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IX Free trade agreements

A. North American Free Trade Agreement

1. Introduction

The North American Free Trade Agreement (NAFTA) went into effect on January 1, 1994, committing the United States, Canada, and Mexico to a process of phasing out trade barriers by January 1, 2009. In 2006, with a combined market of some 434 million consumers, and an annual economic output of US$13 trillion, NAFTA is by far the largest free trade are a in the world.

NAFTA represents a free trade region that combines the world's largest economy with a mid-size developed economy, and a developing economy. The 2,000 mile border between the United States and Mexico separates peoples of vastly disparate histories, languages, cultures, and economic development. To the north of the border are the modern, developed economies of the United States and Canada, with all the competitive advantages of modern technology and scientific advancements. To the south lie the developing economies of Latin America, which historically have relied primarily on the exploitation of natural resources or agriculture for foreign trade revenue, rather than on technological advancements and industrial capacity. It should not be surprising that there sometimes has been both economic and cultural friction between Mexico and the neighboring United States. More surprising should be the increasing level of cooperation between the two nations despite their differences. Each country has long recognized the importance of the other to its own national interest.

The United States and Mexico are linked by more than geography and history. Today, in spite of fierce competition from China and Japan, Mexico is still the second largest trading partner to the United States after Canada. For Mexico, the United States is its primary international trading partner.

The level of cooperation necessary to implement NAFTA has significantly broadened economic and commercial cooperation among the three NAFTA parties. Total trade between Mexico and the United States has increased 260 percent since NAFTA carne into force and total trade with Canada increased almost four and a half times in the same period. Additionally, total trade among the three partners has increased 173 percent, from *VS$297* billion to VS$81O billion during the period from 1993 to 2005. As a result, Mexico's GDP has increased by 40 percent during that same period. The massive credit support given to Mexico by its NAFTA partners back in 1995, after a severe devaluation of the peso, was justified, in part, because of the close commercial ties among the three countries as a result of NAFTA. Similarly, Mexico has adopted standards, including environmental standards, that it probably would not have adopted without its NAFTA ties. Foreign investment in Mexico has increased considerably since NAFTA was implemented, and now the presence of *V.S.* and Canadian companies in Mexico, as well as those from other countries, has become widespread.

Actualmente es China, México ya pasó al tercer lugar.

Furthermore, the increased trade and investment is encouraging changes in laws and regulations in various areas of Mexican commercial activity, and is facilitating continued growth, economic security, and stability.

2. NAFTA key features

The following are among NAFTA's key features:

a) Eliminates tariffs and non-tariff barriers to trade, and facilitates the cross-border movement of goods and services among the three Parties. (NAFTA Chapters 111 and XII).

b) Creates strong "North-American-made" rules of origin to ensure that non-NAFTA countries do not also gain duty-free access to the free trade area. (NAFTA Chapter IV).

c) Opens Mexico's services market, including its financial services sectors, to *V.S.* and Canadian firms, as well as to other foreign-owned firms that meet a North American residency test. (NAFTA, Chapters XII, XIII and XIV and Annex VII sections A, B and C, Mexico),

d) Loosens Mexico's restrictions on foreign investment, including "performance requirements," that regulate the operations of foreign firms in Mexico. (NAFTA, Chapter XI and Annex 1, Mexico),

e) Strengthens North American protection of patented, trademarked, and copyrighted goods. (NAFTA Chapter XVII).

f) Establishes an expert-based panel system to resolve trade conflicts (NAFTA Chapters XIX and XX).

3. NAFTA principles regarding investment

For Mexico, NAFTA is a treaty with the United States and Canada that provides certain protections to investors. Each Party must treat other NAFTA investors and their investments, no less favorably than it treats its own investors and their investments (national treatment), or investors and investments of third parties (most favored nation treatment) under similar circumstances. Moreover, Parties are obliged to grant the more advantageous of either national or most favored nation treatment to the other NAFTA parties (articles 1102 and 1103).

These obligations apply to the "establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments." These basic obligations ensure that, subject to the agreed exceptions in the NAFTA Annexes, Parties do not subject enterprises to different, or more onerous operating conditions, simply because of foreign ownership. In addition to these general provisions, the chapter expressly prohibits certain commonly encountered forms of discrimination, such as requirements that a minimum level of equity be held by local nationals, or that certain senior management positions be reserved for local nationals. Finally, the foregoing comparative standards and explicit prohibitions are supplemented by the incorporation of customary international law principles obligating the host government to accord "fair and equitable treatment" and "full protection and security" to investments within its territory.

In a broad reservation clause contained in the trade agreement, Mexico maintains the right to review the acquisition of more than 49 percent foreign ownership in Mexican enterprises, but only if the gross assets of the entity exceed a threshold level (beginning at US$25 million with the implementation of NAFTA in 1994, stepping up to US$150 million after the ninth year of the Treaty). The current threshold of approximately US$183 million became effective in June 2005, with a resolution related to article 9 of the Foreign Investment Law, published on June 22, 2005.

