Modernisation of the trade pillar of the EU-Mexico Global Agreement

OVERVIEW

Trade relations between the EU and Mexico are currently governed by the trade pillar of the 1997 EU-Mexico Economic Partnership, Political Coordination and Cooperation Agreement (the 'Global Agreement'). Although the current framework for trade relations has functioned adequately, the agreement's trade pillar does not cover new trade issues that have gained in importance in the past two decades, nor does it reflect more recent political and economic developments in the EU and Mexico.

The two parties have for this reason been working on modernising the Global Agreement's trade pillar since 2013, in order to adapt it to the new realities of global trade, geopolitics and investment policies. Through this modernisation, the EU and Mexico are seeking to unlock unfulfilled bilateral trade and investment potential by achieving the highest possible level of liberalisation while also securing better rules for all.

Since June 2016, four rounds of negotiations have taken place in which a wide range of topics have been discussed. In the second half of 2017, the pace of negotiations is set to accelerate as both parties are eager to reach an agreement before the end of the year.

Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part

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Introduction

Figure 1 – Map of Mexico

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Mexico (formally known as the United Mexican States) has the 14th largest economy in the world in terms of GDP and the second largest in Latin America (after Brazil). It is a member of inter alia the G20, the Organisation for Economic Cooperation and Development (OECD), the North American Free Trade Agreement (NAFTA), the Pacific Alliance, the Asia-Pacific Economic Cooperation forum (APEC) and the World Trade Organization (WTO). Since 2013, the EU and Mexico have been working on the modernisation of the trade pillar of their existing Economic Partnership, Political Coordination and Co-operation Agreement (the 'Global Agreement' or 'GA'[1]). At the time of its entry into force in 2000, the GA was one of the most extensive agreements involving trade relations that the EU had ever concluded. Over the past two decades it has also proven able to achieve its original objectives.

However, various (new) trade issues have gained in importance since 2000 and these are not, or only to a limited extent, covered by the GA's trade pillar. Examples include investment protection, regulatory cooperation and trade and sustainable development (TSD). In contrast to the GA's trade pillar, the EU's most recent state-of-the-art trade agreements, such as the EU-Canada Comprehensive Economic and Trade Agreement (CETA), do contain comprehensive chapters on these issues. The EU and Mexico would like to make their trade relationship more ambitious in line with such modern EU trade agreements and this is one reason for the planned modernisation of the GA. Another reason is the fact that the EU and Mexico have changed significantly since 2000, both politically and economically, which also warrants an update of the existing framework for their trade relations. The EU and Mexico are thus seeking to adapt the GA's trade pillar to the new realities of global trade, geopolitics and investment policies in order to unlock unfulfilled bilateral trade and investment potential.

