Development Credit Agreement

(First Programmatic Financial Sector Development Policy Credit)

between

REPUBLIC OF HONDURAS

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated May 18, 2005
DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated May 18, 2005, between REPUBLIC OF HONDURAS (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received from the Borrower a letter dated January 21, 2005, describing a program of actions, objectives and policies designed to promote growth and achieve sustainable reductions in poverty (hereinafter called the Program), declaring the Borrower’s commitment to the execution of the Program, and requesting assistance from the Association in support of the Program during the execution thereof; and

(B) on the basis, inter alia, of the foregoing, the Association has decided in support of the Program to provide such assistance to the Borrower by making the Credit in two tranches 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 Development Credit Agreements” of the Association, dated January 1, 1985 (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 12, is modified to read:

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

(b) Section 4.01 is modified to read:

“Except as the Borrower and the Association shall otherwise agree, withdrawals from the Credit Account shall be made in the currency
specified in Section 2.02 (b) of the Development Credit Agreement; provided, however, that withdrawals in the currency of the Borrower shall be made in such currency or currencies as the Association shall from time to time reasonably select.”;

(c) Section 5.01 is modified to read:

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

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

(e) Section 9.06 (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 Association, the Borrower shall prepare and furnish to the Association a report, of such scope and in such detail as the Association shall reasonably request, on the execution of the program referred to in the Preamble to the Development Credit Agreement, the performance by the Borrower and the Association of their respective obligations under the Development Credit Agreement and the accomplishment of the purposes of the Credit.”; and

(f) Section 9.04 is deleted in its entirety and Sections 9.05, 9.06 (as modified above), 9.07 and 9.08 are renumbered, respectively, Sections 9.04, 9.05, 9.06 and 9.07.

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) “Anti Asset Laundering Law” means Ley Contra el Delito de Lavado de Activos, the Borrower’s anti asset laundering law issued by Decree No. 45-2002 of March 5, 2002 and effective as of June 3, 2002;

(b) “BCH” means Banco Central de Honduras, the Borrower’s central bank established pursuant to the Borrower’s BCH Law;
(c) “BCH Law” means Ley del Banco Central de Honduras, the Borrower’s Central Bank Law of February 3, 1950, as amended to the date of this Agreement;

(d) “CNBS” means Comisión Nacional de Bancos y Seguros, the Borrower’s national banking and insurance commission, established pursuant to Article 245, Section 31 of the Borrower’s Constitution, and governed by the CNBS Law;

(e) “CNBS Law” means Ley de la Comisión Nacional de Bancos y Seguros, the Borrower’s National Banking and Insurance Commission Law issued by Decree No. 155-95 of November 18, 1995 and effective as of December 8, 1995, as amended to the date of this Agreement;

(f) “Congress” means the Borrower’s legislative branch of government;

(g) “Criminal Code” means Código Penal, the Borrower’s criminal code issued by Decree No. 144-83 of August 23, 1983, as amended to the date of this Agreement;

(h) “Executive” means the Borrower’s executive branch of government;

(i) “Financial Sector Policy Committee” means Comité de Políticas del Sector Financiero, the Borrower’s financial sector policy committee established by the Borrower’s Executive Decree No. 001-2004 dated January 22, 2004 and published in the Borrower’s Official Gazette No. 3,313 dated February 11, 2004;

(j) “Financial System Law” means Ley del Sistema Financiero, the Borrower’s Financial System Law issued by Decree No. 129-2004 of September 21, 2004 and effective as of September 24, 2004, as amended to the date of this Agreement;

(k) “SEFIN” means Secretaría de Estado en el Despacho de Finanzas, the Borrower’s Ministry of Finance; and

(l) “UIF” means Unidad de Información Financiera, the Borrower’s financial intelligence unit under the CNBS, established pursuant to Article 44 of the Anti Asset Laundering Law.
ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to sixteen million two hundred thousand Special Drawing Rights (SDR 16,200,000).

Section 2.02. (a) Subject to the provisions of paragraphs (b), (c) and (d) of this Section, the Borrower shall be entitled to withdraw the proceeds of the Credit from the Credit Account in support of the Program.

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

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

(d) No withdrawals shall be made from the Credit Account, after the aggregate amount of the Credit withdrawn from the Credit Account has reached the amount of SDR 8,100,000, unless the Association is satisfied, after an exchange of views as described in Section 3.01 of this Agreement based on evidence satisfactory to the Association:

(i) with the progress achieved by the Borrower in the carrying out of the Program;

(ii) that the macroeconomic policy framework of the Borrower is satisfactory, as measured on the basis of indicators agreed between the Borrower and the Association; and
(iii) that the actions described in Schedule 2 to this Agreement have been taken.

If, after said exchange of views, the Association is not so satisfied, the Association may give notice to the Borrower to that effect and, if within 90 days after such notice, the Borrower has not taken steps satisfactory to the Association, in respect of (i), (ii), and (iii) above, as the case may be, then the Association may, by notice to the Borrower, cancel the unwithdrawn amount of the Credit or any part thereof.