Regarding performance requirements, the parties obligate themselves not to condition the establishment, operation, or expansion of an investment, on the fulfillment of certain requirements of behavior or performance, such as commitments concerning export programs, degrees of national integration, foreign currency balance, or transfer of technology (article 1106).

Currency convertibility at market rates is guaranteed. NAFTA prohibits expropriation, except for public purposes, on a non-discriminating basis, in accordance with due process of law, and with compensation paid without delay, and at a pre-expropriation fair market value with applicable interest (articles 1109 and 1110). On payment, compensation shall be freely transferable outside the country.

4. Tariff reduction

Under NAFTA, U.S. and Canadian firms shall enjoy tariff-free treatment on all NAFTA-made goods that enter Mexico on a phase-out schedule. For instance, 50 percent of all tariffs on U.S. and Canadian exports to Mexico were eliminated as of January 1, 1994, the

day NAFTA entered into force. By January 2003, the tariffs on nearly 99 percent of all industrial and agricultural goods had been eliminated under NAFTA. By January 2009, all tariffs on NAFTA imports into Mexico shall disappear.

Depending on the import-sensitivity of each of the approximately 9,000 goods covered by NAFTA, specific categories were placed into one of four tariff transition lists:

A List: Cut tariffs to zero immediately,

B List: Phased out tariffs in equal cuts over five years,

C List: Phased out tariffs in equal cuts over ten years,

D List: Phased out tariffs in equal cuts over fifteen years

5. Professional services

Under NAFTA, in 1996, Mexico eliminated citizenship and permanent residency requirements in the area of professional services. NAFTA, however, does not require Mexico to recognize foreign professional degrees, but it is committed to provide a procedure under which foreigners may obtain a revalidation.

Accordingly, Mexico amended its Regulatory Law of Article 5 of the Constitution, which is relevant to the exercise of professions in effect as of January, 1994. The modifications eliminate the restriction that only Mexican nationals may exercise a profession in Mexico, and grants the same right to foreigners, subject to what has been agreed to in international treaties to which Mexico is party, or in the absence of such treaties, subject to reciprocity and to compliance of other requirements established by Mexican laws. Also, the amendments to the law provide that professional degrees or titles issued abroad may be registered at the Ministry of Education if the studies covered by such degree are equal or similar to those of institutions forming part of the National Education System.

6. Land transportation of cargo and passengers

Mexican companies already established, or companies to be established in Mexico, that are engaged in the operation of bus or truck terminals, and bus or truck depots, may have foreign participation up to 49 percent as of January, 1997,51 percent as of January, 2001, and up to 100 percent since January, 2004 (NAFTA Chapter XI.).

With respect to urban, suburban, and interurban passenger transportation services by bus, school bus, taxi, and other public transportation services, as well as cargo and tourism transportation services, foreign investment is not permitted. Therefore, these activities are reserved to Mexican individuals and companies with an exclusion of foreigners clause in their bylaws.

7. Automobile sector

In accordance with NAFTA provisions, 100 percent foreign investment is permitted in the entire automobile sector, including the auto parts industry. Such levels of foreign investment was restricted until January 1999. The applicable terms, conditions, and limits are essentially the same as those provided for any non-NAFTA Party investor, under the Automotive Decree, and its Rules of Application.

8. Immigration

NAFTA provides that each of the Parties will authorize the temporary entry of businesspersons, without requiring an employment permit. Therefore, citizens from each of the Parties may cross borders under four different categories:

a) Business visitor,

b) Traders-investors,

c) Intra-company transferees, and

d) Professionals.

Each of the categories contemplates specific activities to be performed by persons going into another country. For example, business visitors are persons wishing to carry out activities related to research and design, cultivation, manufacturing and production, marketing, sales, distribution, after-sales services, and general services.

To facilitate the temporary entry of persons on a reciprocal basis, NAFTA creates the "FMN," a special immigration form issued by the consular offices of Mexico in Canada and the U.S.., airlines, travel agencies, and immigration staff at the ports and the points of entry to the country, to nationals of another Party crossing the border to develop a non-remunerated activity in Mexico for a maximum period of 30 days. If the visitor wishes to extend his stay in Mexico, he must obtain from the Ministry of the Interior, the normal business visa (FM-3), which is granted for a duration of one year, renewable four times, enabling multiple entries and exits.

9. Government procurement

Chapter X of NAFTA, called "Purchases by the Public Sector," is applicable to contracts executed by governmental entities of Mexico, United States, and Canada, which are specifically listed in the Annex to Chapter X. Chapter X deals with goods, services, and construction services, enabling investors from a Party to participate in public bids if the value of such contract is beyond certain fixed U.S. currency thresholds.

The thresholds are: (i) for entities of the Federal government (such as Ministries), US*$50,000* for contracts concerning the acquisition and leas e of goods and the rendering of services, and *VS$6.5* million for construction contracts; (ii) for governmental entities (such as PEMEX and the Federal Electricity Commission), *VS$250,000* for contracts concerning the acquisition and lease of goods and the rendering of services, and US*$8* million for construction contracts.