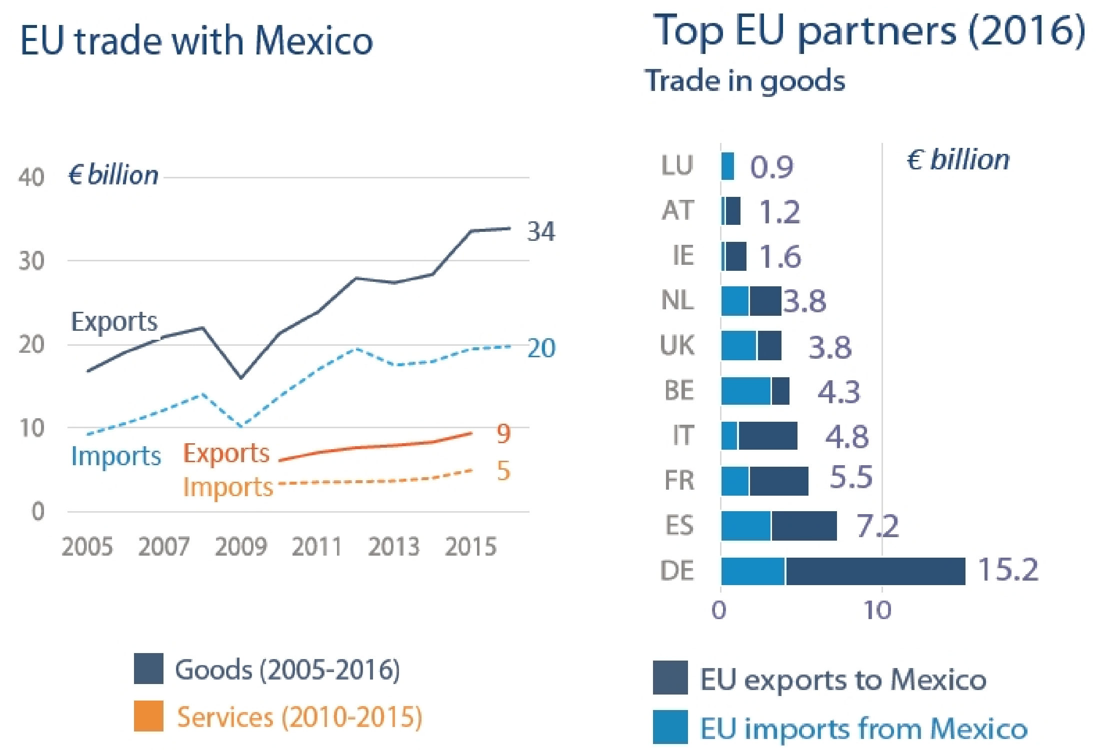
Current bilateral trade and investment relations

In 2016, Mexico was the EU's 13th-largest trading partner and the EU was Mexico's third-largest trading partner (after the USA and China). In that same year, the EU was Mexico's second-biggest export market and its third-largest source of imports.

Key EU exports in goods to Mexico include other machinery,[2] transport equipment, chemical products, and fuels and mining products. The EU's key goods imports from Mexico, on the other hand, are fuels and mining products, office and telecommunications equipment, and other machinery. As regards services, EU imports from Mexico are dominated by travel services and transport services while the EU exports mainly transport services, and telecommunications, computer and information services to Mexico.

Under the trade pillar of the EU-Mexico Global Agreement, total trade in goods between the EU and Mexico grew from €21.6 billion in 2000 to €53.7 billion in 2016. Trade with the EU represented 7.5 % of Mexico's total external trade in 2016 (Mexico's trade with the USA represented 62.9 %). Total trade in services also increased from €9.5 billion in 2010 to €14.4 billion in 2015 (see Figure 2). EU trade with Mexico is dominated by seven EU Member States, namely Germany, Spain, France, Italy, Belgium, the United Kingdom and the Netherlands (see Figure 2).

Figure 2 – Selected EU-Mexico trade statistics



Source: Mexico: Economic indicators and trade with EU, EPRS and Globalstat, Infographic March 2017.

In 2015, foreign direct investment flows (FDI) from the EU to Mexico amounted to €18.3 billion and from Mexico to the EU €2.7 billion. EU FDI stocks in Mexico amounted to €161.6 billion while Mexico had FDI stocks in the EU worth €36.5 billion. Total FDI flows between the EU and Mexico increased from €5 billion in 2012 to €21 billion in 2015 and total FDI stocks increased from €103.8 billion to €198.1 billion in that same period. 80 % of EU investment in Mexico is concentrated in 3 of the 32 states or federative bodies in Mexico, namely Mexico City and the states of México and Nuevo Léon.

Existing framework for EU-Mexico trade relations

Trade pillar of the Global Agreement

Trade relations between the EU and Mexico are currently governed chiefly by the trade pillar of the EU-Mexico Global Agreement, which in fact consists of two agreements.

