

**DECISION No 2/2001 OF THE EU-MEXICO JOINT COUNCIL**

**of 27 February 2001**

**implementing Articles 6, 9, 12(2)(b) and 50 of the Economic Partnership, Political Coordination and Cooperation Agreement**

(2001/153/EC)

THE JOINT COUNCIL,

Having regard to the 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 (hereinafter 'the Agreement'), and in particular articles 6, 9, 12 and 50 in conjunction with Article 47 thereof.

Mindful of their rights and obligations under the Marrakesh Agreement establishing the World Trade Organisation (hereinafter 'the WTO').

Whereas:

- (1) Article 4 and 6 of the Agreement provide that the Joint Council shall decide on the arrangements for a progressive and reciprocal liberalisation of trade in services, in accordance with Article V of the General Agreement on Trade in Services (hereinafter 'GATS').
- (2) Article 9 of the Agreement provides that the Joint Council shall adopt measures for the progressive liberal-

isation of investment and related payments between the Parties.

- (3) Article 12 of the Agreement stipulates that the Joint Council shall adopt measures with a view to ensure an adequate and effective protection of intellectual property rights.
- (4) Article 50 of the Agreement provides that the Joint Council shall establish a specific trade or trade related dispute settlement procedure.
- (5) In accordance with Article 60 of the Agreement, upon entry into force of that Agreement, the Decision 2/2000 of the Joint Council established by the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and the United Mexican States, of the other part, is deemed to have been adopted by the Joint Council established by the Agreement. That decision implements the objectives laid down in Articles 5, 10, 11 and 12(2)(a) of the Agreement,

HAS DECIDED AS FOLLOWS:

TITLE I

**GENERAL PROVISIONS**

*Article 1*

**Scope of the Decision**

The Joint Council hereby lays down the necessary arrangements for implementing the following objectives of the Agreement:

- (a) the progressive and reciprocal liberalisation of trade in services, in conformity with Article V of GATS;

- (b) the progressive liberalisation of investment and related payments;
- (c) ensuring an adequate and effective protection of the intellectual property rights, in accordance with the highest international standards; and
- (d) establishing a dispute settlement mechanism.

## TITLE II

## TRADE IN SERVICES

*Article 2***Coverage**

1. For the purposes of this Title, trade in services is defined as the supply of a service:

- (a) from the territory of a Party into the territory of the other Party;
- (b) in the territory of a Party to the service consumer of the other Party;
- (c) by a service supplier of a Party, through commercial presence in the territory of the other Party;
- (d) by a service supplier of a Party, through presence of natural persons in the territory of the other Party.

2. This Title applies to trade in all services sectors with the exception of:

- (a) audio-visual services;
- (b) air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:
  - (i) aircraft repair and maintenance services during which an aircraft is withdrawn from service,
  - (ii) the selling and marketing of air transport services,
  - (iii) computer reservation system (CRS) services, and
- (c) maritime cabotage.

3. Maritime transport and financial services shall be governed by the provisions laid down in Chapters II and III, respectively, unless otherwise specified.

4. Nothing in this Title shall be construed to impose any obligation with respect to government procurement.

5. The provisions of this Title shall not apply to subsidies granted by the Parties.

## CHAPTER I

**GENERAL PROVISIONS***Article 3***Definitions**

For purposes of this Chapter:

- (a) A federal, central or subcentral government includes any non-governmental body in the exercise of any regulatory, administrative or other governmental authority delegated to it by that federal, central and sub-central government;
- (b) 'service suppliers' of a Party means any person of a Party that seeks to provide or provides a service;
- (c) 'commercial presence' means:
  - (i) as regards nationals, the right to set up and manage undertakings, which they effectively control. This shall not extend to seeking or taking employment in the labour market or confer a right of access to the labour market of another Party,
  - (ii) as regards juridical persons, the right to take up and pursue the economic activities covered by this Chapter by means of the setting up and management of subsidiaries, branches or any other form of secondary establishment,
- (d) 'subsidiary' means a juridical person which is effectively controlled by another juridical person;
- (e) a 'Community juridical person' or a 'Mexican juridical person' means a juridical person set up in accordance with the laws of a Member State of the Community or of Mexico, respectively, and having its registered office, central administration, or principal place of business in the territory of the Community or of Mexico, respectively;

Should the juridical person have only its registered office or central administration in the territory of the Community or Mexico, respectively, it shall not be considered as a Community or a Mexican juridical person, respectively, unless its operations possess a real and continuous link with the economy of the Community or Mexico, respectively;

- (f) a 'national' means a natural person who is a national of one of the Member States or Mexico according to their respective national legislations.

#### Article 4

#### Market Access

In those sectors and modes of supply which shall be liberalised pursuant to the decision provided for in Article 7 (3), and subject to any reservations stipulated therein, the measures which a Party shall not maintain or adopt are defined as:

- (a) limitations on the number of services suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
- (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- (c) limitations on the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test;
- (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or a requirement of an economic needs test;
- (e) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment; and
- (f) measures which require specific types of legal entities or joint ventures through which a service supplier of the other Party may supply a service.

#### Article 5

#### Most Favoured Nation Treatment

1. Subject to exceptions that may derive from harmonisation of regulations based on agreements concluded by a Party with a third country providing for mutual recognition in accordance with Article VII of GATS, treatment accorded to

services suppliers of the other Party shall be no less favourable than that accorded to like services suppliers of any third country.

2. Treatment granted under other agreements concluded by one of the Parties with a third country which have been notified under Article V of GATS shall be excluded from this provision.

3. If a Party enters into an agreement of the type referred to in paragraph 2, it shall afford adequate opportunity to the other Party to negotiate the benefits granted therein.

#### Article 6

#### National Treatment

1. Each Party shall, in accordance with Article 7, grant to services and service suppliers of the other Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and services suppliers.

2. A Party may meet the requirement of paragraph 1 by according to services and service suppliers of the other Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to like services or service suppliers of the other Party.

#### Article 7

#### Trade liberalisation

1. As provided for in paragraphs 2 to 4, the Parties shall liberalise trade in services between themselves, in conformity with Article V of GATS.

2. From the entry into force of this Decision, neither Party shall adopt new, or more, discriminatory measures as regards services or service suppliers of the other Party, in comparison with the treatment accorded to its own like services or service suppliers.

3. No later than three years following the entry into force of this Decision, the Joint Council shall adopt a decision providing for the elimination of substantially all remaining discrimination between the Parties in the sectors and modes of supply covered by this Chapter<sup>(1)</sup>. That decision shall contain:

- (a) a list of commitments establishing the level of liberalisation which the Parties agree to grant each other at the end of a transitional period of ten years from the entry into force of this Decision;
- (b) a liberalisation calendar for each Party in order to reach at the end of the ten-year transitional period the level of liberalisation described in subparagraph (a).

4. Except as provided for in paragraph 2, Articles 4, 5 and 6 shall become applicable in accordance with the calendar and subject to any reservations stipulated in the Parties' lists of commitments provided for in paragraph 3.

5. The Joint Council may amend the liberalisation calendar and the list of commitments established in accordance with paragraph 3, with a view to remove or add exceptions.

#### Article 8

##### Regulatory carve-out

Each Party may regulate the supply of services in its territory, in so far as regulations do not discriminate against services and service suppliers of the other Party, in comparison to its own like services and service suppliers.

#### Article 9

##### Mutual recognition

1. In principle no later than three years following the entry into force of this Decision, the Joint Council shall establish the necessary steps for the negotiation of agreements providing for the mutual recognition of requirements, qualifications, licenses and other regulations, for the purpose of the fulfilment, in whole or in part, by service suppliers of the criteria applied by each Party for the authorisation, licensing, operation and certification of service suppliers and, in particular, professional services.

<sup>(1)</sup> The Joint Council may decide to postpone the adoption of the decision provided for in this paragraph. Should this occur, the decision shall be adopted not later than one year after the conclusion of the negotiations mandated by Article XIX of GATS and in any event within a reasonable timeframe before the end of the ten-year transitional period.

2. Any such agreement shall be in conformity with the relevant provisions of the WTO Agreement and, in particular, Article VII of GATS.

#### CHAPTER II

#### MARITIME TRANSPORT

#### Article 10

##### International Maritime Transport

1. This Chapter applies to international maritime transport, including door to door and intermodal transport operations involving a sea-leg.

2. The Definitions contained in Article 3 apply to this Chapter<sup>(2)</sup>.

3. In view of the existing levels of liberalisation between the Parties in international maritime transport:

- (a) the Parties shall continue to effectively apply the principle of unrestricted access to the international maritime market and traffic on a commercial and non-discriminatory basis;
- (b) each Party shall continue to grant to ships operated by service suppliers of the other Party treatment no less favourable than that accorded to its own ships with regard to, inter alia, access to ports, use of infrastructure and auxiliary maritime services of the ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.

4. Each Party shall permit to service suppliers of the other Party to have a commercial presence in its territory under conditions of establishment and operation no less favourable than those accorded to its own service suppliers or those of any third country, whichever are the better, and this in conformity with the legislation and regulations applicable in each Party.

<sup>(2)</sup> Notwithstanding Article 3(e), shipping companies established outside the Community or Mexico and controlled by nationals of a Member State of the Community or Mexico, respectively, shall also be beneficiaries of the provisions of this Chapter, if their vessels are registered in accordance with their respective legislation, in that Member State or in Mexico and carry the flag of a Member State or Mexico.

5. Paragraph 4 shall become applicable in accordance with the calendar and subject to any reservation stipulated in the Parties' list of commitments provided for in Article 7(3).

### CHAPTER III

#### FINANCIAL SERVICES

##### Article 11

#### Definitions

In accordance with the terms of the Annex on Financial Services to the GATS and the GATS Understanding on Commitments in Financial Services, for purposes of this Chapter:

(a) 'Financial service' means any service of a financial nature offered by a financial service supplier of a Party. Financial services comprise the following activities:

#### A. Insurance and insurance-related services:

1. direct insurance (including co-insurance):
  - (a) life;
  - (b) non-life;
2. reinsurance and retrocession;
3. insurance inter-mediation, such as brokerage and agency; and
4. services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

#### B. Banking and other financial services (excluding insurance):

1. acceptance of deposits and other repayable funds from the public;
2. lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
3. financial leasing;
4. all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;
5. guarantees and commitments;

6. trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

- (a) money market instruments (including cheques, bills, certificates of deposits);
- (b) foreign exchange;
- (c) derivative products including, but not limited to, futures and options;
- (d) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
- (e) transferable securities;
- (f) other negotiable instruments and financial assets, including bullion;

7. participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

8. money broking;

9. asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

10. settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

11. provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

12. advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (1) through (11), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

(b) 'Financial service supplier' means any juridical person of a Party authorised to supply financial services. The term 'financial service supplier' does not include a public entity.

(c) 'New financial service' means a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered,

that is not supplied by any financial service supplier in the territory of a Party but which is supplied in the territory of the other Party.

(d) 'Public entity' means:

1. A government, a central bank or a monetary authority, of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or
2. A private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions.

(e) 'Commercial presence' means a juridical entity within a Party's territory for the supply of financial services and includes wholly or partly owned subsidiaries, joint ventures, partnerships, franchising operations, branches, agencies, representative offices or other organisations.

