

No. 12158

**INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
and
MEXICO**

**Guarantee Agreement—Industrial Equipment Fund
(FONEI) Project (with General Conditions Applicable
to Loan and Guarantee Agreements). Signed at Wash-
ington on 2 June 1972**

Authentic text: English.

*Registered by the International Bank for Reconstruction and Development
on 29 November 1972.*

**BANQUE INTERNATIONALE POUR
LA RECONSTRUCTION ET LE DÉVELOPPEMENT
et
MEXIQUE**

**Contrat de garantie — Projet relatif au Fonds d'équipement
industriel (FONEI) [avec Conditions générales appli-
cables aux contrats d'emprunt et de garantie]. Signé à
Washington le 2 juin 1972**

Texte authentique : anglais.

*Enregistré par la Banque internationale pour la reconstruction et le
développement le 29 novembre 1972.*

GUARANTEE AGREEMENT¹

AGREEMENT, dated June 2, 1972, between UNITED MEXICAN STATES (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by a trust agreement between the Guarantor and the Trustee dated October 29, 1971, the Trustee has been entrusted by the Guarantor with a special fund for the purpose of promoting and financing the development of industrial and service enterprises designed to increase exports and/or efficiently replace imports;

WHEREAS the Government of United Mexican States, the Borrower and the Trustee have requested the Bank to assist in financing such development;

WHEREAS by the Loan Agreement of even date herewith,² the Bank has agreed to make to the Borrower a loan in various currencies equivalent to thirty-five million dollars (\$35,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to undertake certain obligations in respect of such loan as hereinafter provided, and that the Trustee undertake certain obligations to the Bank as in the Project Agreement set forth;

WHEREAS by the Project Agreement of even date herewith³ between the Bank and the Trustee, the Trustee has agreed to undertake certain obligations, including the carrying out of the Project, as in the Project Agreement set forth; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower and into the Project Agreement with the Trustee, has agreed to undertake such obligations as hereinafter set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

Article I. GENERAL CONDITIONS; DEFINITIONS

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank dated January 31, 1969,³ with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 2 to the Loan Agreement (said General Conditions Applicable to Loan and Guarantee Agreements, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in Section 1.02 of the Loan Agreement have the respective meanings therein set forth.

Article II. GUARANTEE; BONDS; PROVISION OF FUNDS

Section 2.01. Without limitation or restriction upon any of its other obligations under the Guarantee Agreement, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and interest and other charges on, the Loan and the

¹ Came into force on 12 October 1972, upon notification by the Bank to the Government of Mexico.

^{2,3} The said Agreements entered into force on 12 October 1972. As they do not constitute international agreements or a part of the present Agreement, they are not reproduced herein. However, they were published by the Bank as documents LN 824 ME, certified true copies of which were transmitted to the Secretariat together with the documentation submitted for registration of the present Guarantee Agreement.

³ See p. 173 of this volume.

Bonds, the premium, if any, on the prepayment of the Loan or the redemption of the Bonds prior to their maturity and the punctual performance of all the other obligations of the Borrower all as set forth in the Loan Agreement and in the Bonds.

Section 2.02. The Guarantor shall endorse, in accordance with the provisions of the General Conditions, its guarantee on the Bonds to be executed and delivered by the Borrower. Nacional Financiera, S.A. and such other person or persons as it shall appoint in writing are designated as authorized representatives of the Guarantor for the purposes of Section 8.10 of the General Conditions.

Section 2.03. (a) Without limitation or restriction upon the provisions of Section 2.01 of this Guarantee Agreement, the Guarantor specifically undertakes: (i) to cause the Trustee to carry out the Project with due diligence and efficiency and in conformity with sound financial, industrial and administrative policies and practices; and (ii) whenever there is reasonable cause to believe that the funds available to the Trustee for the purposes of the Project will be inadequate to meet the estimated expenditures required for carrying out the Project, to make arrangements satisfactory to the Bank, promptly to provide the Trustee or cause the Trustee to be provided with such funds as are needed to meet such expenditures.

(b) Without limitation to its obligations under the preceding subsection, the Guarantor undertakes to provide FONEI for the Project with a non-repayable contribution of not less than the equivalent of ten million dollars (\$10,000,000), to be made available to FONEI; (i) five million dollars (\$5,000,000) before the Effective Date, and (ii) five million dollars (\$5,000,000) before December 31, 1973.

