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
TRADE REMEDIES

SECTION A
General provisions concerning anti-dumping and countervailing measures

Article 1
1. The Parties reaffirm their rights and obligations under Article VI of GATT 1994, the Anti-dumping Agreement and the SCM Agreement.
2. For the purposes of the application of provisional and definitive measures, origin shall be determined in accordance with the non-preferential rules of origin of the Parties.

Article 2
1. Each Party shall conduct its procedures and apply anti-dumping and countervailing measures in a fair and transparent manner, in accordance with the relevant mandatory provisions of the WTO Agreements.
2. Both Parties shall inform all interested parties, at preliminary stage of the proceeding and in any event before a final determination is made, of the essential facts under consideration, which form the basis for the decision whether to apply final measures. This is without prejudice to Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the SCM Agreement.
3. Provided it does not unduly delay the conduct of the investigation, each interested Party in an anti-dumping or countervailing investigation shall be granted full opportunity to defend its interests.
4. For greater certainty, interested Parties are defined as per Article 6.11 of the Anti-Dumping Agreement and Article 12.9 of the SCM Agreement.
Modernisation of the Trade part of the EU-Mexico Global Agreement

Without Prejudice

Article 3

1. The decision whether the amount of the anti-dumping or countervailing duty to be imposed shall be the full margin of dumping or amount of subsidy or a lesser amount, is to be made by the authorities of the importing Party in accordance with that Party’s domestic legal framework.

Article 4

1. When making their final determination, the Parties shall take into account the information duly provided by all interested parties considered as such according to each Party’s domestic legal framework.

Article 5

1. This Chapter is not subject to Chapter XX (Dispute Settlement).

Section B

GLOBAL SAFEGUARD MEASURES

Article 6

General provisions

1. Each Party retains its rights and obligations under Article XIX of GATT 1994, the WTO Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture.

Article 7

Transparency

1. Notwithstanding Article 1, at the request of the other Party and provided the latter has a substantial interest, the Party initiating a safeguard investigation or intending to take safeguard measures shall provide immediately ad hoc written notification of all pertinent information leading to the initiation of a safeguard investigation or the imposition of global safeguard measures including on the provisional findings, where relevant. This is without prejudice to Article 3.2 of the WTO Agreement on Safeguards.

2. When imposing safeguard measures, the Parties shall endeavour to impose them in a way that least affects bilateral trade.

3. For the purpose of paragraph 2, if one Party considers that the legal requirements are met for the imposition of definitive safeguard measures, the Party intending to apply such measures shall notify the other Party and give the possibility to hold bi-lateral consultations. If no satisfactory solution has been reached within 30 days of the notification, the importing Party may adopt the appropriate measures to remedy the problem.

4. For the purposes of this Article, it is considered that a Party has a substantial interest when it is among the five largest suppliers of the imported product during the most recent three-year period of time, measured in terms of either absolute volume or value.

Article 8

Exclusion from bilateral dispute settlement mechanism

1. The provisions of this Section referring to WTO rights and obligations shall not be subject to the Dispute Settlement provisions of this Agreement.
Modernisation of the Trade part of the EU-Mexico Global Agreement

Without Prejudice

Section C:

BILATERAL SAFEGUARD MEASURES

Article 9

DEFINITIONS

For the purposes of this Section:

Competent investigating authority means:

(a) In the case of Mexico, the International Trade Practices Unit of the Secretaría de Economía (Ministry of the Economy), or its successor; and

(b) in the case of the EU, the European Commission.

Like product and directly competitive product: like product means a product which is identical (i.e. alike in all respects) to the product under consideration, or in the absence of such product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration. On the other hand, the directly competitive product means a product which may not be alike in all respects, it has a high degree of substitutability with the product under consideration as it fulfils the same functions. In that regard, the authorities may analyze aspects such as the physical characteristics of those products, their technical specifications, final uses and channels of distribution. This list is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

domestic industry means, with respect to an imported product, the producers as a whole of the like or directly competitive products operating within the territory of a Party, or those producers whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of that products.

serious injury means a significant overall impairment of the position of a domestic industry;

threat of serious injury means serious injury that, on the basis of facts and not merely on allegation, conjecture or remote possibility, is clearly imminent;

transition period means 10 years from the date of entry into force of this Agreement. For any product for which the Schedule in Annex I (Elimination of Customs Duties) of each Party provides for a tariff elimination of ten or more years, transition period means the tariff elimination period for the products set out in that Schedule, plus three years.