#### Article 12

##### Establishment of financial service suppliers

1. Each Party shall allow the financial service suppliers of the other Party to establish a commercial presence in its territory.
2. Each Party may require a financial service supplier of the other Party to incorporate under its own law or impose terms and conditions on establishment that are consistent with the other provisions of this Chapter.
3. No Party may adopt new measures as regards to the establishment and operation of financial service suppliers of the other Party, which are more discriminatory than those applied on the date of entry into force of this Decision.
4. No Party shall maintain or adopt the following measures:
  - (a) limitations on the number of financial service suppliers whether in the form of numerical quotas, monopolies, exclusive financial service suppliers or the requirements of an economic needs test;

- (b) limitations on the total value of financial service transactions or assets in the form of numerical quotas or the requirement of an economic test;
- (c) limitations on the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test;
- (d) limitations on the total number of natural persons that may be employed in a particular financial service sector or that a financial service supplier may employ and who are necessary for, and directly related to, the supply of a specific financial service in the form of numerical quotas or a requirement of an economic needs test; and
- (e) limitations on the participation of foreign capital in the terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

#### Article 13

##### Cross-border provision of financial services

1. Each party shall allow the cross-border provision of financial services.
2. No Party may adopt new measures as regards to the cross-border provision of financial services by financial service suppliers of the other Party which are more discriminatory as compared to those applied on the date of entry into force of this Decision.
3. Without prejudice to other means of prudential regulation of the cross-border provision of financial services, a Party may require the registration of cross-border financial service suppliers of the other Party.
4. Each Party shall permit persons located in its territory to purchase financial services from financial service suppliers of the other Party located in the territory of that other Party. This obligation does not require a Party to permit such suppliers to do business or carry on commercial operations; or to solicit, market or advertise their activities in its territory. Each Party may define the meaning of 'doing business', 'carry on commercial operations', 'solicit', 'market' and 'advertise' for purposes of this obligation.



*Article 14***National treatment**

1. Each Party shall grant to the financial service suppliers of the other Party, including those already established in its territory on the date of entry into force of this Decision, treatment no less favourable than that it accords to its own like financial service suppliers with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of commercial operations of financial service suppliers in its territory.

2. Where a Party permits the cross-border provision of a financial service it shall accord to the financial service suppliers of the other Party treatment no less favourable than that it accords to its own like financial service suppliers with respect to the provision of such a service.

*Article 15***Most favoured nation treatment**

1. Each Party shall accord to financial service suppliers of the other Party treatment no less favourable than it accords to the like financial service suppliers of a non Party.

2. Treatment granted under other agreements concluded by one of the Parties with a third country which have been notified under Article V of GATS shall be excluded from this provision.

3. If a Party enters into an agreement of the type referred to in paragraph 2, it shall afford adequate opportunity to the other Party to negotiate the benefits granted therein.

*Article 16***Key personnel**

1. No Party may require a financial service supplier of the other Party to engage individuals of any particular nationality as senior managerial or other key personnel.

2. No Party may require that more than a simple majority of the board of directors of a financial service supplier of the other Party be composed of nationals of the Party, persons residing in the territory of the Party, or a combination thereof.

*Article 17***Commitments**

1. Nothing in this Chapter shall be construed to prevent a Party to apply:

- (a) any existing measure inconsistent with Articles 12 to 16 which is listed on Annex I; or
- (b) an amendment to any discriminatory measure referred to in subparagraph (a) to the extent that the amendment does not increase the inconsistency of the measure with Articles 12 to 16, as it existed immediately before the amendment.

2. The measures listed in Annex I shall be reviewed by the Special Committee on Financial Services established under Article 23, with a view to propose to the Joint Council their modification, suspension or elimination.

3. No later than three years following the entry into force of this Decision, the Joint Council shall adopt a decision providing for the elimination of substantially all remaining discrimination. That decision shall contain a list of commitments establishing the level of liberalisation which the Parties agree to grant each other.

*Article 18***Regulatory carve out**

Each Party may regulate the supply of financial services, in so far as regulations do not discriminate against financial service or financial service suppliers of the other Party in comparison to its own like financial services and financial service suppliers.

*Article 19***Prudential carve out**

1. Nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining reasonable measures for prudential reasons, such as:

- (a) the protection of investors, depositors, financial market participants, policy-holders, policy-claimants, or persons to whom a fiduciary duty is owed by a financial service supplier;
- (b) the maintenance of the safety, soundness, integrity or financial responsibility of financial service suppliers; or

- (c) ensuring the integrity and stability of a Party's financial system.

*Article 21*

**New financial services**

2. These measures shall not be more burdensome than necessary to achieve their aim, and shall not discriminate against financial service suppliers of the other Party in comparison to its own like financial service suppliers.

3. Nothing in this Chapter shall be construed to require a Party to disclose information relating to the affairs and accounts of individual consumers or any confidential or proprietary information in the possession of public entities.

Each Party shall permit a financial service supplier of the other Party to provide any new financial service of a type similar to those services that the Party permits its own financial service suppliers to provide under its domestic law in like circumstances. A Party may determine the juridical form through which the service may be provided and may require authorisation for the provision of the service. Where such authorisation is required, a decision shall be made within a reasonable time and the authorisation may only be refused for prudential reasons.

*Article 20*

**Effective and transparent regulation**

1. Each Party shall make its best endeavours to provide in advance to all interested persons any measure of general application that the Party proposes to adopt in order to allow an opportunity for such persons to comment on the measure. Such measure shall be provided:

- (a) by means of an official publication; or
- (b) in other written or electronic form.

2. Each Party's appropriate financial authority shall make available to interested persons its requirements for completing applications relating to the supply of financial services.

3. On the request of an applicant, the appropriate financial authority shall inform the applicant of the status of its application. If such authority requires additional information from the applicant, it shall notify the applicant without undue delay.

4. Each Party shall make its best endeavours to ensure that the Basle Committee's 'Core Principles for Effective Banking Supervision', the International Association of Insurance Supervisors' 'Key Standards for Insurance Supervision' and the International Organisation of Securities Commissions' 'Objectives and Principles of Securities Regulation' are implemented and applied in its territory.

5. The Parties also take note of the 'Ten Key Principles for Information Exchange' promulgated by the Finance Ministers of the G7 Nations, and undertake to consider to what extent they may be applied in bilateral contacts.

*Article 22*

**Data processing**

1. Each Party shall permit a financial service supplier of the other Party to transfer information in electronic or other form, into and out of its territory, for data processing where such processing is required in the ordinary course of business of such financial service supplier.

2. As far as the transfer of personal data is concerned, each Party shall adopt adequate safeguards to the protection of privacy and fundamental rights, and freedom of individuals in accordance with Article 41 of the Agreement.

*Article 23*

**Special Committee on Financial Services**

1. The Joint Council hereby establishes a Special Committee on Financial Services. The Special Committee shall be composed of representatives of the Parties. The principal representative of each Party shall be an official of the Party's authority responsible for financial services set out in Annex II.

2. The functions of the Special Committee shall include:

- (a) supervising the implementation of this Chapter;
- (b) considering issues regarding financial services that are referred to it by a Party;
- (c) considering the application of measures listed by either Party in Annex I in order to propose to the Joint Council its modification, suspension or elimination, as appropriate;



- (d) reviewing the provisions contained in this Chapter at such a time as either of the Parties may grant a third party more favourable access to its financial services market pursuant to the conclusion of a regional economic integration agreement compatible with Article V of GATS, with a view to proposing consequent modifications to this Chapter to the Joint Council; and
- (e) considering implementation of Article 16 of the Agreement.

3. The Special Committee shall meet once a year on a date and with an agenda agreed in advance by the Parties. The office of chairman shall be held alternately. The Special Committee shall report to the Joint Committee the results of each annual meeting.

#### Article 24

### Consultations

1. A Party may request consultations with the other Party regarding any matter arising under this Chapter. The other Party shall give sympathetic consideration to the request. The Parties shall report the results of their consultations to the Special Committee on Financial Services at its annual meeting.
2. Consultations under this Article shall include officials of the authorities specified in Annex II.
3. Nothing in this Article shall be construed to require financial authorities participating in consultations to disclose information or take any action that would interfere with individual regulatory, supervisory, administrative or enforcement matters.
4. Where a Party requires information for supervisory purposes concerning a financial service supplier in the other Party's territory, the Party may approach the competent financial authority in the other Party's territory to seek the information.

#### Article 25

### Dispute settlement

Arbitrators appointed to panels established in accordance with Title V for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute, as well as expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

#### Article 26

### Specific exceptions

1. Nothing in this Chapter shall be construed to prevent a Party, including its public entities, from exclusively conducting or providing in its territory activities or services forming part of a public retirement plan or statutory system of social security, except when those activities may be carried out by financial service suppliers in competition with public entities or private institutions.
2. Nothing in this Chapter applies to activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies.
3. Nothing in this Chapter shall be construed to prevent a Party, including its public entities, from exclusively conducting or providing in its territory activities or services for the account or with the guarantee or using the financial resources of the Party, or its public entities.

## CHAPTER IV

### GENERAL EXCEPTIONS

#### Article 27

### Exceptions

1. The provisions of this Title are subject to the exceptions contained in this Article.
2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Title shall be construed to prevent the adoption or enforcement by any Party of measures:
- (a) necessary to protect public morals or to maintain public order and public security;
  - (b) necessary to protect human, animal or plant life or health;
  - (c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Title including those relating to:

- (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;
- (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
- (iii) safety;
- (d) inconsistent with the objective of Article 6 and 14, provided that the difference in treatment is aimed at ensuring the effective or equitable imposition or collec-

tion of direct taxes in respect of services or service suppliers of the other Party.

3. The provisions of this Title shall not apply to the Parties' respective social security systems or to activities in the territory of each Party, which are connected, even occasionally, with the exercise of official authority.

4. Nothing in this Title shall prevent a Party from applying its laws, regulations and requirements regarding entry and stay, work, labour conditions, and establishment of natural persons<sup>(1)</sup> provided that, in so doing, it does not apply them in a manner as to nullify or impair the benefits accruing to the other Party under the terms of a specific provision of this Title.

### TITLE III

#### INVESTMENT AND RELATED PAYMENTS

##### Article 28

##### Definitions

1. For the purpose of this Title, investment made in accordance with the laws of the Parties means direct investment, investment in real estate and purchase and sale of any kind of securities, as defined in the OECD Codes of Liberalisation.

2. Payments covered by this Title are those related to an investment.

##### Article 29

##### Payments related to investment

1. Without prejudice to Articles 30 and 31, restrictions on payments related to investment between the Parties shall be progressively eliminated. The Parties undertake not to introduce any new restrictions on payments related to direct investment from the entry into force of this Decision.

<sup>(1)</sup> In particular, a Party may require that natural persons must possess the necessary academic qualifications and/or professional experience specified in the territory where the service is supplied, for the sector of activity concerned.

2. Restrictions on payments related to investments in the services sector which have been liberalised in accordance with Title II of this Decision shall be eliminated according to the same timetable.

##### Article 30

##### Exchange rate policy and monetary policy difficulties

1. Where, in exceptional circumstances, payments related to investment between the Parties cause, or threaten to cause, serious difficulties for the operation of the exchange rate policy or monetary policy of a Party, that Party may take safeguard measures that are strictly necessary for a period not exceeding six months. The application of safeguard measures may be extended through their formal reintroduction.

2. The Party adopting the safeguard measure shall inform the other Party forthwith and present, as soon as possible, a time schedule for their removal.