The GA itself was signed in December 1997 between the (then) European Community ('EC') and its Member States, on the one hand, and Mexico, on the other hand. The agreement came into force in November 2000 and consists of three pillars, namely political dialogue, cooperation, and trade relations. The trade part of the GA has the following objective:

> '[...] to establish a framework to encourage the development of trade in goods and services, including a bilateral and preferential, progressive and reciprocal liberalisation of trade in goods and services, taking into account the sensitive nature of certain products and service sectors and in accordance with the relevant WTO rules.' (Article 4 GA)

The GA's trade component covers three issues:

a) trade (Title III GA), including:
   - trade in goods (Article 5 GA);
   - trade in services (Article 6 GA);

b) capital movements and payments (Title IV GA);

c) public procurement, competition, intellectual property and other trade-related provisions (Title V GA).

The GA itself contains general objectives in relation to each of these issues and a Joint Council (established under Article 45 GA) is tasked with supervising the implementation of the relevant provisions in relation to each of these issues.

In addition to the GA, an Interim Agreement on trade and trade related aspects ('Interim Agreement' or 'IA') was also signed between just the EC and Mexico in December 1997. The IA was derived from the GA and covered only trade and trade related matters, namely:

a) trade liberalisation (Title II IA), in particular trade in goods (Article 3 IA (= Article 5 GA));

b) trade-related provisions (Title III IA), in particular:
   - public procurement (Article 4 IA (= Article 10 GA));
   - competition (Article 5 IA (= Article 11 GA));
   - intellectual, industrial and commercial property (Article 6 IA).

The IA's implementation in these areas is supervised by the same Joint Council as the one established under the GA (Article 7 IA (= Article 45 GA)). The IA entered into force in July 1998, well before the GA. Together with the aforementioned GA's trade part, the IA forms the GA's trade pillar. The trade pillar is often also referred to as the EU-Mexico Free Trade Agreement (FTA), although it has been argued that strictly speaking no such agreement exists.

Since 2000, Joint Council decisions have expanded the legal framework of this trade pillar by implementing the GA and IA. The key features of the resulting trade relationship are liberalised trade in goods and liberalised trade in services. The former was realised in July 2000 under Decision No 2/2000 of the EC-Mexico Joint Council of 23 March 2000 (with the IA as its legal basis) and the latter in March 2001 under Decision No 2/2001 of the EU-Mexico Joint Council of 27 February 2001 (with the GA as its legal basis).

In reality, however, EU-Mexico trade liberalisation has been heavily focused on trade in goods, as only a minor liberalisation of trade in services has been achieved. The liberalisation of trade in services has consisted of two aspects. First, Mexico provides the EU with the same access to financial services enjoyed by the United States and Canada under the North American Free Trade Agreement ('NAFTA'). Second, in relation to other services, the EU and Mexico have committed themselves only to not introducing new restrictions in national legislation.

In contrast, the scope of liberalisation in trade in goods is much broader, although it also amounts to only a partial liberalisation. That is because full and immediate liberalisation with respect to industrial goods and agricultural trade proved particularly challenging in 2000. As regards industrial goods, the EU eliminated its tariffs in 2003, whereas Mexico had a longer transition period until 2007 (with exceptions on certain products, such as automotive goods, which were immediately liberalised). In relation to agricultural and fisheries trade, the EU eliminated some tariffs in 2008 as did Mexico in 2010. This resulted in 62 % of EU-Mexico trade in agricultural goods being fully liberalised at the end of a 10-year transitional period. A number of sensitive agricultural products are, however, protected on both sides (including cereals, meats and dairy products on the EU side).

In addition to liberalising trade in goods and services, the GA's trade pillar also established trade disciplines in the nine other areas listed below:

- competition
- dispute settlement
- investment and related payments
- intellectual property rights (IPRs)
- government procurement
- safeguards
- rules of origin, and customs cooperation
- sanitary and phytosanitary (SPS) measures
- standards, technical regulations and conformity assessment procedures.

These provisions, such as SPS, do not always go beyond existing WTO commitments.