10. Financial services

Chapter XIV of NAFTA sets out the rules governing the treatment each NAFTA Party must accord to those financial institutions within its territory, and owned by investors from other NAFTA Parties. Annex VII sections A, B and C contains the reservations adopted by each Party.

Section A of Annex VII contains existing federal measures that are reserved. For instance, Mexico has reserved the right to apply its current investment restrictions as mentioned in Section **VIII.C.** Section B contains a list of financial services sectors in which the Parties have reserved the right to maintain existing inconsistent federal measures or adopt new ones. Section C contains specific additional commitments that individual NAFTA Parties have undertaken.

Under Sections B and C, Mexico is committed to liberalize its investment requirements for foreign investors investing through foreign financial affiliates. **In** accordance with such commitment, and after the expiration on January, 2000, of the transition period, **full** liberalization of investment will be established in this sector, and foreign credit institutions, stock brokers, insurance companies, and financial leasing companies, are subject to limits on the aggregate percentage of capital in the Mexican market they are permitted to hold. Foreign credit institutions, stock brokers, and insurance affiliates, are also subject to individual capital limits.

However, if the sum of the authorized capitals of foreign financial affiliates exceeds 25 percent of the percentage of capital in the Mexican market, Mexico has a right to freeze one time, within the four years after the aforementioned transition period has expired, the percentage representing the aggregate capital of the foreign financial affiliates at their level

(percentage) in that moment. The freeze may not last more than three years.

Mexico may require that a foreign financial affiliate (other than a foreign insurance affiliate) be wholly-owned by an investor of another Party. Mexico may also restrict any foreign financial affiliate from establishing agencies, branches, or other direct or indirect subsidiaries in the any other country's territory.

After January, 2000, acquisition of a commercial bank established in Mexico, or of the assets or liabilities thereof, by an investor of the United Sates or Canada, will only be authorized by Mexico, subject to reasonable prudential considerations on a case-by-case basis. Such will be done if the sum of the capital of the acquired commercial bank, and the capital of any foreign commercial bank affiliate already controlled by the acquirer, would not exceed 4 percent of the aggregate capital of all commercial banks in Mexico.

Mexico may adopt measures that (i) make eligibility to establish a foreign financial affiliate in Mexico limited to investors of another Party that are directly, or through any of its affiliates, engaged in the same general type of financial services within the territory of the other Party; and (ii) limit such investors (together with its affiliates) to no more than one institution of the same type in Mexico. For the purpose of the preceding measures, in determining which types of operations investors of another Party are engaged in, 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 by either single or separate foreign financial affiliates. As suggested in the section on investment framework, the FIL has further liberalized the bunking sector as compared to NAFTA. Nowadays non-mexican financial groups dominate the sector.

11. Trade disputes and remedial measures under NAFTA

a) Unfair trade practices

As provided by NAFTA Chapter XIX, each party shall replace judicial review of final antidumping and countervailing duty determinations with binational panel review. The party involved may request that a panel review, based on the administrative record, a final antidumping or countervailing duty determination of a competent investigating authority of an importing party to determine whether such determination was in accordance with the antidumping or countervailing duty law of the importing party. For this purpose, the antidumping or countervailing duty law consists of the relevant statutes, legislative history, regulations, administrative practice, and judicial precedents, to the extent that a court of the importing party would rely on such materials in reviewing a final determination of the competent investigating authority.

The panel shall apply the standard of review provided by NAFTA and the general legal principles that a court of the importing party would otherwise apply to a review of a determination of the competent investigating authority

A request for a panel shall be made in writing to the other involved party within 30 days following the date of publication of the final determination in question, in the official journal of the importing party. In the case of final determinations that are not published in said journal, the importing party shall immediately notify the other involved party of such final determination, where it involves goods from said party, and the 1atter party may request a panel within 30 days of receipt of the notice. When the competent investigating authority of the importing party has imposed provisional measures in an investigation, the other party involved may provide notice of its intention to request a panel under the relevant provisions of NAFTA, and the parties shall begin to establish a panel at that time. Failure to request a panel within the time specified shall preclude review by a panel.

An involved party on its own initiative may request review of a final determination by a panel and shall, on request of a person, who would otherwise be entitled under the law of the importing party to commence domestic procedures for judicial review of that final determination, request such review. Where both involved parties request a panel to review

a final determination, a single panel shall review that determination.

The competent investigating authority that issued the final determination in question has the right to appear and be represented by counsel before the panel. Each party shall provide that other persons who, pursuant to the law of the importing party, otherwise would have had the right to appear and be represented in a domestic judicial review proceeding concerning the determination of the competent investigating authority, shall have the right to appear and be represented by counsel before the panel.

The panel may uphold a final determination, or remand it for action not inconsistent with the panel's decision. Where the panel remands a final determination, the panel shall establish a period of time, as brief as is reasonable for compliance with the remand, taking into account the complexity of the factual and legal issues involved, and the nature of the panel' s decision. In no event shall the time permitted with a remand exceed an amount of time equal to the maximum amount of time (counted from the date of the filing of a petition, complaint or application) permitted by statute for the competent investigating authority in question to make a final determination in an investigation. If review of the action taken by the competent investigating authority on remand is needed, such review shall be before the same panel, which shall normally issue a final decision within 90 days of the date on which such remand action is submitted to it.