##### Article 31

##### Balance of payments difficulties

1. Where one or more Member States or Mexico is in serious balance of payments difficulties, or under imminent threat thereof, the Community or the Member State concerned, or Mexico, as the case may be, may adopt restrictive measures with regard to payments, including transfers of proceeds from the total or partial liquidation of direct investment. Such measures shall be equitable, non-discriminatory, in good faith, of limited duration and may not go beyond what is necessary to remedy the balance of payments situation.

2. The Community or the Member State concerned, or Mexico, as the case may be, shall inform the other Party forthwith and present, as soon as possible, a time schedule for their removal. Such measures shall be taken in accordance with other international obligations of the Party concerned, including those under the WTO Agreement and the Articles of Agreement of the International Monetary Fund.

*Article 32*

**Transfers**

The liquidation and transfer abroad of any direct investment made in Mexico by Community residents or in the Community by Mexican residents, and of any profits stemming therefrom, shall not be affected by the provisions of Article 30.

*Article 33*

**Investment promotion between the Parties**

The Community and its Member States, within the scope of their respective competences, and Mexico shall aim to promote an attractive and stable environment for reciprocal investment. Such promotion should take the form, in particular, of:

- (a) mechanisms for information about and identification and dissemination of investment legislation and opportunities;

- (b) development of a legal framework favourable to investment on both sides, particularly through the conclusion, where appropriate, by the Member States of the Community and Mexico of bilateral agreements promoting and protecting investment and preventing double taxation;
- (c) development of uniform and simplified administrative procedures; and
- (d) development of mechanisms for joint investments, in particular with the small and medium enterprises of both Parties.

*Article 34*

**International commitments on investment**

The Community and its Member States, within the scope of their respective competences, and Mexico recall their international commitments with regard to investment, and especially the OECD Codes of Liberalisation and OECD National Treatment Instrument.

*Article 35*

**Review clause**

With the view of the objective of progressive liberalisation of investment, the Community and its Member States, and Mexico affirm their commitment to review the investment legal framework, the investment climate and the flow of investment between their territories consistent with their commitments in international investment agreements not later than three years after the entry into force of this Decision.

TITLE IV

**INTELLECTUAL PROPERTY**

*Article 36*

**Multilateral Conventions on Intellectual Property**

1. The Community and its Member States, on the one hand, and Mexico on the other hand, confirm their obligations arising from the following multilateral conventions:

- (a) Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs Agreement, 1994);
- (b) Paris Convention for the Protection of Industrial Property (Stockholm Act, 1967);
- (c) Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971);

- (d) International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome, 1961); and
- (e) Patent Cooperation Treaty (Washington, 1970, amended in 1979 and modified in 1984).

2. The Parties confirm the importance they attach to the obligations arising from the International Convention for the Protection of New Varieties of Plants, 1978 (1978 UPOV Convention), or the International Convention for the Protection of New Varieties of Plants, 1991 (1991 UPOV Convention).

3. At the entry into force of this Decision, the Member States of the Community and Mexico will have acceded to the Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks (Geneva, 1977 and amended in 1979).

4. Within 3 years of the entry into force of this Decision the Members States of the Community and Mexico will have acceded to the Budapest Treaty of the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977, modified in 1980).

5. The Parties shall make every effort to complete the necessary procedures for their accession to the following multilateral conventions at the earliest possible opportunity:

- (a) the WIPO Copyright Treaty (Geneva, 1996); and
- (b) the WIPO Performances and Phonogram Treaty (Geneva, 1996).

## TITLE V

### DISPUTE SETTLEMENT

#### CHAPTER I

#### SCOPE AND COVERAGE

##### *Article 37*

#### **Scope and coverage**

1. The provisions of this Title shall apply with respect to any matter arising from this Decision or from Articles 4, 5, 6, 7, 8, 9, 10 and 11 of the Agreement (hereinafter the 'covered legal instruments').

2. By way of exception, the arbitration procedure laid down in Chapter III shall not be applicable in the case of disputes concerning Article 9(2), 31(2) last sentence, 34 and 36 of this Decision.

#### CHAPTER II

#### CONSULTATION

##### *Article 38*

#### **Consultation**

1. The Parties shall at all times endeavour to agree on the interpretation and application of the covered legal instruments and shall make every attempt through cooperation and consultations to arrive to a mutually satisfactory resolution of any matter that might affect their operation.

2. Each Party may request consultations within the Joint Committee with respect to any matter relating to the application or interpretation of the covered legal instruments or any other matter that it considers might affect their operation.

3. The Joint Committee shall convene within 30 days of delivery of the request and shall endeavour to resolve the dispute promptly by means of a decision. That decision shall specify the implementing measures to be taken by the Party concerned, and the period of time to do so.

#### CHAPTER III

#### ARBITRATION PROCEDURE

##### *Article 39*

#### **Establishment of an arbitration panel**

1. In case a Party considers that a measure applied by the other Party violates the covered legal instruments and such matter has not been resolved within 15 days after the Joint Committee has convened pursuant to Article 38(3) or 45 days after the delivery of the request for a Joint Committee meeting, either Party may request in writing the establishment of an arbitration panel.

2. The requesting Party shall state in the request the measure and indicate the provisions of the covered legal instruments that it considers relevant, and shall deliver the request to the other Party and to the Joint Committee.

##### *Article 40*

#### **Appointment of arbitrators**

1. The requesting Party shall notify the other Party of the appointment of an arbitrator, and propose up to 3 candidates to serve as a chair. The other Party must then appoint a second arbitrator within 15 days, and propose up to 3 candidates to serve as a chair.

2. Both Parties shall endeavour to agree on the chair within 15 days after the second arbitrator has been appointed.

3. The date of establishment of the arbitration panel shall be the date on which the chair is appointed.

4. If a Party fails to appoint its arbitrator pursuant to paragraph 1, such arbitrator shall be selected by lot from the candidates proposed. If the Parties are unable to agree on the chair within the time period referred to in paragraph 2, it shall be selected by lot within one week from the candidates proposed.

5. If an arbitrator dies, withdraws or is removed, a replacement shall be selected within 15 days in accordance with the selection procedure followed to select him or her. In such a case, any time period applicable to the arbitration panel proceeding shall be suspended for a period beginning on the date the arbitrator dies, withdraws or is removed and ending on the date the replacement is selected.

#### Article 41

### Panel reports

1. The arbitration panel should, as a general rule, submit an initial report containing its findings and conclusions to the Parties not later than three months from the date of establishment of the arbitration panel. In no case should it do so later than five months from this date. Any Party may submit written comments to the arbitration panel on its initial report within 15 days of presentation of the report.

2. The arbitration panel shall present to the Parties a final report within 30 days of presentation of the initial report.

3. In cases of urgency, including those involving perishable goods, the arbitration panel shall make every effort to issue its final report to the Parties within three months from the date of establishment of the arbitration panel. In no case should it do so later than four months. The arbitration panel may give a preliminary ruling on whether a case is urgent.

4. All decisions of the arbitration panel, including the adoption of the final report and of any preliminary ruling, shall be taken by majority vote, each arbitrator having one vote.

5. The complaining Party may withdraw its complaint at any time before the final report has been issued. Such withdrawal is without prejudice to its right to introduce a new complaint regarding the same issue at a later point in time.

#### Article 42

### Implementation of panel reports

1. Each Party shall be bound to take the measures involved in carrying out the final report referred to in Article 41(2).

2. The Party concerned shall inform the other Party within 30 days after the final report has been issued of its intentions in respect of its implementation.

3. The Parties shall endeavour to agree on the specific measures that are required for implementing the final report.

4. The Party concerned shall promptly comply with the final report. If it is impracticable to comply immediately, the Parties shall endeavour to agree on a reasonable period of time to do so. In the absence of such agreement, either Party may request the original arbitration panel to determine the length of the reasonable period of time, in light of the particular circumstances of the case. The ruling of the arbitration panel shall be given within 15 days from that request.

5. The Party concerned shall notify to the other Party the measures adopted in order to implement the final report before the expiry of the reasonable period of time determined in accordance with paragraph 4. Upon that notification, any of the Parties may request the original arbitration panel to rule on the conformity of those measures with the final report. The ruling of the arbitration panel shall be given within 60 days from that request.

6. If the Party concerned fails to notify the implementing measures before the expiry of the reasonable period of time determined in accordance with paragraph 4, or if the arbitration panel rules that the implementing measures notified by the Party concerned are inconsistent with the final report, such Party shall, if so requested by the complaining Party, enter into consultations with a view to agree on a mutually acceptable compensation. If no such agreement has been reached within 20 days from the request, the complaining Party shall be entitled to suspend only the application of benefits granted under the covered legal instruments equivalent to those affected by the measure found to violate the covered legal instruments.



7. In considering what benefits to suspend, a complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure that the panel has found to violate the covered legal instruments. A complaining Party that considers it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

8. The complaining Party shall notify the other Party of the benefits which it intends to suspend no later than 60 days before the date on which the suspension is due to take effect. Within 15 days from that notification, any of the Parties may request the original arbitration panel to rule on whether the benefits which the complaining Party intends to suspend are equivalent to those affected by the measure found to violate the covered legal instruments, and whether the proposed suspension is in accordance with paragraphs 6 and 7. The ruling of the arbitration panel shall be given within 45 days from that request. Benefits shall not be suspended until the arbitration Panel has issued its ruling.

9. The suspension of benefits shall be temporary and shall only be applied by the complaining Party until the measure found to violate the covered legal instruments has been withdrawn or amended so as to bring it into conformity with the covered legal instruments, or the Parties have reached agreement on a resolution of the dispute.

10. At the request of any of the Parties, the original arbitration panel shall rule on the conformity with the final report of any implementing measures adopted after the suspension of benefits and, in light of such ruling, whether the

suspension of benefits should be terminated or modified. The ruling of the arbitration panel shall be given within 30 days from the date of that request.

11. The rulings provided for in paragraphs 4, 5, 8 and 10 shall be binding.

#### Article 43

### General provisions

1. Any time period mentioned in this Title may be extended by mutual agreement of the Parties.

2. Unless the Parties otherwise agree, the arbitration panel proceedings shall be conducted in accordance with the Model Rules of Procedure set out in Annex III. The Joint Committee may amend the Model Rules of Procedure.

3. Arbitration proceedings established under this Title will not consider issues relating to each Party's rights and obligations under the WTO.

4. Recourse to the dispute settlement provisions of this Title shall be without prejudice to any possible action in the WTO framework, including dispute settlement action. However, where a Party has, with regard to a particular matter, instituted a dispute settlement proceeding under either Article 39(1) of this Title or the WTO Agreement, it shall not institute a dispute settlement proceeding regarding the same matter under the other forum until such time as the first proceeding has ended. For purposes of this paragraph, dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO.

## TITLE VI

### SPECIFIC DUTIES OF THE JOINT COMMITTEE WITH RESPECT TO TRADE AND OTHER TRADE RELATED MATTERS

#### Article 44

1. The Joint Committee shall:

- (a) supervise the implementation and proper operation of this Decision, as well as of any other decision concerning trade and other trade related matters<sup>(1)</sup>;
- (b) oversee the further elaboration of the provisions of this Decision;

(c) undertake consultations pursuant to Article 38(2) and (3);

(d) carry out any functions assigned to it under this Decision or under any other decision concerning trade or trade related matters;

(e) assist the Joint Council in the performance of its functions regarding trade and other trade related matters;

(f) supervise the work of all the special committees established under this Decision; and

(g) report annually to the Joint Council.

