance and training to increase the efficiency of the Borrower's customs cycle, including, *inter alia*:

- (a) development of principles and policies to guide the Borrower's customs services, as well as development of a new customs process model;
- (b) modification of the Borrower's regulatory framework as required to implement the principles and policies developed under Part 1(a) above;
- (c) re-design of key custom processes in order to re-design AGA's information systems;
- (d) implementation of the re-designed key custom processes referred to in Part 1(c) above; and
- (e) strengthening of SAT's risk management procedures for the control of customs operations.

#### **Part 2: Human Capital**

Provision of technical assistance and training to increase the professionalism and capacities of AGA's managers and staff. Activities under this Part include, *inter alia*:

- (a) development of a human resources planning methodology, based on productivity parameters, to allow an efficient response to demands and changes in the customs process;
- (b) strengthening of AGA's process to hire and promote staff;
- (c) development of a comprehensive training program and plan for AGA's staff, including training in the new processes to be implemented under Part 1(c) above;
- (d) development of a service career scheme for AGA, individual staff career plans and succession plans for key positions within AGA;

- (e) development of a new performance evaluation system for AGA's staff;
- (f) simplification of the regulatory framework and procedures for the separation of AGA's staff; and
- (g) carrying out of activities to strengthen AGA staff's ethical behavior, leadership within its management, *esprit-de-corps*, and results-oriented and service-oriented culture.

**Part 3: Change Management**

Provision of technical assistance and training to: (a) communicate the changes in AGA's processes undertaken through the Project to internal and external stakeholders; and (b) ensure the understanding of these changes, and the involvement and engagement with the Project of said stakeholders.

**Part 4: Project Administration and Management**

Provision of technical assistance to coordinate and manage the implementation of the Project.

## SCHEDULE 2

### Project Execution

#### Section I. Implementation Arrangements

##### A. Institutional Arrangements.

1. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Borrower and the Bank may otherwise agree, the Borrower, through SAT, shall carry out the Project in accordance with the Operational Manual. Except as the Bank shall otherwise agree, the Borrower shall not amend, waive or fail to enforce any provision of the Operational Manual without the Bank's prior written approval. In case of any conflict between the terms of the Operational Manual and those of this Agreement, the terms of this Agreement shall prevail.
2. The Borrower, through SAT, shall maintain an operational manual, satisfactory to the Bank, containing, *inter alia*, specific provisions on detailed arrangements for the carrying out of the Project, including: the procurement, financial management and disbursement requirements thereof.
3. The Borrower, through SAT, shall:
  - (a) maintain, in SAT, at all times during Project implementation, an implementation team, within SAT's regular structure, with an organization, functions and responsibilities acceptable to the Bank, with respect to the Project, including, *inter alia*, the responsibility of said team to coordinate and monitor the carrying out of the Project; and
  - (b) ensure that the project implementation team referred under Section I.A.3(a) above is, at all times during Project implementation, led by a Project coordinator who is assisted by adequate professional and administrative staff (including procurement and financial specialists), in numbers and with experience and qualifications acceptable to the Bank, operating under terms of reference satisfactory to the Bank.

##### B. Contrato de Mandato

1. The Borrower, through SHCP, shall enter into a contract (*Contrato de Mandato*), satisfactory to the Bank, among SAT and NAFIN, whereby:
  - (a) NAFIN agrees to act as financial agent of the Borrower with regard to the Loan, meaning that, *inter alia*, NAFIN 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 designated account (referred to in the additional instructions cited in Section IV.A.1 of Schedule 2 to this Agreement) in compliance with the terms of this Agreement; and

- (b) the Borrower agrees that, through SAT, the Borrower shall cooperate fully with NAFIN to ensure that NAFIN is able to comply with all of NAFIN's obligations referred to in Section I.B.1(a) above.
2. 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, waive 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.

**C. Anti-Corruption**

The Borrower shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

**Section II. Project Monitoring Reporting and Evaluation**

**A. Project Reports**

The Borrower, through SAT, shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 5.08 of the General Conditions and on the basis of Key Performance Indicators. Each Project Report shall cover the period of one calendar semester, and shall be furnished to the Bank not later than sixty (60) days after the end of the period covered by such report.