The decision of a panel shall be binding on the involved parties with respect to the particular matter between the parties that is before the panel. However, it is important to point out that NAFTA shall not affect:

a) the judicial review procedures of any party, or

b) cases appealed under those procedures,

with respect to determinations other than final determinations

If an involved party requests a panel with respect to the determination within the aforementioned time limits, a final determination shall not be reviewed under any judicial review procedures of the importing party. No party may provide in its domestic legislation, for an appeal from a panel decision to its domes tic courts

The foregoing procedure shall not apply where:

a) neither involved party seeks panel review of a final determination;

b) a revised final determination is issued as a direct result of judicial review of the original final determination by a court of the importing party, where neither party involved sought panel review of the original final determination; or

c) a final determination is issued as a direct result of judicial review that was commenced in a court of the imposing party, before the date in which NAFTA entered into force.

Regarding the establishment of the binational panels referred to under this section, on the day of NAFTA's entry into force, the parties shall have established, and maintain thereafter, a roster of individuals to serve as panelists in disputes under this NAFTA Chapter, from which a majority shall be lawyers in good standing. Said roster shall inelude judges or former judges to the fullest extent practicable, and shall inelude at least 75 candidates, from which each party has the right to select at least 25 candidates.

b) Safeguards

Under Chapter VIII of NAFTA, NAFTA Parties establish the principles by which they may impose temporary protections for a specific industry that has been seriously injured by imports from the other Parties. This Chapter includes two procedures, one for bilateral emergency actions against the imports of another Party, and another for multilateral emergency action under GATT, now WTO.

Regarding bilateral actions, NAFTA article 801 establishes that if goods originating in the territory of a NAFTA Party, as a result of the reduction or elimination of a duty provided in NAFTA during the transition period (ten years commencing January, 1994), are being imported into the territory of another NAFTA Party in such increased quantities, in absolute terms, and under such conditions that the imports constitute a substantial cause of serious injury, or threat thereof, to a domestic industry producing a like or directly competitive good, the NAFTA Party into whose territory the goods are being imported may remedy the

injury as follows:

a) Temporarily suspend further reductions under NAFTA of the duty rate on the goods;

b) Increase the duty rate on the good to a level not to exceed the les ser of: *i)* The most-favored-nation (MFN) duty rate in effect at the time the action is taken, or *ii)* the MFN duty rate in effect prior to January, 1994.

The following conditions shall apply to an emergency action proceeding described above

a) A NAFTA Party taking emergency action shall notify the other Party and request consultations thereon;

b) Any safeguard measure shall be imposed no later than one year after initiating the proceeding; and

c) As a general rule, the duration of such emergency action shall not exceed three years, or extend beyond the transition period.

The NAFTA Party taking the emergency action shall provide the other Party, against whose good the action is taken, mutually agreed compensation in the form of concessions having substantially equivalent trade effects, or equivalent to the value of the duties expected to result from the action. If the NAFTA Parties concerned are unable to agree on compensation, the NAFTA Party, against whose goods the action is taken, may take tariff action having trade effects substantially equivalent to the action. These emergency actions do not apply to textile and apparel goods, which have special treatment under NAFTA.

Under NAFTA, irrespective of the safeguard provisions contained therein, each NAFTA Party retains its rights and obligations under article XIX of GATT, or any safeguard agreement pursuant thereto, with few exceptions.

12. NAFTA supplemental agreements

On September, 1993, the United States, Canada and Mexico executed labor and environment supplemental agreements. Some of their respective main features are the following:

a) NAFTA Labor Supplemental Agreement

Its purpose is to promote the economic development of each NAFTA Party based on high standards of training and productivity in North America. Its objectives will be achieved through:

- Investment in the permanent development of human resources.
- Promotion of employment stability.
- Strengthening of the cooperation of workers and employers in order to promote a dialogue among work organizations, as well as to promote creativity and productivity in the work force.
- Promotion of higher living standards and consultations among workers' organizations, companies, and governments of each Party.

Each Party to this Agreement guarantees that its laws and regulations contain high labor standards, consistent with work forces of high quality and productivity.

The Parties agree to monitor the compliance and enforcement of their respective labor laws, and guarantee, in their respective countries, free access to administrative and judicial courts, as provided by their own laws related to the application and enforcement of labor laws. Furthermore, each Party guarantees that labor procedures shall be just, transparent, and equitable.

The North American Agreement on Labor Cooperation (NAALC) entered into force along with the implementation of NAFTA in January of 1994. The objectives of the NAALC are to foment labor cooperation and sharing of information among the three NAFTA countries, as well as to develop procedures to enable individuals to dispute irregularities in the application of each country's labor laws.

Also, the Commission is in charge of establishing cooperation measures, consisting of technical assistance programs such as seminars, conferences, preparation of joint

investigations, and training courses.