Strategic Partnership

In 2008, the EU and Mexico also established a Strategic Partnership to further reinforce bilateral relations (Brazil is the EU's other strategic partner in Latin America). This is unique in the sense that Mexico is the only country with which the EU both has a Global Agreement and a Strategic Partnership. There is, however, a clear difference between the two instruments: the Global Agreement is a legally binding document that sets concrete goals and rules, whereas the Strategic Partnership is an indicative strategy that seeks to deepen the bilateral relationship in the international environment of the 21st century in which emerging countries play an important role.

The Strategic Partnership also mentions EU-Mexico trade relations, but is not very specific in this respect. The partnership's Joint Executive Plan of 2010 contains rather broad goals for trade relations, such as promoting EU-Mexico coordination within the WTO and pursuing joint efforts to improve the conditions for bilateral trade and investment relations. A somewhat more concrete suggestion involves the establishment of a dialogue on transport in order to increase air links between Mexico and the EU, but this is still very different from the detailed Joint Council decisions that have liberalised trade. Overall, the GA's trade pillar is clearly the primary framework for EU-Mexico trade relations.

Bilateral investment treaties

Mexico currently has bilateral investment treaties (BITs) with 16 EU Member States, governing their investment relations.[3]

New trade issues

Despite the strong trade ties between the EU and Mexico, the trade pillar of the GA does not (fully) cover trade issues that have increased in importance since 2001. Examples of issues that are currently not or only barely covered include anti-corruption, geographical indications (GIs), regulatory cooperation, subsidies and TSD. Other issues, which are included in the GA's trade pillar but require modernisation, include investment, technical barriers to trade (TBTs), SPS measures, IPRs, competition and public procurement.

Comparative elements

The EU-Canada CETA is sometimes referred to as an example for the modernisation of the Global Agreement's trade pillar as it contains state-of-the-art provisions on many of the new trade issues that are currently not covered by EU-Mexico trade relations. For now it remains to be seen to what extent CETA (or other recent EU FTAs with Singapore and Vietnam) will be used as a model for the ongoing modernisation of the GA's trade pillar.

As regards the 'modernisation' of other existing EU trade relations, it should be noted that the EU and Chile are also exploring the possibility of updating the trade pillar of their Association Agreement, which has been in force since 2003. Work on this modernisation is still at a very early stage, however, so no clear parallels can yet be drawn between the two modernisation processes. The same goes for the renegotiation of NAFTA, which was initiated by US President Trump in May 2017, but has yet to begin in earnest.

EU negotiation objectives

The Council has not made the Commission's negotiating mandate for the modernisation of the EU-Mexico Global Agreement publicly available. However, the EU reportedly has defensive interests in goods (including in the agricultural sector), services and public procurement while its offensive interests include loosening Mexico's control of access to gas, oil and raw materials. It has also been reported that the EU is aiming to open up business opportunities in Mexico's financial services, professional services and maritime transport services sectors, and that it wants more access to Mexico's public procurement sector at the sub-federal level.

The EU is also seeking to update rules of origin and include chapters on TBTs, SPS measures, IPRs (including GIs) and competition in the modernisation. Furthermore, the EU aims to reduce obstacles to investment in Mexico, establish a high level of investment protection and introduce a modern investment dispute resolution mechanism. It is assumed that Mexico shares these objectives as they are part of the operational objectives of a joint vision report (the outcome of the scoping exercise).

Finally, the EU is keen to uphold levels of consumer, worker and environmental protection while working together with Mexico towards sustainable development.

Counterpart's position

Mexico has made it very clear that concluding the modernisation this year is in itself a priority. This is undoubtedly related to concerns about the election of US President Donald Trump and the renegotiation of NAFTA. Through a swift conclusion of negotiations with the EU, Mexico could show the USA that it has alternative trade partners (while simultaneously benefitting from strengthened trade ties with those partners).