**B. Financial Management, Financial Reports and Audits**

1. The Borrower, through SAT, shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 5.09 of the General Conditions.
2. Without limitation on the provisions of Part A of this Section, the Borrower, through SAT, shall prepare and furnish to the Bank not later than forty five (45) days after the end of each calendar semester, interim unaudited financial reports for the Project covering the semester, in form and substance satisfactory to the Bank.
3. The Borrower, through SAT, shall have the Project Financial Statements audited in accordance with the provisions of Section 5.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Borrower, commencing with the fiscal year in which the Project becomes effective. The audited Financial Statements for each such period shall be furnished to the Bank not later than six months after the end of such period.

**Section III. Procurement**

**A. General**

1. **Goods.** All goods required for the Project and to be financed out of the proceeds of the Loan shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.
2. **Consultants' Services.** All consultants' services required for the Project and to be financed out of the proceeds of the Loan shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines and with the provisions of this Section.
3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Bank of particular contracts refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.
4. **Special Provisions.** The Borrower, through SAT shall: (a) supply the SEPA with the information contained in the initial Procurement Plan within 30 days after the Project has been approved by the Bank; and (b) update the Procurement Plan at least once a year, or as required by the Bank, to reflect the actual Project implementation needs and progress and supply the SEPA with the information contained in the updated Procurement Plan immediately thereafter.

**B. Particular Methods of Procurement of Goods**

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods shall be procured under contracts awarded on the basis of International Competitive Bidding procedures.
2. **Other Methods of Procurement of Goods.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods. The Procurement Plan shall specify the circumstances under which such methods may be used.

<b><u>Procurement Method</u></b>
(a) National Competitive Bidding
(b) Shopping

**C. Particular Methods of Procurement of Consultants' Services**

1. **Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.
2. **Other Methods of Procurement of Consultants' Services.** The following table specifies the methods of procurement, other than Quality and Cost-based Selection,

which may be used for consultants' services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<b><u>Procurement Method</u></b>
(a) Selection under a Fixed Budget
(b) Least-Cost Selection
(c) Single Source Selection
(d) Procedures set forth in paragraphs 5.2, 5.3 and 5.4 of the Consultant Guidelines for the selection of Individual Consultants

**D. 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.

**Section IV. Withdrawal of Loan Proceeds**

**A. General**

1. The Borrower may withdraw the proceeds of the Loan in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Bank may specify by notice to the Borrower (including the "World Bank Disbursement Guidelines for Projects" dated May 2006, as revised from time to time by the Bank and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures and the Front-end Fee in accordance with Section 2.07 (b) of the General Conditions.
2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Loan ("Category"), the allocation of the amounts of the Loan to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category.

<b>Category</b>	<b>Amount of the Loan Allocated (expressed in USD)</b>	<b>Percentage of Expenditures to be financed (inclusive of Taxes)</b>
(1) Goods, Consultant Services, and Training and Workshops under Part 1 of the Project	6,500,000	100%
(2) Goods, Consultant Services, and Training and Workshops under Part 2 of the Project	2,400,000	100%
(3) Goods, Consultant Services, and Training and Workshops under Part 3 of the Project	500,000	100%
(4) Goods, Consultant Services, and Training and Workshops under Part 4 of the Project	599,937	100%
(5) Front-end Fee	25,063	Amount payable pursuant to Section 2.03 of this Agreement in accordance with Section 2.07 (b) of the General Conditions
(6) Premia for Interest Rate Caps and Interest rate Collars (amounts due under section 2.07 (c) of this Agreement)	-0-	
<b>TOTAL AMOUNT</b>	<b>10,025,000</b>	

3. For purposes of this Section IV.A the following terms have the following meanings:

“Training and Workshops” means reasonable expenditures incurred in connection with the provision of training and workshops under the Project, including study tours, travel expenditures, site rentals, materials, and per diem of trainers and trainees.

**B. Withdrawal Conditions; Withdrawal Period**

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement, except that withdrawals up to an aggregate

amount not to exceed \$2,000,000 equivalent may be made for payments made within twelve (12) months prior to the date of this Agreement.

2. The Closing Date is September 30, 2014.

### **SCHEDULE 3**

#### **Amortization Schedule**

The Borrower shall repay the principal amount of the Loan in full on October 15, 2026.

