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Dirección General de Inversión Extranjera
Secretaría de Economía
Avenida de los Insurgentes Sur 1940
Colonia La Florida
México D.F. 01030
United Mexican States



August 6, 2015

Re: Notice of Intent to Submit a Claim to Arbitration Against the United Mexican States Under Chapter Eleven of the North American Free Trade Agreement

Dear Sir or Madam,

In accordance with Articles 1116, 1118 and 1119 of the North American Free Trade Agreement ("NAFTA"), Lion Mexico Consolidated LP ("LMC" or the "Investor") hereby gives written notice of its intention to submit to arbitration a claim (the "Notice") against the United Mexican States ("Mexico"), with a view towards attempting to settle the claim through consultation or negotiation.

I. Identification of the Investor

1. The Notice is submitted by LMC, a corporation duly constituted under the laws of the Province of Québec, Canada (**Exhibit 1**).
2. Although LMC is a Canadian corporation, its main place of business and domicile for notifications is the following:

1717 McKinney Avenue, Suite 1900
Dallas, Texas
75202
United States of America
3. LMC will be represented in all matters related with this dispute, including amicable consultation or negotiation, by Mayer Brown International LLP (**Exhibit 2**). The contact details of Mayer Brown's lawyers are as follows:

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4. LMC is part of a real estate investment fund that saw great potential in Mexico when it initiated an investment program there in 2005. Since then, LMC and its affiliates have invested almost US\$1 billion in Mexican real estate ventures. The significant reforms passed in recent years, alongside Mexico's continued emergence as a competitive location for global manufacturers, attracted LMC to Mexico.
5. LMC is registered under Registry No. 58-II-SII of the Mexican "*Registro de Fondos de Pensiones y Jubilaciones y Fondos de Inversión del Extranjero*" listing foreign residents whose income is generated in Mexico.
6. In this case, LMC has made an investment in Mexico in the form of three non-negotiable promissory notes (*pagarés*) in an amount totalling US\$32.8 million granted in 2007 by two Mexican companies owned and controlled by Mexican national Mr Héctor Cárdenas Curiel (the "Notes"), and mortgages over three properties, two of them located in Guadalajara (Jalisco) and one in Bahía de Banderas (Nayarit), to which LMC was the beneficiary (the "Mortgages"). The Notes and the Mortgages served as collateral to three loans given by LMC to Mexican companies owned and controlled by Mr Cárdenas (the "Loans").
7. As a consequence, LMC is an investor which has made an investment in Mexico under Article 1139 of NAFTA.

II. Identification of the State

8. The Notice is addressed to the United States of Mexico, a party to NAFTA.
9. The Notice is being delivered to the place of delivery of notices named by Mexico in accordance with Article 1137.2 and Annex 1137.2 of NAFTA. A translation of this Notice is submitted simultaneously as a courtesy together with this original version in

English. In case of discrepancy between the versions, this English language version prevails.

III. Factual Basis for the Claim

10. LMC has been forced to give this Notice to Mexico because Mexico's authorities have cancelled LMC's Notes and Mortgages based upon a false loan restructuring agreement submitted by LMC's Mexican counterparties and have repeatedly denied LMC the opportunity to demonstrate that the purported restructuring agreement is a forgery. As a result of these arbitrary, capricious and discriminatory acts, LMC has suffered damages in excess of US\$200 million, as more fully explained below.

11. In 2007, LMC granted three Loans to two Mexican companies for the financing of the remainder of the purchase price of three real estate properties in the States of Nayarit and Jalisco, in Mexico (the "Properties") and the working capital necessary for the development of the Properties. In order to guarantee the payment of the Loans, the Mexican companies signed the Notes for the full amount of the Loans, as well as ordinary and default interest. In addition, the Loans were guaranteed by the Mortgages over the Properties affected by the development.

12. The Loans, Notes, Mortgages and Properties involved are as follows:

- a. Loan agreement for US\$12,450,000 granted by LMC to C&C CAPITAL, SOCIEDAD ANONIMA DE CAPITAL VARIABLE ("C&C") on 13 June 2007.

C&C issued a non-negotiable promissory note in favour of LMC for US\$12,450,000 which provided that ordinary interests would accrue as from the date of signature every three months, in the same terms as those stipulated in the loan agreement (**Exhibit 3**).