Section 2.04. The Guarantor shall provide or cause to be provided to the Borrower such funds as shall be required by the Borrower for the timely repayment of the Loan in accordance with the provisions of Section 2.07 of the Loan Agreement.

Article III. OTHER COVENANTS

Section 3.01. (a) It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan or the Bonds by way of a lien on governmental assets.

(b) To that end the Guarantor (i) represents that at the date of this Agreement no lien exists on any governmental assets as security for any external debt, and (ii) undertakes that, except as the Bank shall otherwise agree, if any such lien shall be created, it will *ipso facto* equally and ratably, and at no cost to the Bank or the holders of the Bonds, secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds and in the creation of any such lien express provision will be made to that effect. The Guarantor shall promptly inform the Bank of the creation of any such lien.

(c) The foregoing representation and undertaking shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property; and (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

As used in this Section (a) the term "governmental assets" means assets of the Guarantor or of any of its political subdivisions or of any Agency, and (b) the term "Agency" means any agency or instrumentality of the Guarantor or of any political subdivision of the Guarantor and shall include any institution or organization which is owned or controlled directly or indirectly by the Guarantor or by any political

subdivision of the Guarantor or the operations of which are conducted primarily in the interest of or for the account of the Guarantor or any political subdivision of the Guarantor.

Section 3.03. The Guarantor covenants that it will not take, or cause or permit any of its political subdivisions or any of its agencies or any agency of any such political subdivisions to take, any action which would prevent or interfere with the performance by the Borrower or the Trustee of their obligations in the Loan Agreement and the Project Agreement contained (including any action in respect of the contractual arrangements referred to in Section 3.03 (a) of the Loan Agreement and 2.02 (a) of the Project Agreement) and will take or cause to be taken all reasonable action necessary or appropriate to enable the Borrower and the Trustee to perform such obligations.

Section 3.03. The Guarantor shall take all action which shall be necessary or advisable: (i) upon the recommendation of FONEI to that effect, to cause such import permits as shall be needed for the importation of industrial machinery and equipment purchased outside of Mexico for the Investment Projects to be issued as promptly as possible, in compliance with the legislation and administrative procedures of the Guarantor, and as required for carrying out the Project; and (ii) to enable the Trustee and the Participating Intermediaries to apply or cause to be applied the credit policies provided for in the Operating Regulations to the sub-loans to be made under the Project.

Article IV. CONSULTATION AND INFORMATION

Section 4.01. The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end the Guarantor and the Bank shall from time to time, at the request of either party: (i) exchange views through their representatives with regard to the performance of their respective obligations under the Guarantee Agreement and other matters relating to the purposes of the Loan; and (ii) furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the Guarantor, such information shall include information with respect to financial and economic conditions in the territories of the Guarantor, including its balance of payments, and the external debt of the Guarantor, of any of its political subdivisions and of any agency of the Guarantor or of any such political subdivision.

Section 4.02. (a) The Guarantor shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(b) The Guarantor shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Guarantor for purposes related to the Loan.

Article V. TAXES AND RESTRICTIONS

Section 5.01. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for, and free from, any taxes imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the foregoing shall not apply to taxation of payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

Section 5.02. The Guarantee Agreement, the Loan Agreement, the Project Agreement and the Bonds shall be free from any taxes that shall be imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

Section 5.03. The payment of the principal of, and interest and other charges on, the Loan and the Bonds shall be free from all restrictions, regulations, controls or moratoria of any nature imposed under the laws of the Guarantor or laws in effect in its territories.

Article VI. REPRESENTATIVE OF THE GUARANTOR; ADDRESSES

Section 6.01. Nacional Financiera, S.A. is designated as representative of the Guarantor for the purposes of Section 10.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

For the Guarantor:

United Mexican States
c/o Nacional Financiera, S.A.
Isabel la Católica 51
México 1, D.F.
México

For the Bank:

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

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

United Mexican States:

By Nacional Financiera, S.A. :

By HUGO B. MARGÁIN
Authorized Representative

International Bank for Reconstruction and Development:

By ROBERT S. McNAMARA
President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

GENERAL CONDITIONS, DATED 31 JANUARY 1969

GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS

[Not published herein. See United Nations, Treaty Series, vol. 691, p. 300.]