## APPENDIX

### Section I. Definitions

1. “AGA” means the Borrower’s General Customs Administration (*Administración General de Aduanas*), an administrative unit within SAT.
2. “Anti-Corruption Guidelines” means the “Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants”, dated October 15, 2006.
3. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
4. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004 and revised in October 2006.
5. “*Contrato de Mandato*” means the Agreement to be entered into between the Borrower, through SHCP, SHCP’s SAT and NAFIN (as hereinafter defined), pursuant to Section I.B.1 of Schedule 2 to this Agreement, as the same may be amended from time to time.
6. “General Conditions” means the “International Bank for Reconstruction and Development General Conditions for Loans”, dated July 1, 2005 (as amended through February 12, 2008) with the modifications set forth in Section II of this Appendix.
7. “Key Performance Indicators” means the indicators for monitoring and evaluating progress towards the attainment of Project objectives referred to in Section II.A of Schedule 2 to the Loan Agreement..
8. “NAFIN” means *Nacional Financiera, S.N.C.*, a Mexican development bank serving as the Borrower’s financial agent for purposes of the Loan.
9. “Operational Manual” means the manual referred to in Section I.A.2 of Schedule 2 to this Agreement, dated April 15, 2009, as said manual may be amended from time to time with the Bank’s prior approval.
10. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004 and revised in October 2006.
11. “Procurement Plan” means the Borrower’s procurement plan for the Project, dated March 23, 2009 and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.
12. “SAT” means *Servicio de Administración Tributaria*, the Borrower’s Tax Administration Service, a deconcentrated unit within SHCP and created pursuant to the SAT Law, or any successor thereto acceptable to the Bank.

13. “SAT Law” means the Borrower’s tax administration law (*Ley del Servicio de Administración Tributaria*) published on December 15, 1995 in the Borrower’s Official Gazette (*Diario Oficial de la Federación*), and entered into effect on July 1, 1997, and said term includes the regulations to said law, as said law and regulations have been amended to the date of this Agreement.
14. “SEPA” means the Bank’s publicly accessible Procurement Plans Execution System.
15. “SHCP” means *Secretaría de Hacienda y Crédito Público*, the Borrower’s Finance and Public Credit Secretariat.

## **Section II. Modifications to the General Conditions**

The modifications to the General Conditions are as follows:

1. Paragraph (a) of Section 2.07 is modified to read as follows:

*“Section 2.07. Refinancing Preparation Advance; Capitalizing Front-end Fee and Interest*

(a) If the Loan Agreement provides for the repayment out of the proceeds of the Loan of an advance made by the Bank or the Association (“Preparation Advance”), the Bank shall, on behalf of such Loan Party, withdraw from the Loan Account on or after the Effective Date the amount required to repay the withdrawn and outstanding balance of the advance as at the date of such withdrawal from the Loan Account and to pay all accrued and unpaid charges, if any, on the advance as at such date. The Bank shall pay the amount so withdrawn to itself or the Association, as the case may be, and shall cancel the remaining unwithdrawn amount of the advance.”

2. Paragraph (l) of Section 7.02 is modified to read as follows:

*“Section 7.02. Suspension by the Bank*

... (l) *Ineligibility.* The Bank or the Association has declared the Borrower (other than the Member Country) or the Project Implementing Entity ineligible to receive proceeds of any financing made by the Bank or the Association or otherwise to participate in the preparation or implementation of any project financed in whole or in part by the Bank or the Association, as a result of a determination by the Bank or the Association that the Borrower or the Project Implementing Entity has engaged in fraudulent, corrupt, coercive or collusive practices in connection with the use of the proceeds of any financing made by the Bank or the Association.”

3. The following terms and definitions set forth in the Appendix are modified or deleted as follows, and the following new terms and definitions are added in alphabetical order to the Appendix as follows, with the terms being renumbered accordingly:

- (b) The definition of the term “Conversion Date” is modified to read as follows:

“‘Conversion Date’ means, in respect of a Conversion, the Execution Date (as herein defined) or such other date as requested by the Borrower and accepted by the Bank, on which the Conversion enters into effect, and as further specified in the Conversion Guidelines.”