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).

CROSS-BORDER TRADE IN SERVICES

Article 1
Right to regulate

The Parties affirm the right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public health, social services, public education, safety, environment or public morals, social or consumer protection, privacy and data protection, the promotion and protection of cultural diversity, or competition.

Article 2
Definitions

aircraft repair and maintenance services during which an aircraft is withdrawn from service mean such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and do not include so-called line maintenance;

computer reservation system services means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

Cross-border trade in services or “cross-border supply of services” means the supply of a service:

(a) from the territory of a Party into the territory of another Party;

(b) in the territory of a Party to the services consumer of another Party;

ground handling services means the supply at an airport, on a fee or contract basis, of the following services: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering, except the preparation of the food; air cargo and mail handling; fueling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning;

Ground handling services do not include: self-handling; security; line maintenance; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure, such as de-icing facilities, fuel distribution systems, baggage handling systems and fixed intra-airport transport systems;
measures adopted or maintained by a Party means measures adopted or maintained by:

(a) the central, regional, or local governments and authorities of that Party; and

(b) any person, including a state enterprise or any other non-governmental body in the exercise of powers delegated by central, regional, or local governments or authorities;

selling and marketing of air transport services means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services or the applicable conditions;

service supplied in the exercise of governmental authority means, for each Party, any service that is supplied neither on a commercial basis nor in competition with one or more service suppliers;

service supplier of a Party means a natural person or an enterprise of a Party other than a branch or a representative office that seeks to supply or supplies a service;

enterprise means an enterprise as defined in Article XX (General definitions), or a branch or a representative office of an enterprise; and

“enterprise of the EU” or an “enterprise of Mexico” means an enterprise set up in accordance with the laws of a Member State of the European Union or of Mexico and engaged in substantive business operations in the territory of the EU or of Mexico, respectively; Shipping companies established outside the European Union or Mexico and controlled by nationals of a Member State of the European Union or of Mexico, respectively, shall also be beneficiaries of the provisions of this Title, if their vessels are registered in accordance with their respective legislation, in a Member State or in Mexico and fly the flag of that Member State or of Mexico.

Article 3
Scope

1. This Chapter shall apply to measures adopted or maintained by a Party affecting cross-border trade in services by service suppliers of another Party. Such measures include measures affecting:

(a) the production, distribution, marketing, sale or delivery of a service;

(b) the purchase or use of, or payment for, a service;

(c) the access to and use of, in connection with the supply of a service, services which are required by a Party to be offered to the public generally, including distribution, transport or telecommunications networks; and

(d) the provision of a bond or other form of financial security as a condition for the supply of a service.

2. This Chapter shall not apply to:

(a) audio-visual services;

(b) national maritime cabotage;
(c) measures adopted or maintained by a Party to the extent that they are covered by Chapter XX (Financial Services);

(d) services supplied in the exercise of governmental authority;

(e) Government procurement of a good or service purchased for governmental purposes, and not with of a view to commercial resale or with a view to use in the supply of a good or service for commercial sale, whether or not that procurement is "covered procurement" within the meaning of Article XX (Scope and coverage);

(f) Subsidies or grants provided by a Party, including government-supported loans, guarantees and insurance which shall be dealt with by Chapter [YY] (on Competition and Subsidies);

(g) Air services, or related services in support of air services, other than the following:
   i. aircraft repair and maintenance services during which an aircraft is withdrawn from service;
   ii. selling and marketing of air transport services;
   iii. computer reservation system services; and
   iv. ground handling services.

Article 4
Market Access
In the sectors or subsectors where market access commitments are undertaken, neither Party shall adopt or maintain, either on the basis of its entire territory or on the basis of a territorial sub-division, a measure that imposes limitations on:

(i) the number of service suppliers, whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;

(ii) the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(iii) the total number of service operations or the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test.

Article 5
Local Presence
No Party shall require a service supplier of another Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 6
National Treatment

4 For greater certainty, "air services or related services in support of air services" also include the following services: rental of aircraft with crew, airport operation services and services provided by using an aircraft whose primary purpose is not the transportation of goods or passengers, such as aerial fire-fighting flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services.
1. Each Party shall accord to services and service suppliers of another Party treatment no less favourable than that it accords, in like situations, to its own services and service suppliers.

2. The treatment to be accorded by Mexico under paragraph 1 means, with respect to a regional level of government of Mexico, treatment no less favourable than the most favourable treatment accorded, in like situations, by that regional level of government to its own services and services suppliers.

The treatment to be accorded by a Member State of the EU under paragraph 1, with respect to a government of or in a Member State of the EU, treatment no less favourable than the most favourable treatment accorded, in like situations, by that government to its services and services suppliers.

**Article 7**

**Most Favoured Nation Treatment**

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favourable than the treatment it accords, in like situations, to services and service suppliers of a non-Party.

2. Paragraph 1 shall not be construed to oblige a Party to extend to services and service suppliers of the other Party the benefit of any treatment resulting from measures providing for recognition, including of the standards or criteria for the authorisation, licencing, or certification of a natural person or enterprise to carry out an economic activity, or of prudential measures.

**Article 8**

**Non-Conforming Measures and Exceptions**

1. Article 5 (Local Presence), Article 6 (National Treatment) and Article 7 (Most-Favoured-Nation Treatment) shall not apply to:
   
   (a) any existing non-conforming measure that is maintained by a Party at:
       
       (i) the European Union, as set out in its schedule to Annex I;
       (ii) A national government, as set out by that Party in its Schedule to Annex I;
       (iii) a regional government, as set out by that Party in its Schedule to Annex I; or
       (iv) a local government;
   
   (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
   
   (c) an amendment to any non-conforming measure referred to in subparagraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Article 5 (Local Presence), Article 6 (National Treatment) and Article 7 (Most-Favoured-Nation Treatment).

2. Article 5 (Local Presence), Article 6 (National Treatment) and Article 7 (Most-Favoured-Nation Treatment) shall not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities, as set out by that Party in its Schedule to Annex II.

3. Article 4 (Market Access) does not apply to any measure that a Party adopts or maintains with respect to committed sectors or subsectors as set out in its Annex III.

4.- Within five years of the date of entry into force of this Agreement, Mexico shall set out in its Schedule to Annex I and Annex III any existing non-conforming measure maintained at the sub-federal level of government.
Article 9

Denial of Benefits

A Party may deny the benefits of this Chapter to a service supplier of the other Party that is an enterprise of that Party and to services of that service supplier if:

(a) a service supplier of a non-Party owns or controls the enterprise; and

(b) the denying Party adopts or maintains a measure with respect to the non-Party, or with respect to enterprises or natural persons of the non-Party, that prohibits transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.