Article 10

APPLICATION OF A BILATERAL SAFEGUARD MEASURE

1. Notwithstanding Sub-Section B (Global Safeguard Measures), if as a result of the reduction or elimination of a customs duty under this Agreement, a product originating in a Party is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to domestic production, and under such conditions so as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products, the importing Party may take appropriate measures under the conditions and in accordance with the procedures established in this Sub-Section.
Modernisation of the Trade part of the EU-Mexico Global Agreement

Without Prejudice

2. If the conditions in paragraph 1 are met, the safeguard measures of the importing Party may only consist of one of the following:

(a) suspension of the further reduction of the rate of customs duty on the product concerned provided for under this Agreement; or

(b) increase in the rate of customs duty on the product concerned to a level which does not exceed the lesser of:

(i) the most-favoured nation applied rate of customs duty on the product in effect at the time the measure is taken; or

(ii) the most-favoured nation applied rate of customs duty on the product in effect on the day immediately preceding the date of entry into force of this Agreement.

3. The Parties understand that neither tariff rate quotas nor quantitative restrictions would be a permissible form of bilateral safeguard measure.

Article 11

CONDITIONS AND LIMITATIONS

1. A bilateral safeguard measure shall not be applied:

(a) except to the extent, and for such time, as may be necessary to prevent or remedy the situation described in Article 10 or 15;

(b) for a period exceeding two years. The period may be extended by another year if the competent authorities of the importing Party determine, in conformity with the procedures specified in this Sub-Section, that the measure continues to be necessary to prevent or remedy the situations described in Article 10 or 15 and to facilitate adjustment provided that the total period of application of a safeguard measure, including the period of initial application and any extension thereof, does not exceed three years; or

(c) beyond the expiration of the transition period.

2. A bilateral safeguard measure shall apply only to originating products set out in Annex XX of each Party’s Schedule (Tariff Elimination Schedule) included in the Trade in Goods Chapter, subject to preferential treatment under this Agreement.

3. In order to facilitate adjustment in a situation where the expected duration of a bilateral safeguard measure is over one year, the Party that applies the measure shall progressively liberalise it at regular intervals during the period of application.

4. When a Party ceases to apply a bilateral safeguard measure, the rate of customs duty shall be the rate that would have been in effect for the product, according to the Schedule of that Party.

5. No Party shall apply a bilateral safeguard measure against any particular product originating in the other Party more than once during the transition period.

Article 12

PROVISIONAL MEASURES

1. In critical circumstances where delay would cause damage which it would be difficult to repair, a Party may apply a bilateral safeguard measure on a provisional basis, without complying with the requirements of Article 22, paragraph 1 of this Chapter, pursuant to a preliminary determination that there is clear evidence that imports of a product originating in the other Party have increased as the
result of the reduction or elimination of a customs duty under this Agreement, and that such imports cause or threaten to cause the situations described in Article 10 or 15.

2. The duration of any provisional measure shall not exceed two hundred days, during which time the Party shall comply with the relevant procedural rules established in Sub-Section C.1 (Procedural Rules Applicable to Bilateral Safeguard Measures). The Party shall promptly refund any tariff increases if the subsequent investigation described in Sub-Section C.1 does not result in a finding that a definitive measure will be imposed in compliance with the requirements of Article 10 or 15. The duration of any provisional measure shall be counted as part of the period described in Article 11, paragraph 1 (b). The importing Party concerned shall inform the other Party concerned upon taking such provisional measures and it shall immediately refer the matter to the Association Committee for examination if the other Party so requests.

Article 13

COMPENSATION AND SUSPENSION OF CONCESSIONS

1. A Party applying a bilateral safeguard measure shall consult with the Party whose products are subject to the measure in order to mutually agree on appropriate trade liberalising compensation in the form of concessions having substantially equivalent trade effect. The Party shall provide an opportunity for such consultations no later than thirty days after the application of the bilateral safeguard measure.

2. If the consultations under paragraph 1 do not result in an agreement on trade liberalising compensation within thirty days, the Party whose products are subject to the safeguard measure may suspend the application of substantially equivalent concessions to the trade of the Party applying the safeguard measure no later than ninety days after the measure is applied.

3. The Party affected by the bilateral safeguard measure shall notify the other Party in writing at least 30 days before it suspends concessions in accordance with paragraph 2.

4. The obligation to provide compensation under paragraph 1 and the right to suspend concessions under paragraph 2 expire at the termination of the transitional safeguard measure.

Article 14

TIME LAPSE IN BETWEEN TWO MEASURES, USE OF GLOBAL/BILATERAL SAFEGUARD MEASURE

1. No safeguard measure referred to in this Section shall be applied to the import of a product that has previously been subject to such a measure, unless a period of time equal to half of that during which the safeguard measure was applied for the immediately preceding period has elapsed.

2. Neither Party shall apply, with respect to the same product and during the same period:
   a) A bilateral safeguard measure or a provisional safeguard measure provided in this Agreement; and
   b) a safeguard measure under Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.