<sup>(1)</sup> The Parties understand that 'trade and other trade related matters' includes any matter arising under this Decision and Titles III through V of the Agreement.



2. The Joint Committee may:
- (a) set up any special committees or bodies to deal with matters falling within its competence, and determine their composition and duties, and how they shall function;
  - (b) meet at any time by agreement of the Parties;
  - (c) consider any issues regarding trade and other trade related matters, and take appropriate action in the exercise of its functions; and
- (d) take decisions or make recommendations on trade and other trade related matters, in accordance with Article 48(2) of the Agreement.
3. When the Joint Committee meets in order to perform any of the tasks conferred upon it by this Decision, it shall be composed of representatives of the members of the Council of the European Union and of the European Commission, on the one hand, and of representatives of the Government of Mexico, on the other, with a responsibility for trade and trade related matters, normally at senior civil servant level.

## TITLE VII

### FINAL PROVISIONS

*Article 45*

#### **Entry into force**

This Decision shall enter into force on the first day of the month following that in which it is adopted by the Joint Council.

*Article 46*

#### **Annexes**

The Annexes to this Decision, including the Appendixes to those Annexes, are an integral part thereof.

Done at Brussels, 27 February 2001.

*For the Joint Council*

*The President*

J. CASTAÑEDA

## ANNEX I

(Referred to in Article 17)

## PART A

## COMMUNITY AND ITS MEMBER STATES

1. The application of Chapter III to the Community and its Member States is subject to the limitations on market access and national treatment scheduled by the European Communities and its Member States in the 'all sectors' section of their GATS schedule and to those relating to the sub-sectors listed below.
2. The market access commitments in respect of modes (1) and (2) apply only to the transactions indicated in paragraphs B.3 and B.4 of the market access section of the 'Understanding on Commitments in Financial Services' respectively.
3. Unlike foreign subsidiaries, branches established directly in a Member State by a Mexican financial institution are not, with certain limited exceptions, subject to prudential regulations harmonised at Community level which enable such subsidiaries to benefit from enhanced facilities to set up new establishments and to provide cross-border services throughout the Community. Therefore, such branches receive an authorisation to operate in the territory of a Member State under conditions equivalent to those applied to domestic financial institutions of that Member State, and may be required to satisfy a number of specific prudential requirements such as, in the case of banking and securities, separate capitalisation and other solvency requirements and reporting and publication of accounts requirements or, in the case of insurance, specific guarantee and deposit requirements, a separate capitalisation, and the localisation in the Member State concerned of the assets representing the technical reserves and at least one third of the solvency margin. Member States may apply the restrictions indicated in this schedule only with regard to the direct establishment from a Mexican of a commercial presence or to the provision of cross-border services from Mexico; consequently, a Member State may not apply these restrictions, including those concerning establishment, to Mexican subsidiaries established in other Member States of the Community, unless these restrictions can also be applied to companies or nationals of other Member States in conformity with Community Law.

Sector or subsector	Mode of supply subject to reserve	Description of the measure
A. Insurance and Insurance-Related Services	1) Cross border supply	<p><b>A:</b> Promotional activity and intermediation on behalf of a subsidiary not established in the Community or of a branch not established in Austria (except for reinsurance and retrocession) are prohibited.</p> <p><b>A:</b> Compulsory air insurance can be underwritten only by a subsidiary established in the Community or by a branch established in Austria.</p> <p><b>A:</b> Higher premium tax is due for insurance contracts (except for contracts on reinsurance and retrocession) which are written by a subsidiary not established in the Community or by a branch not established in Austria. Exception from the higher tax can be granted.</p> <p><b>DK:</b> Compulsory air transport insurance can be underwritten only by firms established in the Community.</p> <p><b>DK:</b> No persons or companies (including insurance companies) may for business purposes in Denmark assist in effecting direct insurance for persons resident</p>

Sector or subsector	Mode of supply subject to reserve	Description of the measure
		<p>in Denmark, for Danish ships or for property in Denmark, other than insurance companies licensed by Danish law or by Danish competent authorities.</p> <p><b>D:</b> Compulsory air insurance policies can be underwritten only by a subsidiary established in the Community or by a branch established in Germany.</p> <p><b>D:</b> If a foreign insurance company has established a branch in Germany, it may conclude insurance contracts in Germany relating to international transport only through the branch established in Germany.</p>
		<p><b>I:</b> Unbound for the actuarial profession.</p> <p><b>FIN:</b> Only insurers having their head office in the European Economic Area or having their branch in Finland may offer insurance services as referred to in sub-paragraph 3(a) of the Understanding.</p> <p><b>FIN:</b> The supply of insurance broker services is subject to a permanent place of business in the European Economic Area.</p> <p><b>F:</b> Insurance of risks relating to ground transport may be carried out only by insurance firms established in the Community.</p> <p><b>I:</b> Insurance of risks relating to c.i.f. exports by residents in Italy may be underwritten only by insurance firms established in the Community.</p> <p><b>I:</b> Transport insurance of goods, insurance of vehicles as such and liability insurance regarding risks located in Italy may be underwritten only by insurance companies established in the Community. This reservation does not apply for international transport involving imports into Italy.</p> <p><b>P:</b> Air and maritime transport insurance, covering goods, aircraft, hull and liability can be underwritten only by firms established in the EC; only persons or companies established in the EC may act as intermediaries for such insurance business in Portugal.</p> <p><b>S:</b> The supply of direct insurance is allowed only through an insurance service supplier authorised in Sweden, provided that the foreign service supplier and the Swedish insurance company belong to the same group of companies or have an agreement of cooperation between them.</p>
	2) Consumption abroad	<p><b>A:</b> Promotional activity and intermediation on behalf of a subsidiary not established in the Community or of a branch not established in Austria (except for reinsurance and retrocession) are prohibited.</p>

Sector or subsector	Mode of supply subject to reserve	Description of the measure
		<p><b>A:</b> Compulsory air insurance can be underwritten only by a subsidiary established in the Community or by a branch established in Austria.</p> <p><b>A:</b> Higher premium tax is due for insurance contracts (except for contracts on reinsurance and retrocession) which are written by a subsidiary not established in the Community or by a branch not established in Austria. Exception from the higher tax can be granted.</p> <p><b>DK:</b> Compulsory air transport insurance can be underwritten only by firms established in the Community.</p>
		<p><b>DK:</b> No persons or companies (including insurance companies) may for business purposes in Denmark assist in effecting direct insurance for persons resident in Denmark, for Danish ships or for property in Denmark, other than insurance companies licensed by Danish law or by Danish competent authorities.</p> <p><b>D:</b> Compulsory air insurance policies can be underwritten only by a subsidiary established in the Community or by a branch established in Germany.</p> <p><b>D:</b> If a foreign insurance company has established a branch in Germany, it may conclude insurance contracts in Germany relating to international transport only through the branch established in Germany.</p> <p><b>F:</b> Insurance of risks relating to ground transport may be carried out only by insurance firms established in the Community.</p> <p><b>I:</b> Insurance of risks relating to c.i.f. exports by residents in Italy may be underwritten only by insurance firms established in the Community.</p> <p><b>I:</b> Transport insurance of goods, insurance of vehicles as such and liability insurance regarding risks located in Italy may be underwritten only by insurance companies established in the Community. This reservation does not apply for international transport involving imports into Italy.</p> <p><b>P:</b> Air and maritime transport insurance, covering goods, aircraft, hull and liability can be underwritten only by firms established in the EC; only persons or companies established in the EC may act as intermediaries for such insurance business in Portugal.</p>
	3) Commercial presence	<p><b>A:</b> The licence for branch offices of foreign insurers has to be denied if the insurer, in the home country, does not have a legal form corresponding or comparable to a joint stock company or a mutual insurance association.</p>

Sector or subsector	Mode of supply subject to reserve	Description of the measure
		<p><b>B:</b> Any public bid to acquire Belgian securities made by or on behalf of a person, company or institution outside the jurisdiction of one of the Member States of the European Community shall be submitted to the authorisation of the Minister of Finance.</p> <p><b>E:</b> Before establishing a branch or agency in Spain to provide certain classes of insurance, a foreign insurer must have been authorised to operate in the same classes of insurance in its country of origin for at least five years.</p>
		<p><b>E, GR:</b> The right of establishment does not cover the creation of representative offices or other permanent presence of insurance companies, except where such offices are established as agencies, branches or head offices.</p> <p><b>FIN:</b> The managing director, at least one auditor and at least one half of the promoters and members of the board of directors and the supervisory board of an insurance company shall have their place of residence in the European Economic Area, unless the Ministry of Social Affairs and Health has granted an exemption.</p> <p><b>FIN:</b> Foreign insurers cannot get a licence in Finland as a branch to carry on statutory social insurances (statutory pension insurance, statutory accident insurance).</p> <p><b>FIN:</b> The general agent of the foreign insurance company shall have his place of residence in Finland, unless the company has its head office in the European Economic Area.</p>
		<p><b>F:</b> The establishment of branches is subject to a special authorisation for the representative of the branch.</p> <p><b>I:</b> Access to actuarial profession through natural persons only. Professional associations (no incorporation) among natural persons permitted.</p> <p><b>I:</b> The authorisation of the establishment of branches is ultimately subject to the evaluation of supervisory authorities.</p> <p><b>IRL:</b> The right of establishment does not cover the creation of representative offices.</p> <p><b>P:</b> Foreign companies may carry out insurance intermediation in Portugal only through a company formed in accordance with the law of a Community Member State.</p> <p><b>P:</b> In order to establish a branch in Portugal, foreign companies need to demonstrate prior operational experience of at least five years.</p>
		<p><b>S:</b> Insurance broking undertakings not incorporated in Sweden may establish a commercial presence only through a branch.</p> <p><b>S:</b> Non-life insurance undertakings not incorporated in Sweden conducting business in Sweden are — instead of being taxed according to the net result — subject to taxation based on the premium income from direct insurance operations.</p>

Sector or subsector	Mode of supply subject to reserve	Description of the measure
		<p><b>S:</b> A founder of an insurance company shall be a natural person resident in the European Economic Area or a legal entity incorporated in the European Economic Area.</p>
	4) Presence of natural persons	<p>Unbound except as indicated in the horizontal section and subject to the following specific limitations:</p> <p><b>A:</b> The management of a branch office must consist of two natural persons resident in Austria.</p> <p><b>DK:</b> The general agent of an insurance branch will need to have resided in Denmark for the last two years unless being a national of one of the Member States of the Community. The Minister of Business and Industry may grant exemption.</p> <p><b>DK:</b> Residency requirement for managers and the members of the board of directors of a company. However, the Minister of Business and Industry may grant exemption from this requirement. Exemption is granted on a non-discriminatory basis.</p> <p><b>E, I:</b> Residence requirement for actuarial profession.</p> <p><b>GR:</b> A majority of the members of the board of directors of a company established in Greece shall be nationals of one of the Member States of the Community.</p>
B. Banking and Other Financial Services (excluding insurance)	1) Cross Border supply 2) Consumption abroad	<p><b>B:</b> Establishment in Belgium is required for the provision of investment advisory services.</p> <p><b>IRL:</b> The provision of investment services or investment advice requires either (I) authorisation in Ireland, which normally requires that the entity be incorporated or be a partnership or a sole trader, in each case with a head/registered office in Ireland (authorisation may not be required in certain cases, e.g. where a third country service provider has no commercial presence in Ireland and the service is not provided to private individuals), or (II) authorisation in another Member State in accordance with the EC Investment Services Directive.</p> <p><b>I:</b> Unbound for 'promotori di servizi finanziari' (financial salesmen).</p>
	2) Consumption abroad 3) Commercial presence	<p><b>D:</b> Issues of securities denominated in Deutschmarks can be lead managed only by a credit institution, subsidiary or branch, established in Germany.</p> <p><b>FIN:</b> Payments from governmental entities (expenses) shall be transmitted through the Finnish Postal Giro System, which is maintained by the Postipankki Ltd. Exemption from this requirement may be granted on special reason by the Ministry of Finance.</p> <p><b>GR:</b> Establishment is required for the provision of custodial and depository services involving the administration of interest and principal payments due on securities issued in Greece.</p>



