**Disclaimer:** In view of the Commission's transparency policy, the Commission is publishing the texts of the Trade Part of the Agreement following the agreement in principle announced on 21 April 2018.

The texts are published for information purposes only and may undergo further modifications including as a result of the process of legal revision. The texts are still under negotiations and not finalised. However, in view of the growing public interest in the negotiations, the texts are published at this stage of the negotiations for information purposes. These texts are without prejudice to the final outcome of the agreement between the EU and Mexico.

The texts will be final upon signature. The agreement will become binding on the Parties under international law only after completion by each Party of its internal legal procedures necessary for the entry into force of the Agreement (or its provisional application).

**CHAPTER [XX]**

**COMPETITION POLICY**

**Article X.1**

**General 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. The Parties believe that proscribing such conduct, implementing competition policy, promoting advocacy actions and cooperating on matters covered by this Chapter will help secure the benefits of this Agreement.

**Article X.2**

**Competition Law and Anticompetitive Business Practices**

1. Each Party shall maintain or adopt in their respective territories comprehensive competition law which applies to all sectors of the economy\(^1\). Each Party shall take appropriate action with respect to anticompetitive business practices with the objective of promoting Competition policy. Such Competition law addresses all of the following practices in an effective manner:

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\(^1\) 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 markets in agricultural products and its subsequent amendments or replacements, if any (Official Journal L347/2013). For greater certainty, the Federal Economic Competition Law applies to all sectors in Mexico for which the Competition authorities elaborate their own regulations; criteria, guidelines, etc. in accordance with the 2013 Constitutional amendments.
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(a) agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition

(b) abuses by one or more undertakings, who individually or jointly have substantial power in the relevant market, and that have or may have as object or effect the prevention, restriction or distortion of competition in that relevant market or any related market, and

(c) concentrations between undertakings which result or may result in a substantial lessening of competition or which significantly impede or may significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position.

2. All undertakings, private or public, shall be subject to the competition law referred to in this Article.

3. To the extent provided for in the respective Party’s law, 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 undertakings 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 maintain its autonomy in amending and enforcing its law. Each Party shall establish or maintain a functionally independent authority or authorities responsible for, and appropriately equipped with the powers and resources necessary for the full application and the effective enforcement of their respective competition law.

2. The Parties shall apply their respective competition law in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and right of defense of the undertakings concerned, including the right of the undertakings concerned to be heard prior to a final decision or resolution.

3. The enforcement policy of each Party's competition authority or authorities is not to discriminate on the basis of the nationality of the respondents in an enforcement proceeding or of the third persons granted a right to participate in such enforcement proceedings.

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2 For the purpose of this article, an enforcement proceeding means a judicial or administrative proceeding following an investigation into the alleged violation of their respective competition law.
4. Each Party shall ensure that a respondent in an enforcement proceeding carried out to determine whether conduct violates its competition law or what administrative sanctions or remedies should be ordered for violation of such law is afforded the opportunity to be heard and provide evidence in its defense. In particular, each party shall ensure that the respondent has a reasonable opportunity to review and contest the evidence on which the determination may be based.

5. Each Party shall guarantee that the addressees of a decision imposing a sanction or a remedy for violation of their respective competition laws are given the opportunity to seek judicial review of such decision.

**Article X.4**

**Transparency**

1. The Parties recognize the value of transparency in their competition enforcement policies.

2. The Parties shall publish its administrative rules or provisions of procedure contained in legal acts pursuant to which their respective competition law investigations and enforcement proceedings are conducted. These administrative rules or provisions may, to the extent provided in the Party’s respective competition law, include procedures with established or reasonable timeframes for introducing evidence in such proceedings.

3. Each Party shall ensure that a non-confidential version of any final decision or resolution finding a violation of its competition laws, and, as the case may be, any order implementing a resolution, is published in order to enable interested persons to become acquainted with them.

4. Each Party shall ensure that all final decisions or resolutions determining a violation of its competition laws are in writing and set out findings of fact and the reasoning, including legal and, if applicable, economic analysis, on which the decision is based.

**Article X.5**

**Cross-Border Cooperation and Coordination**

1. The Parties recognize the importance of cooperation and coordination between their respective competition authorities on matters related to their competition law and policies in the free trade area. Accordingly, the Parties’ competition authorities shall endeavor to cooperate in relation to their respective competition law, including through assistance, notification, consultation, and exchange of information.

2. Accordingly, the Parties shall strengthen cooperation in the enforcement of their competition law to the extent compatible with their respective laws and important
interests, and within their reasonably available resources. For this purpose, the Parties’ competition authorities shall endeavor to:

(a) Exchange non-confidential information, experiences and views with regard to its respective competition law, policies and practices, including information about the exemption in its competition law.

(b) Exchange non-confidential information, experiences and views with regard to the enforcement of its respective competition law.

(c) Exchange non-confidential information, experiences and views with regard to their respective advocacy actions.

3. The Parties shall endeavour to strengthen coordination among their respective competition authorities as refer in Annex I in areas of mutual concern and to the extent compatible with their respective laws and important interests, and within their reasonably available resources. For this purpose, the Parties shall endeavor to coordinate, to the extent possible, their enforcement activities relating to the same or related cases.

4. The Parties’ competition authorities recognize the use of waivers in their areas of enforcement and acknowledge that the decision of an undertaking to waive the right to confidentiality protection is voluntary.

5. Nothing in this Article shall limit the discretion of the Parties’ competition authorities to decide whether to take action on particular requests by the other Party’s competition authority.

6. Nothing in this article shall preclude either competition authority from taking action with respect to particular cases.

7. Both Parties’ competition authorities may consider entering into a separate cooperation arrangement or agreement with each other that sets out mutually agreed terms of cooperation.

**Article X.6**

**Technical Cooperation**

The Parties consider that it is in their common interest to support the objectives of this agreement with technical cooperation for the purposes of sharing experiences in developing and implementing competition policy and in enforcing each Party’s respective competition law, subject to the Parties reasonable available resources.

**Article X.7**
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Consultation

1. To foster mutual understanding between the Parties, or to address specific matters on the interpretation or application of this Chapter, each Party shall, upon the request of the other Party, enter into consultations on issues raised by the other Party. The Party requesting consultations shall indicate, if relevant, how the matter affects trade between the Parties.

2. The Parties shall promptly discuss, upon the request of either Party, any questions arising from the interpretation or application of this Chapter.

3. To facilitate discussion of the matter that is the subject of the consultations, each Party shall endeavour to provide relevant non-confidential information to the other Party.

Article X.8
Confidentiality of Information

1. Notwithstanding any other provision of this Chapter, the Parties are not required to communicate information if such communication is prohibited by the laws of the Party possessing the information.

2. When a Party communicates information under this Agreement, the receiving Party shall maintain the confidentiality of the communicated information.

3. When the Party’s competition authority receives confidential information pursuant to a confidentiality waiver, it should use the information received in accordance with the terms of the waiver.

Article X.9
Dispute Settlement

Neither Party may have recourse to Chapter …. (Dispute Settlement) for any matter arising under this Chapter.

Annex I
Competition Authorities

For the purposes of this Chapter, the Competition Authorities are the following, or its successors:
(a) In the case of Mexico:

- Federal Economic Competition Commission (COFECE)
- Federal Telecommunications Institute (IFT).

(b) In the case of the EU:

- The European Commission.