ARTICLE 15

OUTERMOST REGIONS

1. Where any product originating in Mexico is being imported directly into the territory of one or several outermost regions of the EU in such increased quantities and under such conditions as to
cause or threaten to cause serious deterioration in the economic situation of the outermost region(s) concerned of the EU Party, the EU Party, after having examined alternative solutions, may exceptionally take safeguard measures limited to the territory of the region(s) concerned.

2. Without prejudice to the provisions of paragraph 1, all other rules established in Section C applicable to bilateral safeguards are also applicable to any safeguard adopted in relation to the outermost regions.

3. A bilateral safeguard measure limited to the outermost regions shall apply only to products subject to preferential treatment under this agreement.

4. For the purpose of paragraph 1, serious deterioration shall mean major difficulties in a sector of the economy producing like or directly competitive products. The determination of deterioration shall be based on objective factors, including the following elements:

   (a) the increase in the volume of imports in absolute or relative terms to domestic production and to imports from other sources; and

   (b) the effect of such imports on the situation of the relevant industry or the economic sector concerned, including inter alia on the levels of sales, production, financial situation and employment.

Sub-Section C.1: Procedural Rules Applicable to Bilateral Safeguard Measures

Article 16

APPLICABLE LAW

1. For the application of bilateral safeguard measures, the competent investigating authority shall comply with the provisions of this Sub-Section and in cases not covered by this Sub-Section, the competent investigating authority shall apply the rules established under its domestic legislation, as long as those rules are in conformity with the provisions of this Section.

Article 17

INITIATION OF A PROCEEDING

1. A safeguard proceeding may be initiated by the competent investigating authority on its own initiative in exceptional circumstances, or upon a written application made by or on behalf of the domestic industry. In the case of the European Union that application can be filed by one or more Member States of the European Union on behalf of the domestic industry. The application shall be considered to have been made “by or on behalf of the domestic industry” if it is supported by those domestic producers whose collective output constitutes more than 50% of the total production of the like or directly competitive products produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25% of total national production of the like or directly competitive goods produced by the domestic industry.

2. Once the investigation has been initiated, the written applications shall promptly be made available for public inspections, except for the confidential information contained.

3. Upon initiation of a safeguard proceeding, the competent investigating authority shall publish a notice of initiation of the proceeding in the official journal of the Party. The notice shall identify the entity which filed the written application, if applicable, the imported product that is the subject of the proceeding and its subheading and the tariff item number under which it is classified, the nature
and timing of the determination to be made, the period within which interested parties may make
their views known in writing and submit information, the place at which the written application and
any other non-confidential documents filed in the course of the proceeding may be inspected and
the name, address and telephone number of the office to be contacted for more information. In case
the investigating authority decides to hold a public hearing, the time and place of that public hearing
can be included either in the notice of initiation or notified at any subsequent stage of the
proceeding, provided that such notice is given well in advance. In case no public hearing is
scheduled at the beginning of the investigation, the notice of initiation shall include the period
within which interested parties may apply to be heard orally by the investigating authority.

4. With respect to a safeguard proceeding initiated on the basis of a written application filed by an
entity asserting that it is representative of the domestic industry, the competent investigating
authority shall not publish the notice required by paragraph 3 without first assessing carefully that
the written application meets the requirements of its domestic legislation and includes reasonable
evidence that imports of a product originating in the other Party have increased as the result of the
reduction or elimination of a customs duty under this Agreement, and that such imports cause or
threaten to cause the alleged serious injury.

**Article 18**

**INVESTIGATION**

1. A Party may apply a safeguard measure only following an investigation by the competent
investigating authority of that Party pursuant to procedures established in this Sub-Section. This
investigation shall include reasonable public notice to all interested parties and public hearings or
other appropriate means in which importers, exporters and other interested parties can present
evidence and their views, including the opportunity to respond to the presentations of other parties.

2. Each Party shall ensure that its competent investigating authority completes any such
investigation within twelve months of its date of initiation.

**Article 19**

**DETERMINATION OF SERIOUS INJURY OR THREAT THEREOF AND CAUSAL LINK**

1. In the investigation to determine whether increased imports cause or threaten to cause serious
injury to a domestic industry under the terms of this Sub-Section the competent investigating
authority shall evaluate all relevant factors of an objective and quantifiable nature having a bearing
on the situation of the domestic industry, in particular the rate and amount of the increase in imports
of the product concerned in absolute terms and relative to domestic production, the share of the
domestic market taken by increased imports, and changes in the level of sales, production,
productivity, capacity utilisation, profits and losses, and employment.

2. The determination whether increased imports cause or threaten to cause the situations described
in Article 10 or 15, shall not be made, unless the investigation demonstrates, on the basis of
objective evidence, the existence of a clear causal link between increased imports of the product
concerned and the situations described in Article 10 or 15. When factors other than increased
imports are, at the same time, causing the situations described in Article 10 or 15, such injury or
threat thereof or serious deterioration in the economic situation shall not be attributed to increased
imports.

