

This document contains an EU proposal for a legal text on Transparency 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 Transparency

CHAPTER X TRANSPARENCY

Article X.1

Definitions

For the purposes of this Chapter:

measure of general application means laws, regulations, judicial decisions, procedures and administrative rulings of general application that may have an impact on any matter covered by this Part of the Agreement [TRADE];

interested person means any natural or legal person that may be affected by a measure of general application;

administrative decision means a decision with a legal effect that affects the rights and obligations of a specific person in an individual case, and covers an administrative action or failure to take an administrative action or decision as provided for in the Party's domestic law and legal system.

Article X.2

Objective

Recognising the impact which their respective regulatory environment may have on trade and investment between them, the Parties aim at promoting a predictable regulatory environment

and efficient procedures for economic operators, especially small and medium-sized enterprises, in accordance with the provisions of this Chapter.

Article X.3

Publication

1. Each Party shall ensure that a measure of general application with respect to any matter covered by this Part of the Agreement [TRADE]:

- (a) is promptly published via an officially designated medium and where feasible, electronic means, or otherwise made available in such a manner as to enable any person to become acquainted with them;
- (b) provides an explanation of the objective of, and rationale for, the measure; and
- (c) allows for sufficient time between publication and entry into force of such measures, except where it is not possible on grounds of urgency.

2. When adopting or amending laws or regulations of general application with respect to any matter covered by this Part of the Agreement [TRADE] each Party shall, in accordance with its respective rules and procedures:

- (a) publish at an early appropriate stage the draft law or regulation or consultation documents providing details of the objective of, and rationale for the law or regulation;
- (b) provide reasonable opportunities and an appropriate time period for interested persons to comment; and
- (c) endeavour to take into consideration the comments received .

Article X.4:

Enquiries

1. Each Party shall establish or maintain appropriate mechanisms for responding to enquiries from any person regarding any measure of general application which is proposed or is in force, with respect to any matter covered by this Part of the Agreement [TRADE].

2. Upon request of a Party, the other Party shall promptly provide information and respond to questions pertaining to any measure of general application or any proposal to adopt or amend any measure of general application with respect to any matter covered by this Part

of the Agreement [TRADE], unless a specific mechanism is established under another Chapter of this Part of the Agreement [TRADE].

Article X.5

Administration of measures of general application

1. Each Party shall administer in an objective, impartial and reasonable manner all measures of general application with respect to any matter covered by this Part of the Agreement [TRADE].

2. Each Party, in applying such measures to particular persons, goods or services of the other Party in specific cases shall:

(a) endeavour to provide interested persons, that are directly affected by administrative proceedings, with reasonable notice, in accordance with its laws and regulations, when proceedings are initiated, including a description of the nature of the proceedings, a statement of the legal authority under which the proceedings are initiated and a general description of any issues in controversy;

(b) afford such interested persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative decision in so far as time, the nature of the proceedings and the public interest permit.

Article X.6

Review and Appeal

1. Each Party shall establish or maintain judicial, arbitral or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of administrative decision with respect to any matter covered by this Part of the Agreement [TRADE]. Each Party shall ensure that its procedures for appeal or review are carried out in a non-discriminatory and impartial manner by tribunals that are independent of the authority entrusted with administrative enforcement and those responsible for such tribunals shall not have any substantial interest in the outcome of the matter.

2. Each Party shall ensure that the parties to the proceedings in paragraph 1 are provided with the right to:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions of record or, where required by its law, the record compiled by the administrative authority.

3. The decision in paragraph 2 shall, subject to appeal or further review as provided for in its law, be implemented by, and shall govern the practice of, the office or authority entrusted with administrative enforcement.