Parliament's position

The European Parliament has expressed its support for the modernisation of the EU-Mexico Global Agreement on multiple occasions, including in its resolution of 5 July 2016 on a forward-looking and innovative future strategy for trade and investment. It is following the negotiations closely because it will have to give its consent to the updated GA's trade pillar. The Parliament has already posed numerous questions to the Commission and the Council on the modernisation, including on the following issues:

- proposed fishery quota deregulation;
- agriculture market access;
- inclusion of a TSD chapter;
- benefits for small and medium-sized enterprises (SMEs);
- inclusion of anti-corruption provisions and anti-money laundering objectives;
- publication of the negotiating directives;
- protection of GIs.

Advisory Committees

The European Economic and Social Committee adopted an opinion on the revision of the GA's trade pillar on 16 July 2015. Among other points, it stressed the importance of involving civil society, the need to include an obligation to sign and ratify International Labour Organisation conventions and resolutions, and the importance of including chapters on IPRs (including GIs) and investment protection (to replace existing BITs).

Preparation of the agreement

At the 2013 EU-CELAC (Community of Latin American and Caribbean States) Summit in Santiago de Chile, the EU and Mexico decided to explore the possibilities of updating their Global Agreement. An EU-Mexico joint working group was subsequently established to look at possible options for modernisation through a scoping exercise. It delivered its final report at the EU-Mexico Summit held in June 2015 in Brussels, resulting in a joint vision report.

The Commission subsequently completed its impact assessment in 2015, on the basis of which it determined that the modernisation of the Global Agreement's trade pillar could lead to economic gains for both the EU and Mexico. That same year, the Commission held a public consultation on the modernisation (see below).

The Commission also contracted an external consultant (Ecorys) to perform an ex post evaluation of the implementation of the GA's trade pillar to assess how it performed in its existing form. This evaluation included a stakeholder consultation workshop in Mexico City in July 2015. The final report of the evaluation was completed and published in 2017. It concluded that the GA's trade pillar was:

- internally coherent in the sense that none of its parts contradicted other parts;
- externally coherent with the EU's wider trade policy at the time of its entry into force, although the EU's latest trade agreements are more ambitious and comprehensive in scope;
- effective in achieving its objectives through the dismantlement of trade barriers as programmed;
- impacting EU-Mexico trade in a positive, albeit modest, way by reducing tariff barriers (it did not, however, significantly change non-tariff barriers).

Negotiation process and outcome

On 23 May 2016, the Council approved a mandate for the Commission to negotiate the modernisation of the Global Agreement. Four rounds of talks have since taken place:

- first round in Brussels from 13 to 14 June 2016

- second round in Mexico City from 22 to 25 November 2016
- third round in Brussels from 3 to 7 April 2017
- fourth round in Mexico City from 21 June to 5 July 2017.

A next round of negotiations will take place in Brussels from 25 to 29 September 2017 and before that an inter-sessional meeting will have taken place between 24 and 27 July 2017. During a visit of Trade Commissioner Cecilia Malmström to Mexico City in May 2017, both sides reiterated their commitment to concluding the talks by the end of this year. Talks will accordingly be accelerated during the second half of the year when negotiators will meet every month.

So far, the negotiations have covered at least the following topics:

- anticorruption
- competition
- customs and trade facilitation
- dispute settlement
- energy and raw materials
- good regulatory practices
- investment
- IPRs (including GIs)
- mediation
- public procurement
- rules of origin
- SMEs
- SPS measures
- state-owned enterprises
- subsidies
- TBTs
- trade in goods
- trade in services
- trade remedies
- transparency
- TSD.

The Commission has published 24 negotiating textual proposals. In November 2016, it released the first six texts, which concerned:

- energy and raw materials
- IPRs
- public procurement
- rules of origin
- SMEs
- SPS measures.