Sector or subsector	Mode of supply subject to reserve	Description of the measure
		<p><b>UK:</b> Sterling issues, including privately led issues, can be lead managed only by a firm established in the European Economic Area.</p>
	<p>3) Commercial presence 4) Presence of natural persons</p>	<p>All Member States:</p> <ul style="list-style-type: none"> <li>— The establishment of a specialised management company is required to perform the activities of management of unit trusts and investment companies (Articles 6 and 13 of UCITS Directive, 85/611/EEC).</li> <li>— Only firms having their registered office in the Community can act as depositories of the assets of investment funds (Articles 8.1 and 15.1 of the UCITS Directive, 85/611/EEC).</li> </ul> <p><b>A:</b> Only members of the Austrian Stock Exchange may engage in securities trading at the Stock Exchange.</p> <p><b>A:</b> For trading in foreign exchange and foreign currency authorisation of the Austrian National Bank is required.</p> <p><b>A:</b> Mortgage bonds and municipal bonds may be issued by banks specialised and authorised for this activity.</p> <p><b>A:</b> For carrying out services of pension fund management a specialised company only for this activity and incorporated as a stock company in Austria is required.</p> <p><b>B:</b> Any public bid to acquire Belgian securities made by or on behalf of a person, company or institution outside the jurisdiction of one of the Member States of the European Community shall be submitted to the authorisation of the Minister of Finance.</p> <p><b>DK:</b> Financial institutions may engage in securities trading on the Copenhagen Stock Exchange only through subsidiaries incorporated in Denmark.</p> <p><b>FIN:</b> At least one half of the founders, the members of the board of directors, the supervisory board and the delegates, the managing director, the holder of the procuration and the person entitled to sign in the name of the credit institution shall have their place of residence in the European Economic Area, unless the Ministry of Finance grants an exemption. At least one auditor shall have his place of residence in the European Economic Area.</p>
		<p><b>FIN:</b> The broker (individual person) on derivative exchange shall have his place of residence in the European Economic Area. Exemption from this requirement may be granted under the conditions set by the Ministry of Finance.</p> <p><b>FIN:</b> Payments from governmental entities (expenses) shall be transmitted through the Finnish Postal Giro System, which is maintained by the Postipankki Ltd. Exemption from this requirement may be granted on special reason by the Ministry of Finance.</p> <p><b>F:</b> In addition to French credit institutions, issues denominated in French francs may be lead managed only by French subsidiaries (under French law) of non-French banks which are authorised, based on sufficient means and commitments in Paris of the</p>

Sector or subsector	Mode of supply subject to reserve	Description of the measure
		<p>candidate French subsidiary of a non-French bank. These conditions apply to lead banks running the books. A non-French bank may be, without restrictions or requirement to establish, jointly-lead or co-lead manager of Eurofranc bond issue.</p> <p><b>GR:</b> Financial institutions may engage in the trading of securities listed on the Athens Stock Exchange only through stock exchange firms incorporated in Greece.</p>
		<p><b>GR:</b> For the establishment and operations of branches a minimum amount of foreign exchange must be imported, converted into drachmas and kept in Greece as long as a foreign bank continues to operate in Greece:</p> <ul style="list-style-type: none"> <li>— Up to four (4) branches this minimum is currently equal to half of the minimum amount of share capital required for a credit institution to be incorporated in Greece;</li> <li>— For the operation of additional branches the minimum amount of capital must be equal to the minimum share capital required for a credit institution to be incorporated in Greece.</li> </ul> <p><b>IRL:</b> In the case of collective investment schemes constituted as unit trusts and variable capital companies (other than undertakings for collective investment in transferable securities, UCITS), the trustee/depositary and management company is required to be incorporated in Ireland or in another Member State of the Community. In the case of an investment limited partnership, at least one general partner must be incorporated in Ireland.</p>
		<p><b>IRL:</b> To become a member of a stock exchange in Ireland, an entity must either (I) be authorised in Ireland, which requires that it be incorporated or be a partnership, with a head/registered office in Ireland, or (II) be authorised in another Member State in accordance with the EC Investment Services Directive.</p> <p><b>IRL:</b> The provision of investment services or investment advice requires either (I) authorisation in Ireland, which normally requires that the entity be incorporated or be a partnership or a sole trader, in each case with a head/registered office in Ireland (the supervisory authority may also authorise branches of third country entities), or (II) authorisation in another Member State in accordance with the EC Investment Services Directive.</p> <p><b>I:</b> The public offer of securities (as provided for under Article 18 of Law 216/74) other than shares, debt securities (including convertible debt securities) can only be made by Italian limited companies, foreign companies duly authorised, public bodies or companies belonging to local authorities whose assigned capital is not below Lit 2 billion.</p>

Sector or subsector	Mode of supply subject to reserve	Description of the measure
		<p><b>I:</b> Centralised deposit, custody and administration services can be provided only by the Bank of Italy for Government securities, or by Monte Titoli SpA for shares, securities of a participating nature and other bonds traded in a regulated market.</p> <p><b>I:</b> In the case of collective investment schemes other than harmonised UCITS under the directive 85/611/EEC, the trustee/depositary is required to be incorporated in Italy or in another Member State of the European Community, being established through a branch in Italy. Only banks, insurance companies, securities investment companies having their legal head office in the European Community may carry out activity of pension fund resources management. Management companies (closed-end funds and real estate funds) are also required to be incorporated in Italy.</p> <p><b>I:</b> In providing the activity of door-to-door selling, intermediaries must utilise authorised financial salesmen resident within the territory of a Member State of the European Communities.</p> <p><b>I:</b> Clearing and settlement of securities may be conducted only by the official clearing system. A company authorised by the Bank of Italy in agreement with Consob could be entrusted with the activity of clearing, up to the final settlement of securities.</p>
		<p><b>I:</b> Representative offices of foreign intermediaries cannot carry out activities aimed at providing investment services.</p> <p><b>P:</b> The establishment of non-EC banks is subject to an authorisation issued, on a case-by-case basis, by the Minister of Finance. The establishment has to contribute to increase the national banking system's efficiency or has to produce significant effects on the internationalisation of the Portuguese economy.</p> <p><b>P:</b> The services of venture capital may not be provided by branches of venture capital companies having their head office in a non-EC country. Broker-dealer services on the Lisbon Stock Exchange may be provided by broker and dealer companies incorporated in Portugal or by branches of investment firms authorised in another EC country and authorised in their home country to provide those services. Broker and dealer services in the Oporto Derivatives Exchange and in the OTC market may not be provided by branches of non-EC broker/dealer companies.</p> <p>Pension fund management may be provided only by companies incorporated in Portugal and by insurance companies established in Portugal and authorised to take up the life insurance business.</p>
		<p><b>UK:</b> Inter-dealer brokers, which are a category of financial institutions dealing in Government debt, are required to be established in the European Economic Area and separately capitalised.</p> <p><b>S:</b> Undertakings not incorporated in Sweden may establish a commercial presence only through a branch, and in case of banks, also through a representative office.</p>

Sector or subsector	Mode of supply subject to reserve	Description of the measure
		<p><b>S:</b> A founder of a banking company shall be a natural person resident in the European Economic Area or a foreign bank. A founder of a savings bank shall be a natural person resident in the European Economic Area.</p>
	4) Presence of natural persons	<p>Unbound except as indicated in the horizontal section and subject to the following specific limitations:</p> <p><b>F:</b> Sociétés d'investissement à capital fixe: condition of nationality for the president of the Board of Directors, the Directors-General and no less than two thirds of the administrators, and also, when the securities firm has a Supervisory Board or Council, for the members of such board or its Director-General, and no less than two thirds of the members of the supervisory Council.</p> <p><b>GR:</b> Credit institutions should name at least two persons who are responsible for the operations of the institution. Condition of residency applies to these persons.</p> <p><b>I:</b> Condition of residence within the territory of a Member State of the European Communities for 'promotori di servizi finanziari' (financial salesmen).</p>

## Part B

## MEXICO

Sector or subsector	Mode of supply subject to reserve	Description of the measure
FINANCIAL SERVICES A) All insurance and insurance-related services (a) Life, accident and health insurance services (CPC 8121) (b) Non-life insurance services (CPC 8129)	Establishment, Cross Border	Established insurance companies may carry out insurance and insurance-related services. Foreign investors may hold up to 49 per cent of the paid-up capital. Foreign investment by governments and official agencies is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.
(c) Reinsurance and retrocession services (CPC 81299*)	Establishment, Cross Border	<p>This activity may be carried out by established insurance institutions. Foreign investors may hold up to 49 per cent of the paid-up capital. Foreign investment by governments and official agencies is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.</p> <p>Foreign reinsurance companies may participate in reinsurance operations. According to the applicable regulations, such companies are required to register with the Ministry of Finance and Public Credit (SHCP), which may authorise or refuse registration.</p> <p>Foreign reinsurance companies, which are enrolled in the register kept by the SHCP, may establish representative offices in the country with the prior authorisation of the SHCP. Representative offices of foreign reinsurance companies, according to the applicable regulations, may not act directly or through an intermediary in direct insurance operations.</p>
(d) Services auxiliary to insurance such as: — insurance broking and agency services (CPC 8140)	Establishment, Cross Border	Foreign investors may hold up to 49 per cent of the paid-up capital. The National Foreign Investment Commission (CNIE) can authorise a greater percentage. Foreign investment by governments and official agencies is not allowed. Effective control of the enterprise by the Mexican shareholders is required.
		Currently, under the insurance law, it is prohibited to contract with foreign companies: 1) Insurance of persons when the person is located in Mexico at the time the contract is celebrated;