This loan agreement was also secured by a mortgage granted by BANSI S.A. INSTITUCION DE BANCA MULTIPLE DIVISION FIDUCIARIA ("Bansi") at C&C's request, in favour of LMC, over a property located in Guadalajara and recorded under Sheet 117,850 of the Public Property Registry of the City of Guadalajara, Jalisco (**Exhibit 4**). The mortgage was recorded at that Public Property Registry on 23 November 2007.

- b. Loan agreement for US\$5,355,479 granted by LMC to C&C on 26 September 2007.

C&C issued a non-negotiable promissory note in favour of LMC for US\$5,355,479 which provided that ordinary interests would accrue as from the date of signature every three months, in the same terms as those stipulated in the loan agreement (**Exhibit 5**).

This loan agreement was also secured by a mortgage granted by Bansi, at C&C's request, in favour of LMC, over a property located in Guadalajara and recorded under Sheet 2,000,954 of the Public Property Registry of the City of Guadalajara,

Jalisco (**Exhibit 6**). The mortgage was recorded at that Property Public Registry on the same date.

- c. Loan agreement for US\$15,000,000 granted by LMC to Inmobiliaria Bains, S.A. de C.V. ("Inmobiliaria Bains"), with the participation of C&C INGENIERIA Y PROYECTOS S.A. DE C.V. ("C&C Ingeniería"), as joint and several obligor, on 28 February 2007.

Inmobiliaria Bains issued a non-negotiable promissory note in favour of LMC for US\$15,000,000, which provided that ordinary interests would accrue as from the date of signature every three months, in the same terms as those stipulated in the loan agreement (**Exhibit 7**).

All three loans referred to above (at paragraphs 12a, 12b and 12c) were secured by a mortgage granted by Inmobiliaria Bains in favour of LMC over a property located in the Municipality of Bahía de Banderas on 2 April 2008 (**Exhibit 8**).¹ This mortgage was recorded at the Office of the Public Property and Commercial Registry of Bucerías, Nayarit, on 19 May 2008.

13. Pursuant to the above transactions, LMC became the holder of the Notes and the beneficiary of the Mortgages over three Properties located in Mexico.
14. The debtors breached their repayment obligations under the Loans and Notes and LMC requested payment on 27 February 2012. In view of the lack of payment, on 12 April 2012, LMC initiated special proceedings before the Mexican Courts for the enforcement of mortgages against Bansi, Inmobiliaria Bains, C&C and C&C Ingeniería (together, the "Debtors"). However, the proceedings suffered serious delay as a result of the Courts' inability to serve the claims on the Debtors. By December 2012, the proceedings had not yet been served on the Debtors.
15. On 14 December 2012, LMC learned from the staff of the Property Registries of Guadalajara (Jalisco) and Bucerías (Nayarit) that the Mortgages had been cancelled by order of another Mexican Court, namely the 9th Commercial Judge of the First Judicial Party of the State of Jalisco, which had been executed by the Director of the Public Property Registry of the City of Guadalajara and by the Chief of the Office of the Public Property and Commercial Registry of Bucerías. Indeed, on 27 June 2012, the 9th Commercial Judge of the First Judicial Party of the State of Jalisco had issued a Judgment which declared the Loans settled and the Notes and Mortgages cancelled, as a consequence of civil proceedings brought by the Debtors against LMC. However, LMC was never served, did not intervene in such proceedings, which were conducted *in absentia*, and never was aware of these proceedings until 14 December 2012.
16. LMC learned later that the judicial decision from the 9th Commercial Judge of the First Judicial Party of the State of Jalisco was based on a forged document in which LMC purportedly offered the cancellation of the Loans in exchange for shares in certain of the Debtors' companies, which were worthless. According to the forged document,

¹ This mortgage affected Portion "A" resulting from the subdivision of the merger of plots 3A-4A, 4B, 5A and 5B, of the rural property named San Ignacio de la Cruz, in the Municipality of Bahía de Banderas, in the State of Nayarit, with a surface area of 373,557.895 m². The subdivision was registered under entry number 19, book 481, Section I Series A in the Public Registry of Property and Commerce of Bucerías, Nayarit.

following the issuance of the shares, LMC would cancel the Notes issued by C&C, C&C Ingeniería and Inmobiliaria Bains, as well as the Mortgages. The forged document designated for LMC's notifications a false address and nominated a person completely unrelated to LMC to receive notice on behalf of LMC.²

17. Upon learning of the cancellation of the Mortgages, LMC decided to pursue several judicial remedies to attempt to reinstate the Notes and Mortgages that had been fraudulently cancelled:

- a. First, on 19 December 2012, LMC brought an Indirect Amparo claim before the First Civil District Court of the State of Jalisco, against the Judge and the Secretary of the 9th Commercial Judge of the First Judicial Party of the State of Jalisco, for their failure to serve the claim of the Debtors to LMC, therefore, preventing LMC from defending itself in the proceedings that resulted in the settlement of the Loans and the cancellation of the Notes and the Mortgages; and against the Directors of the Public Registries affected, for cancelling the Mortgages.