In case of controversy, the Parties will first seek solution through consultation; also, they may submit controversies to the Council of the Commission. If the controversy is not solved, further procedures are established.

The Party refusing to comply with the resulting recommendations, or with the plan of action agreed upon, may be subject to monetary fines, which may not be higher than 0.007 percent of the total trade volume of the goods between the countries.

Each of the signatory countries to NAFTA has established a National Administrative Office in charge of receiving and processing complaints from individuals regarding failures to comply with labor laws of the other NAFTA countries. In the 14 years of NAFTA, some 34 complaints have been filed, none of which have reached the final phase of the procedures under the Agreement. This final phase, which theoretically could include the imposition of commercial sanctions, is limited by the requirement to have an employer within the country, against whom the complaint is filed. Complaints most frequently include allegations of unsafe working conditions, minimum wage disputes, child labor, and the right to unionize. Any complaint must be founded on an issue related to commerce, and must be an issue contemplated in the laws of the three NAFTA countries.

b) NAFTA Environment Supplemental Agreement

The purpose of this Agreement is to protect and improve the environment by supporting the environmental objectives referred to in NAFTA. Each of the parties to the Agreement commits to provide high levels of environmental protection, enforce environmental regulations, and follow all procedures according to their respective laws.

This Agreement created the Commission for Environmental Cooperation, the purpose of which is to formulate recommendations on environmental issues, promote the drafting of laws, and cooperate in the fulfillment of the environmental objectives.

The Parties further agree to furnish other Parties with any environmental information requested. The Agreement also includes a procedure for the consultation and resolution of environmental controversies based on a Party's consistent pattern of non-enforcement of its environmental legislation regarding the manufacture of goods or services traded, or manufactured by one Party, within the territory of the other.

Dispute resolution procedures are complex and provide for a series of steps, such as consultation, mediation, consulting with advisors and experts, and the creation of a panel, all of which ultimately lead to the formulation of action plans to remedy the alleged enforcement deficiencies. The sanction for non-compliance with the action plan is a suspension of NAFTA benefits to the accused Party, and said Party may be forced to make monetary contributions in an amount not to exceed US$20 million.

The NAFTA Parties created two other institutions that should help to alleviate the environmental problems Mexico faces: the Border Environmental Commission and the North American Development Bank (NAD Bank). The Border Environmental Commission assists states, local communities and non-governmental organizations in finding solutions to environmental problems in the northern border region, and may arrange financing for environmental projects in and outside the region upon request from the United States or Mexico. The NAD Bank is a source of funding for the projects of the Commission.

THE NAFTA STRUCTURE NAFTA is divided into 22 chapters. Below is the structure of the contents of the Agreement.	
PART ONE:	
Chapter 1:	Objectives
Chapter 2:	General Definitions
PARTTWO:	

Chapter 3:	National Treatment and Market Access
Chapter 4:	Rules of Origin
Chapter 5:	Customs Procedures
Chapter 6:	Energy
Chapter 7:	Agriculture: Subchapter A: Market Access Subchapter B: Sanitary and Phytosanitary Measures
Chapter 8:	Emergency Action
PART THREE:	
Chapter 9:	Standards-Related Measures
PART FOUR:	
Chapter 10:	Government Procurement
PART FIVE:	
Chapter 11:	Investments
Chapter 12:	Cross- Border Trade in Services
Chapter 13:	Telecommunications
Chapter 14:	Financial Services
Chapter 15:	Competition Policy, Monopolies and State Enterprises
Chapter 16:	Temporary Entry for Business Persons
PART SIX:	
Chapter 17:	Intellectual Property

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PART SEVEN:	
Chapter 18:	Publication, Notification and Administration of Laws
Chapter 19:	Review and Dispute Settlement in Antidumping and Coun- tervailing Duty Matters
Chapter 20:	Institutional and Dispute Settlement dures
PART EIGHT:	
Chapter 21:	Exceptions
Chapter 22:	Final Provisions

B. Free Trade Agreement between Mexico and the European Union

1. Introduction

As a result of previous negotiations with the European Union (EU), Mexico and the EU formalized a free trade agreement known as the Mexico-European Union Free Trade Agreement (MEUFTA), which entered into force on July 1st, 2001. Specifically, MEUFTA focuses on the trade of goods and services. The main goal of the treaty is to intensify trade and investment, and MEUFTA covers issues such as trade in goods, rules of origin, non-tariff measures, government procurement, trade in services, intellectual property, agriculture, and transportation.

The principal achievement of MEUFTA is the permanent elimination of all tariffs among the partners according to a rapid phase-out schedule. For instance, tariffs on industrial products, which account for more than 90 percent of the total bilateral trade in merchandise, will be liberalized during a seven year period of transition, with all tariffs being eliminated by January, 2007.