Sector or subsector	Mode of supply subject to reserve	Description of the measure
		<p>2) Insurance of hulls of ships or airships and of any class of vehicles, against risks proper to the maritime and transport class of insurance, when these ships, airships or vehicles are registered in Mexico or are property of persons resident in Mexico;</p> <p>3) Credit insurance, when the insured is subject to the Mexican legislation;</p> <p>4) Insurance against civil liability, derived from events that may occur in Mexico; and</p> <p>5) Other classes of insurance against risks that may occur in Mexican territory. Insurance contracted abroad by non-residents to cover their persons or their vehicle risks during their temporary visit to the Mexican territory are not subject to these restrictions.</p> <p>The SHCP can make an exemption in the following cases:</p> <p>1. Foreign insurers, with a previous authorisation from the SHCP and complying with the requirements that it establishes, may enter into insurance contracts in Mexican territory to cover risks that occur in foreign territory in which they are authorised to provide insurance services. Only in these cases, foreign insurers are exempt from the restriction related to offering (soliciting) insurance in Mexico.</p> <p>The SHCP with the previous opinion of the National Bonding and Insurance Commission (CNSF), can revoke such authorisation, when it is considered that the interests of the insurance customers are endangered, previous hearing of the insurance company affected; and</p> <p>2. When no authorised insurance company can or deems convenient to carry out a certain proposed insurance operation, the SHCP, prior verification of these circumstances, may discretionary grant a specific authorisation so that it may be contracted directly with a foreign insurer or through a local insurance company.</p>
<p>B) Banking and other financial services (excluding insurance)</p> <p>(a) Acceptance of deposits and other repayable funds from the public (CPC 81115-81119)</p>	<p>Establishment, Cross Border</p>	<p>This activity is restricted to established commercial banks. Foreign investment by persons exercising governmental functions is not allowed.</p> <p>In accordance with the applicable financial legislation, representative offices of banking institutions are excluded from this activity.</p>
<p>(b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of financial transactions (CPC 8113)</p>	<p>Establishment, Cross Border</p>	<p>Established commercial banks may carry out lending activities of all types, including consumer credit, mortgage credit, credit discounting and financing of commercial transactions. Foreign investment by persons exercising governmental functions is not allowed.</p> <p>In accordance with the applicable financial legislation, representative offices of banking institutions are excluded from this activity.</p>



Sector or subsector	Mode of supply subject to reserve	Description of the measure
<ul style="list-style-type: none"> <li>— Development Banks</li> <li>— Credit Unions</li> </ul>	Establishment, Cross Border	<p>Foreign investments in development banks and credit unions are not allowed.</p> <p>The following activities are reserved solely to Mexican development banks:</p> <ul style="list-style-type: none"> <li>(a) acting as custodians of securities and cash funds deposited by or in the administrative or judiciary authorities, and acting as custodian of goods that have been seized according to Mexican measures; and</li> <li>(b) managing the savings funds, retirement plans and any other funds or property of the personnel of the Ministry of National Defence, Ministry of Navy and the Mexican armed forces, and performing other financial activities pertaining to the financial resources of such personnel.</li> </ul>
<ul style="list-style-type: none"> <li>— Savings and Loan Companies</li> </ul>	Establishment, Cross Border	Foreign investment by persons exercising governmental functions is not allowed.
<ul style="list-style-type: none"> <li>— Limited scope financial institution</li> <li>— Financial factoring companies</li> </ul>	Establishment, Cross Border	<p>Established limited scope financial institutions may carry out only one of the financing activities such as personal credit, consumer credit, mortgage credit or commercial credit. Foreign investors may hold up to 49 per cent of capital stock. Foreign investment by persons exercising governmental functions is not allowed. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.</p> <p>Established financial factoring companies may carry out factoring activities. Foreign investors may hold up to 49 per cent of the paid-up capital. Foreign investment by persons exercising governmental functions is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.</p>
(c) Financial leasing services (CPC 8112)	Establishment, Cross Border	Established financial leasing companies may carry out financial leasing activities. Foreign investors may hold up to 49 per cent of paid-up capital. Foreign investment by persons exercising governmental functions is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.
<ul style="list-style-type: none"> <li>— Commercial banks</li> </ul>	Establishment, Cross Border	Established commercial banks may also carry out financial leasing activities. Foreign investment by persons exercising governmental functions is not allowed.

Sector or subsector	Mode of supply subject to reserve	Description of the measure
(d) Trading on own or customers' account on a stock exchange, over-the-counter or otherwise, in: — Money market instruments (checks, bills, certificates of deposit, etc.) (CPC 81339**)	Establishment, Cross Border	Established securities firms and established securities specialists may carry out this activity. Foreign investment by persons exercising governmental functions is not allowed.
— Foreign exchange (CPC 81333)	Establishment, Cross Border	Established commercial banks may carry out this activity. Foreign investment by persons exercising governmental functions is not allowed.
— Foreign exchange firms	Establishment, Cross Border	Established foreign exchange firms may also carry out this activity. Foreign investors may hold up to 49 per cent of the paid-up capital. Foreign investment by persons exercising functions of authority is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.
— Transferable securities (CPC 81321*)	Establishment, Cross Border	Established securities firms and established securities specialists may carry out this activity. Foreign investment by persons exercising governmental functions is not allowed.
— Other negotiable instruments and financial assets, including bullion (CPC 81339**)	Establishment, Cross Border	Established commercial banks may carry out this activity. Foreign investment by persons exercising governmental functions is not allowed.
(e) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately and provision of services related to such issues (CPC 8132)	Establishment, Cross Border	Established securities firms and established securities specialists may carry out this activity. Foreign investment by persons exercising governmental functions is not allowed.
(f) Money broking (CPC 81339**) — Commercial banks	Establishment, Cross Border	Established commercial banks may carry out this activity. Foreign investment by persons exercising governmental functions is not allowed.

Sector or subsector	Mode of supply subject to reserve	Description of the measure
(g) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, and trust services (CPC 81323*)	Establishment, Cross Border	Established investment companies may carry out activities such as asset management, cash or portfolio management and all forms of collective investment management. Foreign investors may hold up to 49 per cent of overhead capital. Foreign investment by persons exercising governmental functions is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.
— Managing companies of investment companies	Establishment, Cross Border	Established managing companies of investment companies may carry out the administration of investment companies. Foreign investors may hold up to 49 per cent of the capital stock. Foreign investment by persons exercising governmental functions is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.
— Pension fund management companies	Establishment, Cross Border	<p>Established pension fund management companies may carry out pension fund management activities. Foreign investors may hold up to 49 per cent of the capital stock. Foreign investment by persons exercising governmental functions is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.</p> <p>The following activities are reserved solely to Mexican development banks:</p> <p>(a) acting as custodians of securities and cash funds deposited by or in the administrative or judiciary authorities, and acting as custodian of goods that have been seized according to Mexican measures; and</p> <p>(b) managing the savings funds, retirement plans and any other funds or property of the personnel of the Ministry of National Defence, Ministry of Navy and the Mexican armed forces, and performing other financial activities pertaining to the financial resources of such personnel.</p>
— Commercial banks	Establishment, Cross Border	Established commercial banks may carry out this activity. Foreign investment by persons exercising governmental functions is not allowed.
— Securities firms and securities specialists	Establishment, Cross Border	Established securities firms and established securities specialists may carry out this activity. Foreign investment by persons exercising governmental functions is not allowed.

Sector or subsector	Mode of supply subject to reserve	Description of the measure
(h) Advisory and other auxiliary financial services, including credit reporting and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy (CPC 8133)	Establishment, Cross Border	Investment consultants may carry out activities such as investment and portfolio analysis, research and advice, advice on acquisitions and on corporate restructuring and strategy. Foreign investors may hold up to 49 per cent of the capital stock. Foreign investment by persons exercising governmental functions is not allowed. Effective control of the enterprise by Mexican shareholders is required.
— Credit information companies	Establishment, Cross Border	Established credit information companies (Credit Bureaus) may carry out credit reporting activities. Foreign investors may hold up to 49 per cent of the paid-up capital stock. Effective control of the enterprise by the Mexican shareholders is required. The CNIE can authorise a greater percentage. Foreign investment by persons exercising governmental functions is not allowed.
C) Others — Holding companies	Establishment, Cross Border	Foreign investment by persons exercising governmental functions is not allowed.
— Guarantee institutions	Establishment, Cross Border	<p>Established guarantee institutions may carry out guarantee services. Foreign investors may hold up to 49 per cent of the paid-up capital of established guarantee institutions. Foreign investment by governments and official agencies is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.</p> <p>Currently, under the guarantee law, it is prohibited to contract with foreign companies guarantees to assure acts of persons that must fulfill obligations in Mexican territory, except in re-guarantee operations and when they are received as surety by Mexican guarantee institutions.</p> <p>The guarantee operations celebrated in violation of the previously mentioned will not produce any legal effect.</p> <p>However, when none of the established guarantee institutions, estimates convenient to practice certain proposed operations, the SHCP, previous confirmation of these circumstances, can discretionally authorise the person to contract the service with a foreign guarantee institution, directly or through a Mexican guarantee institution.</p>

Sector or subsector	Mode of supply subject to reserve	Description of the measure
		It is prohibited to carry out intermediation activities in those operations mentioned above, and also, in guarantee operations granted in an ordinary and onerous way by a natural or legal person, different to authorised guarantee institutions.
Re-guarantee	Establishment, Cross Border	This activity may be carried out through established guarantee institutions. Foreign investors may hold up to 49 per cent of the paid-up capital. Foreign investment by governments and official agencies is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.
		Foreign re-guarantee companies may participate in re-guarantee operations. According to the applicable regulations, these institutions must register with the SHCP, which may authorise or refuse registration.
General deposit warehouses	Establishment, Cross Border	Foreign investors may hold up to 49 per cent of the paid-up capital of the established general deposit warehouses. Foreign investment by persons exercising governmental functions is not allowed. Effective control of the enterprise by the Mexican shareholders is required. This percentage limit does not apply to investments in foreign financial affiliates as such term is defined in, and subject to terms and conditions under the Affiliates Section.

#### AFFILIATES SECTION

Sector or subsector	Mode of supply subject to reserve	Description of the measure
Commercial Banks Securities Firms	Establishment, Cross Border	<p>If the sum of the authorised capital of foreign financial affiliates, measured as a percentage of the aggregate net capital of all financial institutions of such type in Mexico, reaches the percentage set forth in the chart in this paragraph for such type of institutions, then Mexico shall have the right, once until 1 January 2004 to freeze such aggregate capital percentage at its then existing level.</p> <p>Commercial Banks 25 % Securities Firms 30 %</p> <p>If applied, such a restriction will have a duration not to exceed a period of three years.</p> <p>Until 1 January 2004, Mexico may deny a license to establish a foreign financial affiliate if the sum of the authorised capital of all foreign financial affiliates of the same type exceeds the applicable percentage limit described in the prior chart.</p>

Sector or subsector	Mode of supply subject to reserve	Description of the measure
Commercial Banks	Establishment, Cross Border	<p><i>Payments System Protection</i></p> <ol style="list-style-type: none"> <li>1. If the sum of the authorised capital of foreign commercial bank affiliates (as such term is above mentioned), measured as a percentage of the aggregate capital of all commercial banks in Mexico, reaches 25 percent, Mexico may request consultations with the other Party on the potential adverse effects arising from the presence of commercial banks of the other Party in the Mexican market and the possible need for remedial action, including further temporary limitations on market participation. The consultations shall be completed expeditiously.</li> <li>2. In considering the potential adverse effects, the Parties shall take into account: <ol style="list-style-type: none"> <li>(a) the threat that the Mexican payments system may be controlled by non-Mexican persons;</li> <li>(b) the effects foreign commercial banks established in Mexico may have on Mexico's ability to conduct monetary and exchange rate policy effectively; and</li> <li>(c) the adequacy of the Financial Services Chapter in protecting the Mexican payments system.</li> </ol> </li> </ol>
All financial services	Establishment, Cross Border	<p>Mexico shall retain discretion to approve, on a case-by-case basis, any affiliation of a commercial bank or securities firm with a commercial or industrial corporation that is established in Mexico, if Mexico determines that such affiliation is harmless and, in the case of commercial banks, either (a) not substantial, or (b) the financial-related activities of the commercial or industrial corporation account for at least 90 per cent of its annual income worldwide, and the non-financial activities of such commercial or industrial corporation are of a type that Mexico determines to be acceptable. Affiliation with a non-resident commercial or industrial corporation that is not established in Mexico will not be a reason for denial of an application to establish or acquire a commercial bank or securities firm in Mexico.</p>
All financial services	Establishment, Cross Border	<p>Mexico may adopt measures that limit investors (together with its affiliates) to establish no more than one institution of the same type in Mexico.</p> <p>In determining what types of operations an investor of another Party is engaged in for purposes of the preceding paragraph, all types of insurance shall be considered to be only one type of financial service; but both life and non-life insurance operations may be conducted either by a single or separate foreign financial affiliates.</p>