It was during these proceedings, and notably with the response submitted by the Judge of the 9th Commercial Judge of the First Judicial Party of the State of Jalisco, that LMC learned about the existence and contents of the forged document. LMC immediately requested that the First Civil District Court of the State of Jalisco address the issue of the authenticity of the forged document, which provided the false address and false agent for service of the complaint. However, this request was denied through an interlocutory decision dated 5 July 2013, on the purported basis that establishing such falsehood was not relevant to the outcome of the case. However, in its judgment issued on 4 December 2013, the First Civil District Court of the State of Jalisco rejected LMC's Amparo claim precisely on the basis that the claim had been correctly served on LMC and LMC had failed to appear and defend.

On 19 December 2013, LMC filed an appeal (*Recurso de Revisión*) against this decision before the Second Civil Collegiate Tribunal of the Third Circuit. However, on 17 April 2015, the Second Collegiate Civil Tribunal of the State of Jalisco decided not to address LMC's arguments based upon the forged document and the failure to serve LMC in the earlier proceedings. Instead, the Second Collegiate Civil Tribunal of the State of Jalisco referred to information that the Tribunal claimed it had collected itself, that supposedly indicated that LMC had previously – in August 2012 – initiated and later abandoned another Amparo action in respect of the proceedings before the 9th Commercial Judge of the First Judicial Party of the State of Jalisco. However LMC had never filed this previous Amparo.

Rather than addressing the merits of LMC's appeal, the Second Collegiate Civil Tribunal of the State of Jalisco ordered the First Civil District Court of the State of Jalisco to reconsider the Amparo proceedings, but only with respect to whether the *previous* Amparo proceedings were authentic, thereby avoiding once

² In these proceedings before the 9th Commercial Judge of the First Judicial Party of the State of Jalisco, the Debtors argued that LMC failed to comply with the obligations provided for in the forged document, consisting in cancelling the Notes as well as the Mortgages, and requested the Judge to order such cancellation.

again a hearing on the merits of whether the purported restructuring agreement, upon which the cancellation of the Notes and Mortgages was based, was a forgery. The proceedings before the First Civil District Court of the State of Jalisco are still pending.³

- b. In parallel, on 8 April 2013, LMC filed a criminal complaint before the Attorney General of the State of Jalisco against Mr Cárdenas, for the use of the forged document before the 9th Commercial Judge of the First Judicial Party of the State of Jalisco.

After reviewing the evidence presented, on 17 September 2013 the Attorney General of the State of Jalisco decided to initiate a criminal action against Mr Cárdenas and, two days later, the 4th Criminal Judge of the First Circuit of the State of Jalisco, after holding that there were sufficient elements suggesting the commission of criminal offences, issued an arrest warrant against him.

However, on 5 December 2014, the same 4th Criminal Judge of the First Circuit of the State of Jalisco discharged Mr Cárdenas without analyzing the matter on the stated grounds that there was no element suggesting the existence of a crime.

LMC's appeals against this decision before the Chamber No. 10 of the Supreme Court of Justice of the State of Jalisco were rejected without cause on 21 May 2015. Also, that judge released certain limitations on the sale of the Properties subject to the Mortgages that had been imposed by the criminal court when the criminal action was initiated.

- c. Further, on 16 April 2013, LMC filed another criminal complaint for fraud against Mr Cárdenas before the Attorney General Office of Mexico F.D. This complaint was based upon Mr. Cárdenas inducing LMC to make loans with no intention of repaying the loans or using the loans for the represented purpose. An arrest order was granted and enforced against Mr Cárdenas by the 32nd Criminal Judge of Mexico F.D.

However, after a procedure plagued with procedural irregularities, and notably the admittance of recourses which were inadmissible under Mexican law, Mr Cárdenas was transferred to Mexico City in execution of the pending arrest order referred to in paragraph 16.b above (where he was subsequently released from detention) and on 25 February 2015, the 7th Criminal Chamber of Mexico F.D. closed the criminal proceedings. LMC has filed a Direct Amparo claim against this decision before the 5th Criminal Collegiate Tribunal of the First Circuit, which is now pending.⁴

- 18. None of the many Mexican judges and tribunals that intervened in the proceedings mentioned above has ruled on the authenticity of the forged documents. In fact, despite the many requests and recourses filed by LMC, that issue was entirely disregarded.