In May 2017, the Commission added another 16 proposals on the following topics:

- competition
- competition (subsidies)
- digital trade
- dispute settlement
- good regulatory practices
- investment and trade in services
- management of preferential treatment
- rules of origin (section A)
- rules of origin (section B)
- rules of origin (product specific rules)
- State-owned enterprises
- TBT
- trade in goods
- trade remedies
- transparency
- TSD.

The Commission's two most recent publications date from July 2017 and concern a new textual proposal on telecommunications services and a revised proposal on TBT.

As regards the state of negotiations, the Commission has stated in its latest report that significant progress is being made on most of the key issues. However, it has recently also been reported that deep disagreements currently exist on some regulatory issues, including competition and subsidies.

The changes the agreement would bring

The modernisation is expected to address new trade issues in the EU-Mexico trade relationship in an ambitious way. Such issues include competition, GIs, investment, IPRs, TBTs, SPS measures and TSD. This should lead to economic gains on both sides. According to the Commission's impact assessment, a comprehensive and ambitious modernisation of the Global Agreement's trade pillar could for the EU result in an increase of 0.01 % in GDP per annum by 2028 (or about €1.8 billion) as well as a welfare increase as a % of GDP of 0.02 % per annum by 2028 (or about €3.7 billion). For Mexico, GDP per annum could be 0.39 % larger by 2028 (or about €6.4 billion) and welfare as a % of GDP could be raised by 0.36 % per annum by 2028 (or about €5.9 billion) as a result of the modernisation.

Stakeholders' views

Large companies, trade associations, and trade unions and NGOs were the primary respondents to the Commission's online consultation. Of the 80 respondents, 75 % were based in the EU and 15 % in Mexico. One of the outcomes of the consultation was that 61.3 % of respondents believed that the EU and Mexico should modernise the Global Agreement's trade pillar to deepen bilateral trade and investment relations. Another result was that 67.5% of respondents wanted the GA's trade pillar to be reviewed, aiming for further liberalisation limited to the areas of agriculture, services and investment.

Some civil society organisations have criticised plans to include an investment court, the alleged lack of transparency in the negotiations (including the absence of civil society involvement), and the apparent absence of human rights conditionality. Other criticisms from civil society have focussed on the alleged precedence of EU commercial interests over the protection of human rights and social and environmental standards in Mexico.

EP supporting analysis

– The modernisation of the European Union-Mexico 'Global Agreement', Directorate-General for external policies (EXPO), European Parliament, January 2015.

– Gomez Ramirez E, Lazarou E, Puccio L, Sabbati G, EU-Latin America trade relations – Overview and figures, EPRS, European Parliament, March 2016.

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Other sources

– Roadmap: Modernisation of the trade pillar of the EU-Mexico Global Agreement, European Commission, June 2015.

– Commission staff working document: executive summary of the impact assessment on the opening of negotiations and the negotiation with Mexico of a modernised trade pillar of the EU-Mexico Global Agreement, European Commission, December 2015.

– Report from the 1st round of negotiations for modernising the trade pillar of the EU-Mexico Global Agreement, (13-14 June 2016, Brussels), European Commission, July 2016.

– Report on the second round of negotiations for modernising the trade pillar of the EU-Mexico Global Agreement (Mexico City - 22 to 25 November 2016), European Commission, December 2016.

– Report on the third round of negotiations for modernising the trade pillar of the EU-Mexico Global Agreement (Brussels – 3 to 7 April 2017), European Commission, May 2017.

– Report on the fourth round of negotiations for modernising the trade pillar of the EU-Mexico Global Agreement (Mexico City – 21 June to 5 July 2017), European Commission, July 2017.

Endnotes

[1] The GA is sometimes also referred to as an association agreement.

[2] Other machinery consists of machinery assets not classified as 'transport equipment' (OECD Glossary of Statistical Terms).

[3] The countries concerned are: Austria, Belgium and Luxemburg, the Czech Republic, Denmark, Finland, France, Germany, Greece, Italy, the Netherlands, Portugal, Slovakia, Spain, Sweden, and the United Kingdom.

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