

This document contains an EU proposal for a legal text on Competition in the Trade Part of a possible modernised EU-Mexico Association Agreement. It has been tabled for discussion with Mexico. The actual text in the final agreement will be a result of negotiations between the EU and Mexico. The EU reserves the right to make subsequent modifications to this proposal.

EU-Mexico Free Trade Agreement

EU TEXTUAL PROPOSAL

Chapter on Competition

CHAPTER [XX]

COMPETITION

Article X.1

Principles

The Parties recognise the importance of free and undistorted competition in their trade and investment relations. The Parties acknowledge that anti-competitive business practices and State interventions have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.

SECTION A

ANTITRUST AND MERGERS

Article X.2

Legislative Framework

1. Each Party shall (adopt or) maintain a competition law which applies to all sectors of the economy¹ and addresses all of the following practices in an effective manner:

¹ For greater certainty, competition rules in the EU apply to the agricultural sector in accordance with Regulation 1308/2013 of the European Parliament and Council establishing a common organisation of the

- (a) horizontal and vertical agreements between enterprises, decisions by associations of enterprises and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;
 - (b) abuses by one or more enterprises of a dominant position; and
 - (c) concentrations between enterprises which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position.
2. All enterprises, private or public, shall be subject to the competition law referred to in this Article. The application of the competition law should not obstruct the performance, in law or in fact, of particular tasks of public interest that may be assigned to the enterprises in question. Exemptions to the competition law of a Party should be limited to tasks of public interest, proportionate to the desired public policy objective and transparent.

Article X.3

Implementation

1. Each Party shall (establish or) maintain an operationally independent authority responsible for, and appropriately equipped with the powers and resources necessary for the full application and the effective enforcement of the competition law referred to in Article X.2 (Legislative Framework).
2. The Parties shall apply their respective competition law in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and rights of defence of the enterprises concerned, irrespective of their nationality or ownership status.

Article X.4

Cooperation

1. In order to fulfill the objectives of this Agreement and to enhance effective competition enforcement, the Parties acknowledge that it is in their common interest to strengthen cooperation with regard to competition policy development and the investigation of antitrust and merger cases.
2. For this purpose, the competition authorities of the Parties will endeavour to coordinate, where this is possible and appropriate, their enforcement activities relating to the same or related cases.

markets in agricultural products and its subsequent amendments or replacements, if any (Official Journal L347/2013).

3. To facilitate the cooperation referred to in paragraph 1, the Parties' competition authorities may exchange information.
4. In implementing the objectives of this Article, the competition authorities of the Parties may agree upon a separate framework on cooperation on anti-competitive activities.

Article X.5

Dispute Settlement

The provisions on dispute settlement in Chapter/Title [YY] (Dispute Settlement) of this Agreement shall not apply to this Section.

SECTION B

SUBSIDIES

[...]

SECTION C

GENERAL PROVISIONS

Article X.14

Confidentiality

1. When exchanging information under this Chapter the Parties shall take into account the limitations imposed by their respective legislations concerning professional and business secrecy and shall ensure the protection of business secrets and other confidential information.
2. When a Party communicates information under this Agreement, the receiving Party shall maintain the confidentiality of the communicated information.

Article X.15

Review Clause

The Parties shall keep under constant review the matters to which reference is made in this Chapter. Each Party may refer such matters to the [appropriate body established by the Agreement]. The Parties agree to review progress in implementing this Chapter every five years after the entry into force of this Agreement, unless both Parties agree otherwise.