³ LMC reserves the right to amend this Notice so as to include judicial measures as may be warranted following a final determination in the Amparo proceedings.

⁴ LMC reserves the right to amend this Notice so as to include judicial measures as may be warranted following a final determination in the criminal proceedings.

19. As a consequence of the above, LMC has been deprived by Mexico of the Notes and Mortgages it legally obtained and relied upon in Mexico. Such Notes and Mortgages have been cancelled and do not exist anymore.⁵ Such illegal taking occurred without due process of law as LMC was not aware of crucial legal proceedings (which were never served on it) and thus was not able to participate in them, as a consequence of the actions and inactions of the Mexican authorities. Further, there is no public purpose for this taking, which is also discriminatory and for which no compensation has ever been paid to LMC.
20. All judicial remedies attempted by LMC in Mexico have proven to be futile and plagued with serious irregularities. There is no prospect today of obtaining reparation through Mexican judicial remedies. Mexican authorities, including but not limited to the judicial authorities involved, have acted in an arbitrary and discriminatory manner and have failed to protect LMC's investments in Mexico. LMC has been denied due process by the Mexican authorities, which have repeatedly refused to consider evidence that the Loans and Mortgages were cancelled based upon the submission of a forged document.
21. LMC has therefore not been able to recover any of the amounts that it was owed under the Notes (principal of the Loans, ordinary and default interest – which continues to accrue – and legal costs and expenses), has lost the Mortgages and has been left without any meaningful legal action against the Debtors.

IV. Obligations Breached Under NAFTA

22. Through the actions of the authorities described above, Mexico has breached several of its obligations under Chapter Eleven of NAFTA, causing the Investor significant loss, which is increasing every day.
23. In particular, Mexico's actions and omissions breach the following obligations under NAFTA:
 - a. Article 1110: Expropriation and Compensation.

"1. No Party may directly or indirectly nationalize or expropriate an investment of an investor of another Party in its territory or take a measure tantamount to nationalization or expropriation of such an investment ("expropriation"), except:

(a) for a public purpose;

(b) on a non-discriminatory basis;

(c) in accordance with due process of law and Article 1105(1); and

⁵ There is a provisional order issued by the First Civil District Court of the State of Jalisco, in the context of the Amparo proceedings initiated by LMC, referred to in paragraph 16.a above in respect of the Properties. This provisional order prevents the Properties from being transferred or encumbered until the Indirect Amparo brought by LMC is finally decided. However, such provisional order has not suspended the cancellation of the Mortgages and a judicial decision ordering the restoration of the *status quo ante* is still required to enable LMC to recover the Notes and Mortgages.

(d) on payment of compensation in accordance with paragraphs 2 through 6.

2. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("date of expropriation"), and shall not reflect any change in value occurring because the intended expropriation had become known earlier. Valuation criteria shall include going concern value, asset value including declared tax value of tangible property, and other criteria, as appropriate, to determine fair market value.

(...)"

b. Article 1105: Minimum Standard of Treatment.

"1. Each Party shall accord to investments of investors of another Party treatment in accordance with international law, including fair and equitable treatment and full protection and security.

2. Without prejudice to paragraph 1 and notwithstanding Article 1108(7)(b), each Party shall accord to investors of another Party, and to investments of investors of another Party, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

(...)"

V. Relief Requested

24. As a result of the breaches described above, LMC has been deprived of the Notes and Mortgages and, in consequence, has suffered losses of no less than US\$200 million,⁶ including principal, ordinary and default interest and costs and expenses, an amount which is subject to revision and update in the course of consultation and negotiations and in the arbitral proceedings that will follow if required.

25. The Investor reserves its right to supplement, amend and modify this Notice as it considers appropriate and as permitted under NAFTA, including but not limited in respect of the relevant facts, legal provisions and determination of damages, and to pursue any available remedies under NAFTA and under international law. Nothing in this Notice can be interpreted as LMC's waiver of any rights.

Yours sincerely,

Mayer Brown International LLP
Mayer Brown International LLP

Encl.

⁶ As of 30 June 2015, ordinary accrued interest totalled US\$104.7 million, bringing the total balance of principal plus ordinary interest to US\$137.5 million. Additionally, default interest totalled US\$63.9 million as of that date.