This goal of permanent liberalization is visible through the series of actions taken by the partners. For example, upon the enforcement of MEUFTA on July, 2000, the EU eliminated tariffs on 82 percent of the Mexican industrial products, and Mexico liberalized 48 percent of the industrial products of the EU. By January, 2003, the EU liberalized customs duties on all Mexican industrial products, and Mexico eliminated an additional 5 percent of tariffs, bringing the total to 52 percent liberalization. Furthermore, Mexico assured that the remaining 48 percent of EU industrial products would only be subject to a maximum tariff of 5 percent (currently 4 percent), with complete liberalization by January, 2007.

Despite the fact that industrial products constitute more than 90 percent of the bilaterally traded of goods, MEUFTA contemplates liberalization of other sectors as well. For instance, MEUFTA articulates that agricultural products will be liberalized gradually and progressively, so that by the year 2010, 62 percent of bilateral trade will be completely free of duties. However, key products such as sugar, dairy, beef, and grains will be excluded. Furthermore, the service markets of both parties will be progressively liberalized, with complete liberalization occurring by the 2011.

Additionally, this treaty provides EU operators with more rapid preferential treatment than Mexico has ever before granted to any of its preferential partners. It places them in a much better position to compete in the Mexican market, which is strategically important, and has significant growth potential. While preserving EU sensitivities for agriculture and fishery products, the package negotiated for these products grants market access for the EU's most important export products. For services, EU operators have been granted better access than that previously enjoyed by Mexico's other preferential partners, including the United States and Canada.

The treaty provides for customs cooperation, mainly by introducing one single administrative document (the "EUR. 1 ") to simplify customs procedures, guarantee the co-ordination of each party's customs systems, and ensure the correct classification of originating products.

Several technical standards were agreed upon to protect the health of humans, animals, and plants, as well as consumers and the environment. Such technical standards also guarantee the truthfulness of the information provided for a product regarding its ingredients, net weight and volume. Requirements for the manufacture of machinery and equipment were also established. Regarding sanitary and phytosanitary standards, the treaty reserves the right of Mexico and the EU to adopt the aforesaid standards to protect the life and health of humans, animals, and plants, against risks emerging from sicknesses, plagues, pollutants, if these risks are scientifically supported.

Countermeasures may be adopted for a maximum period of three years in order to provide temporary relief to a sector that could be threatened or at serious risk due to substantial increase of the imports between Mexico and the EU.

Mexican service providers are given access to the European service market without restrictions limiting the number of operations or service providers in that territory; they are granted "national treatment," which guarantees the same conditions as those granted to service providers established in the EU, and receive most favored nation treatment in reference to other countries.

Regarding government procurement, the treaty includes a clear definition of what are considered governmental entities of the parties. Procurement, for purposes of the treaty, includes the purchase of goods, services (such as construction services), and the lease or rental of goods. Pursuant to the treaty, each party must provide the same national treatment to the products, services and suppliers; that is, they must receive the same treatment as that accorded to domestic products, services and suppliers. Discrimination on the basis of foreign nationality or affiliation (or ownership of a locally established supplier) by the purchasing governmental entities is not allowed.

Economic competition is promoted and monopolistic practices will be investigated and punished. Other measures may be adopted in conformity with domestic law against non-competitive commercial practices.

Obligations concerning intellectual property are established in accordance with the laws of each party to the Treaty regarding the acquisition, conservation, and enforcement of intellectual property rights.

A mechanism for commercial consulting and dispute resolution is established, through which the dispute resolution mechanism provided for the WTO can be appealed.

Upon entering into a free trade agreement with the EU, Mexico became the only nation with free trade agreements with both the United States and the European Union. This system of liberalized trade with two of the largest economic blocks in the world, places Mexico in a unique situation to act as a location of investment and development. For example, through NAFTA, United States companies can set up Mexican corporations engaged in manufacture in Mexico, and as long as their products comply with MEUFTA's rules of origin, their final products enjoy access to the European market on a tariff privileged basis. On the other hand, corporations within the EU can undergo a similar process, and enter United States markets through Mexico. Therefore, not only does Mexico's free trade agreement with the EU stimulate Mexico's economy by liberalizing trade, but it also establishes Mexico as a gateway between the United States and the European Union, creating investment and growth within Mexico, and providing unparalleled trade and investment opportunities for both European and ad U.S. companies.

2. Principal objectives of MEUFTA

The objective of MEUFTA is to allow preferential access for EU and Mexican exporters of goods and services into their respective markets. To achieve this, MEUFTA provides for the following:

1) Liberalization of trade in goods and services by:

a.The dismantling of customs tariffs, and

b.The elimination of all import and export restrictions, other than customs duties and taxes;

2)Removal of barriers to investment;

3)Guaranteeing equal treatment for the investors of the other party, as granted to their own domestic investors;

4) Ensuring that investment will not be coerced by restrictive government policies;

5)Protection of intellectual property;

6)Guaranteed access to government procurement contracts;

7)Co-operation in competition issues;

8)A dispute solving mechanism.

Overall, MEUFTA fosters the confidence required to make long-term investments and partnering commitments by investors of both parties. With the implementation of MEUFTA, Mexico secures access for its industrial products into the EU market, while the EU re-establishes the competitiveness of the EU exports to Mexico, securing access to Mexican market under the same benefits enjoyed by NAFTA originating products.