Sector or subsector	Mode of supply subject to reserve	Description of the measure
		<p>Non-bank investors of another Party shall be permitted to establish one or more limited scope financial institutions in Mexico to provide separately consumer lending, commercial lending, mortgage lending or credit card services on terms no less favourable than those applied to like domestic firms under Mexican measures. Mexico may permit lending services closely related to the principal authorised business of a limited scope financial institution to be carried out by that institution. Such institutions shall be provided the opportunity to raise funds in the securities market for business operations subject to normal terms and conditions. Mexico may restrict such limited scope financial institutions from taking deposits.</p>
All financial services	Establishment, Cross Border	<p>Mexico may restrict any foreign financial affiliate from establishing agencies, branches, or other direct or indirect subsidiaries in the territory of any other country.</p>
All financial services	Establishment, Cross Border	<p>Mexico may adopt measures that limit eligibility to establish a foreign financial affiliate in Mexico to an investor of another Party that is, directly or through any of its affiliates, engaged in the same general type of financial services in the territory of the other Party.</p> <p>An investor of another Party that is authorised to establish or acquire, and establishes or acquires, a commercial bank or securities firm in Mexico may also establish a financial holding company in Mexico, and thereby establish or acquire other types of financial institutions in Mexico, under the terms of Mexican regulations.</p>
Insurance	Establishment, Cross Border	<p>The activities and operations of the existing Mexican governmental insurance programs conducted by Aseguradora Mexicana, S.A. or Aseguradora Hidalgo, S.A. (including insurance for government employees, agencies, instrumentalities and public entities) are excluded from Articles of Establishment, Cross Border and National Treatment for so long as such firm is controlled by the Government of Mexico and for a commercially reasonable time after such governmental control ceases.</p>
All financial services	Establishment, Cross Border	<p>In order to avoid impairment of the conduct of Mexico's monetary and exchange rate policies, cross-border financial service providers of another Party shall not be permitted to provide financial services into the territory of Mexico or to residents of Mexico, and residents of Mexico may not purchase financial services from cross-border financial service providers of another Party, if such transactions are denominated in Mexican pesos.</p>



## ANNEX II

(Referred to in Article 27)

## AUTHORITIES RESPONSIBLE FOR FINANCIAL SERVICES

## PART A

## For the Community and its Member States

European Commission	DG Internal Market	200, Rue de la Loi B-1049 Brussels
Belgium	Ministry of Finance	Ministère des Finances 12, rue de la Loi B-1000 Brussels
Denmark	Ministry of Economic Affairs	Ved Stranden 8 DK-1061 Copenhagen K
Germany	Ministry of Finance	Bundesministerium für Finanzen Postfach 13 08 D-53003 Bonn
France	Ministry of Economy, Finance and Industry	Ministère de l'économie, des finances et de l'industrie 139, rue de Bercy F-75572 Paris
Ireland	Department of Finance	Department of Finance Upper Merrion Street IRL-Dublin 2
Italy	Ministry of Treasury	Ministero del Tesoro Via XX Settembre 97 I-00187 Roma
Luxembourg	Ministry of Finance	Ministère des Finances 3, rue de la Congrégation L-2931 Luxembourg
Netherlands	Ministry of Finance	Treasury Postbus 20201 NL-2500 EE Den Haag
Austria	Ministry of Finance	Hummelpfortgasse 4-8 Postfach 2 A-1015 Wien
Greece	Ministry of Finance	37, Panepistimiou Street GR-10165 Athens
Spain	Treasury	Directora General del Tesoro y Política Financiera Paseo del Prado 6-6a Planta SP-28071 Madrid
Portugal	Ministry of Finance	Av. Infante D. Henrique, 5 P-1140/009 Lisboa
Finland	Ministry of Finance	PO Box 286 FI-00171 Helsinki

Sweden	Ministry of Finance	Finansdepartementet SE-10333 Stockholm
United Kingdom	H. M. Treasury	Treasury Chambers Parliament Street UK-London SW1P 3AG

## PART B

**For Mexico, the Secretaría de Hacienda y Crédito Público**

Mexico	Dirección General de Banca y Ahorro	Insurgentes Sur, 826 Piso P.H. Col. del Valle, Deleg. Benito Juárez, C.P. 03100 México, D.F.
	Dirección General de Seguros y Valores	Insurgentes Sur, 795 Piso 6 Col. Nápoles, Deleg. Benito Juárez, C.P. 03810 México, D.F.

## ANNEX III

(Referred to in Article 43)

**MODEL RULES OF PROCEDURE****Definitions**

1. In these rules:

'adviser' means a person retained by a party to advise or assist the Party in connection with the arbitration panel proceeding;

'complaining Party' means any Party that requests the establishment of an arbitration panel under Chapter III of Title V of the Decision;

'arbitration panel' means an arbitration panel established pursuant to Chapter III of Title V of the Decision;

'representative of a Party' means an employee of a government department or agency or of any other government entity of a Party;

2. The Parties may designate a specialised entity to administer the dispute settlement proceedings.
3. Unless the Parties otherwise agree, the Parties shall meet with the arbitration panel within 15 days of the date of establishment of the arbitration panel in order to determine matters such as:
  - (a) remuneration and expenses that will be paid to the arbitrators which normally shall conform to the WTO standards;
  - (b) the administration of proceedings, where the Parties have not designated a specialised entity pursuant to rule 2; and
  - (c) such other matters that the Parties deem appropriate.

**Qualification of Arbitrators**

4. Arbitrators should be selected with a view to ensuring the independence and impartiality of the members, a sufficiently diverse background and a wide spectrum of experience. Arbitrators shall serve in their individual capacities and not as government representatives, nor as representatives of any organisation. They shall comply with a code of conduct established in Appendix I.

**Terms of reference**

5. Unless the Parties otherwise agree within 20 days from the date of the delivery of the request for the establishment of the arbitration panel, the terms of reference shall be:

'To examine, in the light of the relevant provisions of the covered legal instruments, the matter referred to the Joint Committee (as set out in the request for a Joint Committee meeting), and to rule on the consistency of the measures at issue with the covered legal instruments.'

6. The Parties shall promptly deliver any agreed terms of reference to the arbitration panel.

**Written submissions and other documents**

7. Where the Parties have designated an entity pursuant to rule 2, a Party or the arbitration panel, respectively, shall deliver any request, notice, written submissions or other document to that entity. An entity designated under rule 2 that receives a written submission shall forward it to the recipients by the most expeditious means practicable.

8. Where the Parties have not designated an entity pursuant to rule 2, a Party or the arbitration panel, respectively, shall deliver any request, notice, written submission or other document in accordance with the agreement reached under rule 3.
9. A Party shall, to the extent practicable, provide a copy of the document in magnetic format.
10. Unless otherwise agreed pursuant to rule 3 a Party shall provide a copy of each of its written submissions for the other Party and each of the arbitrators.
11. A complaining Party shall deliver its initial written submission no later than 25 days after the date of establishment of the arbitration panel. The Party complained against shall deliver its written counter-submission no later than 20 days after the date of delivery of the initial written submission.
12. Unless otherwise agreed pursuant to rule 3 in the case of any request, notice or other document related to the arbitration panel proceeding that is not covered by rule 10 or 11, the Party shall deliver to the other Party and to each of the arbitrators a copy of the document by facsimile or other means of electronic transmission.
13. Minor errors of a clerical nature in any request, notice, written submission or other document related to the arbitration panel proceeding may be corrected by delivery of a new document clearly indicating the changes.
14. If the last day for delivery of a document falls on a legal holiday or on any other day on which the offices are closed by order of the government or by force majeure, the document may be delivered on the next business day.

#### **Operation of arbitration panels**

15. The chair of the arbitration panel shall preside at all of its meetings. An arbitration panel may delegate to the chair authority to make administrative and procedural decisions.
16. Except as otherwise provided in these rules, the arbitration panel may conduct its business by any means, including by telephone, facsimile transmissions or computer links.
17. Only arbitrators may take part in the deliberations of the arbitration panel but the arbitration panel may permit assistants, administration personnel, interpreters or translators to be present during such deliberations.
18. Where a procedural question arises that is not covered by these rules, an arbitration panel may adopt an appropriate procedure that is not inconsistent with the Decision.
19. When the arbitration panel considers there is a need to modify any time period applicable in the proceeding or to make any other procedural or administrative adjustment in the proceeding, it shall inform the Parties in writing of the reasons for the modification or adjustment with an estimate of the period or adjustment needed.

#### **Hearings**

20. Where the Parties have designated an entity pursuant to rule 2, the chair shall fix the date and time of the hearing in consultation with the Parties, the other members of the arbitration panel and such entity. That entity shall notify in writing to the Parties of the date, time and location of the hearing.
21. Where the Parties have not designated an entity pursuant to rule 2, the chair shall fix the date and time of the hearing in consultation with the Parties and the other members of the arbitration panel, in accordance with the agreement reached under rule 3. The Parties shall be notified in writing of the date, time and location of the hearing in accordance with the agreement reached under rule 3.

22. Unless the Parties otherwise agree the hearing shall be held in Brussels, where the complaining Party is Mexico, or in Mexico City, where the complaining Party is the Community.
23. The arbitration panel may convene additional hearings if the Parties so agree.
24. All arbitrators shall be present at hearings.
25. The following persons may attend a hearing:
  - (a) representatives of a Party;
  - (b) advisers to a Party, provided that they do not address the arbitration panel and provided further that neither they nor their employers, partners, business associates or family members have a financial or personal interest in the proceeding;
  - (c) administration personnel, interpreters, translators and court reporters; and
  - (d) arbitrators' assistants.
26. No later than five days before the date of a hearing, each Party shall deliver a list of the names of those persons who will make oral arguments or presentations at the hearing on behalf of that Party and of other representatives or advisers who will be attending the hearing.
27. The hearing shall be conducted by the arbitration panel in the following manner, ensuring that the complaining Party and the Party complained against are afforded equal time:

A r g u m e n t

  - (a) Argument of the complaining Party.
  - (b) Argument of the Party complained against.

R e b u t t a l A r g u m e n t

  - (a) Reply of the complaining Party.
  - (b) Counter-reply of the Party complained against.
28. The arbitration panel may direct questions to either Party at any time during a hearing.
29. Where the Parties have designated an entity pursuant to rule 2, such entity shall arrange for a transcript of each hearing to be prepared and shall, as soon as possible after it is prepared, deliver a copy of the transcript to the Parties and the arbitration panel.
30. Where the Parties have not designated an entity pursuant to rule 2, a transcript of each hearing shall be prepared in accordance with the agreement reached under rule 3 and shall, as soon as possible after it is prepared, be delivered to the Parties and the arbitration panel.
31. The arbitration panel may at any time during a proceeding address questions in writing to one or both Parties. The arbitration panel shall deliver the written questions to the Party or Parties to whom the questions are addressed.
32. A Party to whom the arbitration panel addresses written questions shall deliver a copy of any written reply. Each Party shall be given the opportunity to provide written comments on the reply within five days after the date of delivery.
33. Within 10 days after the date of the hearing, each Party may deliver a supplementary written submission responding to any matter that arose during the hearing.