**Article 20**

**HEARINGS**

1. In the course of each proceeding, the competent investigating authority shall:
Modernisation of the Trade part of the EU-Mexico Global Agreement

Without Prejudice

(a) hold a public hearing, after providing reasonable notice, to allow all interested parties considered as such in their respective domestic legal frameworks, to appear in person or by counsel, to present evidence and to be heard on serious injury or threat of serious injury, and the appropriate remedy; or

In the case of the EU, alternatively:

(b) provide an opportunity to all interested parties to be heard where they have made a written application within the period laid down in the notice of initiation showing that they are actually likely to be affected by the outcome of the investigation and that there are special reasons for them to be heard orally.

Article 21

CONFIDENTIAL INFORMATION

1. Any information which is by nature confidential or which is provided on a confidential basis shall, upon good cause being shown, be treated as such by the competent investigating authority. Such information shall not be disclosed without permission of the Party submitting it. Parties providing confidential information are requested to furnish non-confidential summaries thereof or, if such parties indicate that such information cannot be summarised, the reasons why a summary cannot be provided. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. However, if the competent investigating authority finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, the authority may disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.

Article 22

NOTIFICATIONS, CONSULTATIONS AND PUBLICATIONS

1. Where a Party takes the view that one of the circumstances set out in Article 10 or 15 exists, it shall immediately refer the matter to the Association Committee for examination. The Association Committee may make any recommendation needed to remedy the circumstances which have arisen. If no recommendation has been made by the Association Committee aimed at remedying the circumstances, or no other satisfactory solution has been reached within thirty days of the matter being referred to the Association Committee, the importing Party may adopt the appropriate measures to remedy the circumstances in accordance with this Sub-Section.

2. The competent investigating authority shall provide the exporting Party with all pertinent information, which shall include evidence of injury or serious deterioration in the economic situation, caused by increased imports, precise description of the product involved and the proposed measures, proposed date of imposition and expected duration.

3. A Party shall promptly notify the other Party, in writing, when it:

   (a) Initiates a bilateral safeguard investigation under this Section;
   (b) decides to apply a provisional bilateral safeguard measure;
   (c) determines the existence of serious injury, or threat of serious injury caused by increased imports, as set forth in Article 19 (Determination of serious injury or threat thereof and causal link);
   (d) decides to apply or extend a bilateral safeguard measure; and
   (e) decides to modify a transitional safeguard measure previously adopted.
4. When a Party makes a notification under paragraph 1(a), such notification shall include the following:

   (a) A copy of the public version of the application and its annexes or, in the case of investigations initiated ex officio, of the pertinent documents showing the requirements of Article 17 are met, as well as a questionnaire detailing the points on which the interested parties must provide information;

   (b) A precise description of the product subject to the proceeding.

5. Similarly, when a Party makes a notification under paragraphs 1(a) and 1(b), the Party shall include a copy of the public version of its determination and, when applicable, of the document providing the technical reasoning on which the determination is based.

6. When a Party makes a notification under paragraph 1(d) concerning the application or extension of a bilateral safeguard measure, that Party shall include in that notification:

   (a) A copy of the public version of its determination and, when applicable, of the document providing the technical reasoning on which the determination is based;

   (b) evidence of serious injury or threat of serious injury, caused by increased imports of an originating product from the other Party, as a result of the reduction or elimination of a customs duty under this Agreement;

   (c) a precise description of the originating product subject to the bilateral safeguard measure, including its heading or subheading under the HS Code;

   (d) a precise description of the bilateral safeguard measure;

   (e) the initial date of application of the bilateral safeguard measure, its expected duration and, if applicable, a timetable for progressive liberalization of the measure; and

   (f) in case of an extension of the bilateral safeguard measure, evidence that the domestic industry concerned is adjusting.

7. At the request of the Party whose product is subject to the bilateral safeguard procedure under this Section, the Party conducting the procedure shall hold consultations with the requesting Party to review a notification under paragraphs 1(a) and 1(b).

8. The Party intending to apply or extend a bilateral safeguard measure shall notify the other Party and give the possibility to hold prior consultations to discuss the eventual application or extension. If no satisfactory solution has been reached within 30 days from the notification apply or extend such measure.

9. The competent investigating authority shall also publish its findings and reasoned conclusions reached on all pertinent issues of fact and law in the official journal of the Party, including the description of the imported good and the situation which has given rise to the imposition of measures in accordance with Article 10 or 15, the causal link between such situation and the increased imports, and the form, level and duration of the measures.

10. The competent investigating authorities of both articles shall treat any confidential information in full compliance with Article 3.2 of the WTO Safeguard Agreement.