3. Trade in goods

The most basic achievement of MEUFTA is the permanent elimination of all tariffs among the partners according to a rapid phase-out schedule. Only the most sensitive products are subject to a long phase-out.

a) Industrial products

Industrial products account for more than 90 percent of the total bilateral trade in merchandise. In this case, the liberalization covers the entire range of products and is implemented progressively over a transitional period of 7 years. All tariffs will be eliminated by January, 2007, just a few days after closing this edition.

On July 1, 2000, date of entry of MEUFTA, the EU eliminated tariffs on 82 percent of the Mexican industrial products. Similarly, Mexico liberalized tariffs on 48 percent of the EU industrial products, and eliminated the 1999 tariff increases on EU footwear and certain textile products (dismantling from 25 percent-35 percent to 10 percent-15 percent).

On January 2003, the EU liberalized customs duties on all Mexican industrial products, and Mexico eliminated tariffs on an additional 5 percent of EU industrial products, to total 53 percent of the same. Furthermore, Mexico ensured that the remaining 47 percent of the EU industrial products were subject to a maximum tariff of 5 percent, which has since decreased to 4 percent.

b) Automotive sector

EU exporters are not required to have a manufacturing facility in Mexico to be able to sell vehicles in Mexico. The importation of new vehicles from the EU is restricted by import quota limitations.

Until December, 2006, the permitted import quota is equivalent to 15 percent of the total number of vehicles (manufactured and imported) sold in Mexico, during the prior calendar year.

Since January 2004, the vehicles under the permitted quota may be imported free of duties. Vehicles imported outside of the permitted quota are subject to a 10 percent import duty. On January 1, 2007, all restrictions and duties on the importation of new vehicles from the EU were eliminated. Furthermore, the agreement envisages very favorable access for the main EU auto parts and components.

c) Customs co-operation

MEUFTA introduces one single administrative document called EUR.1, in order to simplify the classification of the originating status of the products, as well as the inspections and customs procedures in the carriage of goods. The EUR.1 is similar to the Certificate of Origin implemented by NAFTA.

d) Agricultural products

Agricultural products will be progressively liberalized so that by 2010, 62 percent of the bilateral trade will be fully liberalized. Key products such as sugar, dairy, beef and grains will continue to be excluded. In the agricultural sector, both the EU and Mexico obtained favorable market access conditions for several of their key export products. For instance:

1) The EU obtained the progressive and total liberalization of wines, beer, liquors and spirits (vodka, cognac, certain whisky and gin), cut flowers, tomatoes, pectic substances, tobacco, and olive oil;

2) Mexico obtained the elimination of tariffs on coffee, tropical fruit and vegetables, and preferential contingents for concentrated orange juice, avocados, honey, and cut flowers;

3) Since 2003, 37.9 percent of EU agricultural products are free of duties, with two more tariff liberalizations in 2008 and 2010, up to 49.55 percent;

4) For the Mexican agricultural products, in January 2003, 68.2 percent of agricultural products were liberalized, with two additional tariff eliminations by 2008 and 2010, to total 74.14 percent.

e) Fishing sector

The fishing sector is gradually liberalized with respect to more than 99 percent of the current volume of bilateral trade. From 2003, Mexico liberated 71 percent of the EU fishing products, while the EU eliminated tariffs on 88 percent of Mexican products.

f) Safeguards

Safeguards may be adopted in order to provide temporal relief to a sector that may be facing serious damages because of substantial increases in the imports between Mexico and the EU.

g) Government purchases

EU and Mexican investors have access to public contracts for all products, services, and suppliers, based on the same national treatment as accorded to domestic products, services, and suppliers, provided that the value exceeds certain established thresholds. MEUFTA provides for clear rules guaranteeing the transparency of the process.

EU operators will have guaranteed access to Mexico's lucrative markets on the best terms substantially similar to NAFTA. Access to markets at federal government level includes most government enterprises and key sectors such as petrochemical (Pemex), dredging, construction, and IT.

Mexican investors receive the same benefits that the EU awards to its partners in the framework of the WTO public contracting agreement.

h) Intellectual property

The protection of intellectual property, such as patents, trademarks, and copyrights, is adjusted to the strictest international standards. EU investors are guaranteed that the EU competitive advantage in high technology is fully protected. A special committee attends to the effective application of such rights.

i) Competition

Various co-operation mechanisms are provided for to permit and facilitate the application of the respective legislations of the EU and Mexico governing competition.

j) Dispute resolution

MEUFTA provides for an effective dispute solving mechanism, which also includes arbitration, without infringing upon the respective rights of the Parties, within the framework of the WTO. The decisions of the arbitration panel are binding on both parties.