**Rules of interpretation and burden of proof**

34. Arbitration panels shall interpret the provisions of the covered legal instruments in accordance with rules of customary international public law.
35. A Party asserting that a measure of the other Party is inconsistent with the provisions of the covered legal instruments shall have the burden of establishing such inconsistency.
36. A Party asserting that a measure is subject to an exception under the covered legal instruments shall have the burden of establishing that the exception applies.

**Confidentiality**

37. The Parties shall maintain the confidentiality of the panel's hearings, deliberations and initial report, and all written submissions to and communications with the arbitration panel.

**Ex parte contacts**

38. The arbitration panel shall not meet or contact one Party in the absence of the other Party.
39. No arbitrator may discuss an aspect of the subject matter of the proceeding with a Party or both Parties in the absence of the other arbitrators.

**Role of Experts**

40. On request of a Party or on its own initiative, the arbitration panel may seek information and technical advice from any person or body that it deems appropriate, provided that the Parties so agree and subject to such terms and conditions as the Parties may agree.
41. Where in accordance with rule 40 a request is made for a written report of an expert, any time period applicable to the arbitration panel proceeding shall be suspended for a period beginning on the date of delivery of the request and ending on the date the report is delivered to the arbitration panel.

**Arbitration Panel Reports**

42. Unless the Parties otherwise agree, the arbitration panel shall base its report on the submissions and arguments of the Parties and on any information before it pursuant to rule 40.
43. After considering written comments to the initial report by the Parties, the arbitration panel, on its own initiative or on the request of either Party, may:
  - (a) request the views of either Party;
  - (b) reconsider its report; and
  - (c) make any further examination that it considers appropriate.
44. Arbitrators may furnish separate opinions on matters not unanimously agreed. No arbitration panel may, either in its initial report or its final report, disclose which arbitrators are associated with majority or minority opinions.

**Cases of Urgency**

45. In cases of urgency, the arbitration panel shall appropriately adjust the time periods for submission of the initial report and comments by the Parties to such report.

**Translation and interpretation**

46. Where the Parties have designated an entity pursuant to rule 2, a Party shall, within a reasonable period of time before it delivers its initial written submission in an arbitration panel proceeding, advise such entity in writing of the language in which its written and oral submissions will be made.
47. Where the Parties have not designated an entity pursuant to rule 2, a Party shall advise in writing of the language in which its written and oral submissions will be made, no later than at the meeting provided for in rule 3.
48. Each Party shall arrange for, and bear the costs of, the translation of its written submissions into the language chosen by the other Party in accordance with rule 46 or 47. Upon request of a Party that has filed a submission, the arbitration panel may suspend the proceeding for the time necessary to allow that Party to complete the translation.
49. The Parties shall arrange for the interpretation of oral submissions into the language chosen by both Parties.
50. Arbitration panel reports shall be issued in the language or languages chosen by the Parties in accordance with rule 46 or 47.
51. The costs incurred to prepare a translation of an arbitration report shall be borne equally by the Parties.
52. Any Party may provide comments on a translated version of a document that is prepared in accordance with these rules.

**Computation of time**

53. Where anything under the Decision or these rules is to be done, or the arbitration panel requires anything to be done, within a number of days after, before or of a specified date or event, the specified date or the date on which the specified event occurs shall not be included in calculating that number of days.
54. Where, by reason of the operation of rule 14 a Party receives a document on a date other than the date on which the same document is received by the other Party any period of time the calculation of which is dependent on such receipt shall be calculated from the date of receipt of the last such document.

**Other proceedings**

55. These rules shall apply to the proceedings established under paragraphs 4, 5, 8 and 10 of Article 42 of Title V except that:
  - (a) the Party making a request under paragraph 4 of Article 42 shall deliver its initial written submission within 3 days after the date the request is submitted and the responding Party shall deliver its written counter-submission within 4 days after the date of delivery of the initial written submission;
  - (b) the Party making a request under paragraph 5 of Article 42 shall deliver its initial written submission within 10 days after the date the request is submitted and the responding Party shall deliver its written counter-submission within 20 days after the date of delivery of the initial written submission;
  - (c) the Party making a request under paragraph 8 of Article 42 shall deliver its initial written submission within 10 days after the date the request is submitted and the responding Party shall deliver its written counter-submission within 15 days after the date of delivery of the initial written submission; and
  - (d) the Party making a request under paragraph 10 of Article 42 shall deliver its initial written submission within 5 days after the date the request is submitted and the responding Party shall deliver its written counter-submission within 10 days after the date of delivery of the initial written submission.
56. If appropriate, the arbitration panel shall fix the time limit for delivering any further written submissions, including rebuttal written submissions, so as to provide each Party with the opportunity to make an equal number of written submissions subject to the time limits for arbitration panel proceedings set out in the Decision and these rules.
57. Unless the Parties disagree, the arbitration panel may decide not to convene a hearing.



## Appendix I

**CODE OF CONDUCT****Definitions**

## A. In this Code of Conduct,

'assistant' means a person who, under the terms of appointment of a member, conducts research or provides support for the member;

'candidate' means an individual who is under consideration for appointment as a member of an arbitration panel pursuant to paragraph 1 of Article 40 of Title V;

'member' means a member of an arbitration panel constituted pursuant to paragraph 1 of Article 39 of Title V;

'Party' means a Party to the Agreement;

'proceeding', unless otherwise specified, means an arbitration panel proceeding under this Title;

'staff', in respect of a member, means persons under the direction and control of the member, other than assistants.

## B. Any reference made in this Code of Conduct to a paragraph or Title is a reference to the appropriate paragraph, Annex or Title on Dispute Settlement under the Decision.

**I. Responsibilities to the Process**

Every candidate, member and former member shall avoid impropriety and the appearance of impropriety and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.

**II. Disclosure Obligations**

*[Introductory Note:*

*The governing principle of this Code of Conduct is that a candidate or member must disclose the existence of any interest, relationship or matter that is likely to affect the candidate's or member's independence or impartiality or that might reasonably create an appearance of impropriety or an apprehension of bias. An appearance of impropriety or an apprehension of bias is created where a reasonable person, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, would conclude that a candidate's or member's ability to carry out the duties with integrity, impartiality and competence is impaired.*

*These disclosure obligations, however, should not be interpreted so that the burden of detailed disclosure makes it impractical for persons in the legal or business community to serve as members, thereby depriving the Parties and participants of the services of those who might be best qualified to serve as members. Thus, candidates and members should not be called upon to disclose interests, relationships or matters whose bearing on their role in the proceeding would be trivial.*

*Throughout the proceeding, candidates and members have a continuing obligation to disclose interests, relationships and matters that may bear on the integrity or impartiality of the dispute settlement process.*

*This Code of Conduct does not determine whether or under what circumstances the Parties will disqualify a candidate or member from being appointed to, or serving as a member of, arbitration panel or committee on the basis of disclosures made.]*

- A. A candidate shall disclose any interest, relationship or matter that is likely to affect the candidate's independence or impartiality or that might reasonably create an appearance of impropriety or an apprehension of bias in the proceeding. To this end, a candidate shall make all reasonable efforts to become aware of any such interests, relationships and matters.

The candidate shall disclose such interests, relationships and matters by completing an Initial Disclosure Statement provided by the Joint Committee and sending it to Joint Committee.

Without limiting the generality of the foregoing, candidates shall disclose the following interests, relationships and matters:

- (1) any financial interest of the candidate:
    - (a) in the proceeding or in its outcome; and
    - (b) in an administrative proceeding, a domestic court proceeding or another arbitration panel or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;
  - (2) any financial interest of the candidate's employer, partner, business associate or family member:
    - (a) in the proceeding or in its outcome; and
    - (b) in an administrative proceeding, a domestic court proceeding or another arbitration panel or committee proceeding that involves issues that may be decided in the proceeding for which the candidate is under consideration;
  - (3) any past or existing financial, business, professional, family or social relationship with any interested parties in the proceeding, or their counsel, or any such relationship involving a candidate's employer, partner, business associate or family member; and
  - (4) public advocacy or legal or other representation concerning an issue in dispute in the proceeding or involving the same goods.
- B. Once appointed, a member shall continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in Section A and shall disclose them. The obligation to disclose is a continuing duty which requires a member to disclose any such interests, relationships and matters that may arise during any stage of the proceeding.

The member shall disclose such interests, relationships and matters by communicating them in writing to the Joint Committee for consideration by the Parties.

### III. **The Performance of Duties by Candidates and Members**

- A. A candidate who accepts an appointment as a member shall be available to perform, and shall perform, a member's duties thoroughly and expeditiously throughout the course of the proceeding.
- B. A member shall carry out all duties fairly and diligently.
- C. A member shall comply with this Title and the applicable Model Rules of Procedure established in Annex III or any other.
- D. A member shall not deny other members the opportunity to participate in all aspects of the proceeding.

- E. A member shall consider only those issues raised in the proceeding and necessary to a decision and shall not delegate the duty to decide to any other person, except as provided in the Model Rules of Procedure established in Annex III or other applicable rules.
- F. A member shall take all reasonable steps to ensure that the member's assistant and staff comply with Parts I, II and VI of this Code of Conduct.
- G. A member shall not engage in ex parte contacts concerning the proceeding.
- H. A candidate or member shall not communicate matters concerning actual or potential violations of this Code of Conduct unless the communication is to the Joint Committee or is necessary to ascertain whether that candidate or member has violated or may violate the Code.

#### IV. **Independence and Impartiality of Members**

- A. A member shall be independent and impartial. A member shall act in a fair manner and shall avoid creating an appearance of impropriety or an apprehension of bias.
- B. A member shall not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party or fear of criticism.
- C. A member shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere, or appear to interfere, with the proper performance of the member's duties.
- D. A member shall not use the member's position on the arbitration panel or committee to advance any personal or private interests. A member shall avoid actions that may create the impression that others are in a special position to influence the member. A member shall make every effort to prevent or discourage others from representing themselves as being in such a position.
- E. A member shall not allow past or existing financial, business, professional, family or social relationships or responsibilities to influence the member's conduct or judgment.
- F. A member shall avoid entering into any relationship, or acquiring any financial interest, that is likely to affect the member's impartiality or that might reasonably create an appearance of impropriety or an apprehension of bias.

#### V. **Duties in Certain Situations**

- A. A former member shall avoid actions that may create the appearance that the member was biased in carrying out the member's duties or would benefit from the decision of the arbitration panel or committee.

#### VI. **Maintenance of Confidentiality**

- A. A member or former member shall not at any time disclose or use any non-public information concerning the proceeding or acquired during the proceeding except for the purposes of the proceeding and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to affect adversely the interest of another.
- B. A member shall not disclose an arbitration panel report issued under this Title prior to its publication by the Joint Committee. A member or former member shall not at any time disclose which members are associated with majority or minority opinions in a proceeding under this Title.

- C. A member or former member shall not at any time disclose the deliberations of an arbitration panel or committee, or any member's view, except as required by law.

**VII. Responsibilities of Assistants and Staff**

Parts I (Responsibilities to the Process), II (Disclosure Obligations) and VI (Maintenance of Confidentiality) of this Code of Conduct apply also to assistants and staff.

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