Section 2.03. The Closing Date shall be June 30, 2006 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or cancelled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on June 15 and December 15 in each year.
Section 2.07. The Borrower shall repay the principal amount of the Credit in semiannual installments payable on each June 15 and December 15 commencing June 15, 2015 and ending December 15, 2024. Each installment shall be five percent (5%) of such principal amount.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Particular Covenants

Section 3.01. (a) The Borrower and the Association 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 shall furnish to the Association for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Association shall reasonably request.

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Borrower shall exchange views with the Association on any proposed action to be taken after the disbursement of the Credit 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 shall promptly furnish to the Association such information relating to the provisions of Article II of this Agreement as the Association may, from time to time, reasonably request.

ARTICLE IV

Additional Events of Suspension

Section 4.01. Pursuant to Section 6.02 (l) 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 by the Borrower or its agencies to reverse any action or policy under the Program in a manner that would, in the opinion of the Association, adversely affect the achievement of the objectives of the Program.

(d) An action has been taken or a policy has been adopted by the Borrower or its agencies to reverse any action listed in Schedule 2 to this Agreement.

ARTICLE V

Termination

Section 5.01. The date August 16, 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. The Secretary of SEFIN is designated as the 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 Estado en el Despacho de Finanzas*
Tegucigalpa, M.D.C.
Honduras

Cable address: HACIENDA
Facsimile: (504) 237-4142
Tegucigalpa (504) 237-5033
For the Association:

International Development Association  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

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<th>Telex:</th>
<th>Facsimile:</th>
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<td>INDEVAS</td>
<td>248423 (MCI) or</td>
<td>(202) 477-</td>
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<td>6391</td>
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<td>Washington, D.C.</td>
<td>64145 (MCI)</td>
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IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Tegucigalpa, Honduras, as of the day and year first above written.

REPUBLIC OF HONDURAS

By /s/ William Chong Wong
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Pamela Cox
Authorized Representative
SCHEDULE 1

Excluded Expenditures

For purposes of Section 2.02 (c) of this Agreement, the proceeds of the Credit 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 Association or the Bank shall have financed or agreed to finance under another credit, loan, 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 Association by notice to the Borrower:

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<thead>
<tr>
<th>Group</th>
<th>Subgroup</th>
<th>Description of Items</th>
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<td>112</td>
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<td>Alcoholic beverages</td>
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<td>121</td>
<td>-</td>
<td>Tobacco, unmanufacuted, tobacco refuse</td>
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<td>122</td>
<td>-</td>
<td>Tobacco, manufactured (whether or not containing tobacco substitutes)</td>
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<td>525</td>
<td>-</td>
<td>Radioactive and associated materials</td>
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<tr>
<td>667</td>
<td>-</td>
<td>Pearls, precious and semiprecious stones, unworked or worked</td>
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</tbody>
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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 Association determines that corrupt, fraudulent, collusive, or coercive practices were engaged in by representatives of the Borrower or of a beneficiary of the Credit during the procurement or execution of such contract, without the Borrower having taken timely and appropriate action satisfactory to the Association to remedy the situation.
SCHEDULE 2

Actions Referred to in Section 2.02 (d) (iii) of this Agreement

1. (a) The Financial Sector Policy Committee has recommended a contingency plan for systemic financial crisis management; and

(b) the Borrower has issued an executive order (Acuerdo Presidencial) approving the contingency plan for systemic financial crisis management as recommended by the Financial Sector Policy Committee.

2. The CNBS has issued norms and procedures for:

(a) the implementation of the new mechanism for the resolution of financial institutions set forth in the Financial System Law covering: (i) forced liquidation (Title 8, Chapter 3, First Section); and (ii) restitution (Title 8, Chapter 3, Second Section); and

(b) the liquidation of assets remaining in the resolved financial institutions’ balance sheets after the execution of the restitution processes referred to in paragraph 2 (a) (ii) above.

3. The Borrower has approved the creation of a bank capitalization fund with structure and operating procedures agreed with the Association.

4. The Executive has presented to the Congress a draft law to improve the following legal systems of the Borrower: (a) bankruptcy and corporate reorganization; (b) creditor rights; and (c) corporate governance of non-financial business corporations.

5. The Congress has: (a) approved an amendment to the Criminal Code to include the financing of terrorism as an autonomous crime and the amendment has entered into effect; and

(b) amended the Anti Asset Laundering Law to incorporate the following activities into the system that reports suspicious transactions to the UIF: (i) business activities with high risk (i.e., sale and purchase of real estate,
vehicles, artwork, antiques, jewelry, etc.); and (ii) business activities carried out by independent professionals (i.e., notaries, accountants, etc.).

6. The CNBS is complying with the program to strengthen intensive supervision of high risk institutions set forth in the CNBS’s Resolution No. 1309/28-12-2004 dated December 28, 2004, as evidenced by reports issued by consultants satisfactory to the Association.

7. Financial institutions that are subject to the CNBS’s programs to reduce related party loans are in compliance with such programs, as evidenced by reports issued by the respective financial institutions’ external auditors.

8. The CNBS and the BCH are: (a) maintaining operational their on-line database of related parties referred to in the CNBS’s Resolution No. 1310/28-12-2004; and

(b) generating quarterly reports to assess the financial situation of the largest debtors of the Borrower’s financial system.

9. The BCH has issued a resolution approving a regulatory framework for payments systems.