Arbitration procedures do not apply to intellectual property, anti-dumping matters, balance of payment problems, issues covered under the WTO, and free trade agreements with third countries. In addition, MEUFTA allows an alternative procedure, under which either party may undertake a dispute settlement under the WTO framework. The only condition is that no action may be disputed simultaneously under both forums.

k) Trade in services

The service markets of both parties will be progressively liberalized within a period of no more than 10 years, that is, by the year 2011. The agreement covers all services, including, among others:

1) Financial, allowing all EU banks and insurance companies to directly operate in Mexico;
2) Telecommunications;
3) Distribution;
4) Energy;
5) Tourism;
6) Environmental

The only exceptions are audiovisual, maritime cabotage and air transportation services. From the date of entry, the parties agreed not to introduce new restrictions on EU or Mexican investors. The relevant provisions for services ensure investors that:

1) No restrictions on the number of operations or services provided in the other party's territory will be introduced;
2)Full enjoyment of national treatment at equivalent conditions;
3)Treatment of "most favored nation" will be granted, surpassing the benefits bestowed on third parties.

l) Investment and related payments

MEUFTA confirms the international commitments of the parties on investment and related payments. It also envisages a revision of the legal framework to evaluate the possibility of a subsequent liberalization.

m) MEUFTA rules of origin

The general structure and provisions of the EU standard protocol were followed. As such, the EU harmonized rules are applied to the vast majority of industrial, agricultural, and fishing products. The exceptions can be classified as follows:

1) A transitional easing of the EU rules regarding certain sectors like textiles, granting an adaptation period for the Mexican industry;
2) A special adjustment of the EU rules for sectors like the chemical and auto motive industry, due to the lack of raw materials or components, such as certain chemical products, complex auto parts and machinery;
3) A strengthening of the EU rules, accompanied by *ad-hoc* solutions for products like footwear, cotton, and synthetic or artificial fabrics, to guarantee preferential access to the Mexican market for EU products.

C. Free Trade Agreement between Mexico and Israel

On June 1st, 2000, a free trade agreement went into effect between Mexico and Israel. The purpose of the treaty was to establish a Free Trade Zone to intensify trade and the economy, by liberalizing encumbrances and import restrictions on imports originating from the countries of the signing parties.

The treaty was Mexico's first trade agreement with a Middle Eastern country, and provided Mexico with direct access to the Israeli market. Through the agreement, Mexico obtained the ability to sell to Israel petroleum, food items, and manufactured goods, including electrical and electronic equipment, wood products, chemicals, and textiles. Additionally, the agreement allowed Mexico to receive from Israel, advanced technological products, such as agricultural machinery, herbicides, and fertilizers, as well as pharmaceutical products, medical equipment, and certain electrical equipment.

D. Free Trade Agreement between Mexico,

El Salvador, Guatemala and Honduras

Mexico has signed a trade agreement with three Central American countries, that entered into force on March 15th, 2001 with El Salvador and Guatemala, and June 1st, 2001 with Honduras. The general objective of the treaty was to establish a Free Trade Zone to permit the advancement and strengthening of economic integration between Mexico and Central America.

For instance, the treaty provided Mexico with access to Central American goods and service markets, reduced tariffs on Mexican products, and allowed Mexican investment in the countries of the signing parties.

E. Free Trade Agreement between Mexico

and the European Free Trade Association (EFTA)

On July 1st, 2001, Mexico and the European Free Trade Association (EFTA) entered into a free trade agreement. Upon signing the agreement, the parties had the objectives of creating a commercial space in the context of multinational integration, through the establishment of a Free Trade Zone, for the commencement of external development opportunities.

Through the treaty with EFTA, whose members include Iceland, Norway, Switzerland, and Liechtenstein, Mexico became the only Latin American country with free commercial access to the countries with the highest income per capita in the world.

F. Free Trade Agreement between Mexico and Uruguay

On July 15th, 2004, Mexico entered into a free trade agreement with Uruguay. Through the agreement, the signing parties aimed to provide access to markets by initiating a process of tax reduction. For instance, the treaty aims to create a reciprocal liberalization of the trade of agricultural goods, livestock, fishery, and certain industrial goods.

G. Free Trade Agreement between Mexico and Japan

Mexico entered into an economic association agreement with Japan to promote free trade between the countries. The agreement entered into force on April 1st, 2005, and contained the following objectives:

(a) To liberalize and facilitate the trade of goods and services between the countries;

(b) To increase investment opportunities and strengthen investment protection and investment activities within the countries;

(e) To increase opportunities for suppliers to participate in the purchase of the public sectors within the countries;

(d) To advance cooperation and coordination for the effective application of competitions laws en each of the countries;

(e) To create products for the implementation and operation of the agreement, and for the resolution of controversies; and

(f) To establish a framework to foster bilateral cooperation and improve the business environment

The agreement provides great trade opportunities for Mexico, as Japan and Mexico are complementary economies. With Mexico's rich abundance of agricultural resources, and

Japan's great industrial economy, the agreement allows Mexico to export its agricultural resources, while importing Japan's industrial goods.

As a result of the agreement, Japan has eliminated 91 percent of all customs duties on Mexican products. Similarly, Mexico has eliminated 44 percent of custom duties on Japanese goods, and will gradually move towards complete liberalization.

Moreover, Mexico has executed free trade agreements with: Costa Rica, Chile, Nicaragua and Colombia; and is negotiating with Brazil and Peru.