

Ms Cecilia Malmström  
Commissioner for Trade  
European Commission  
Rue de la Loi 200  
1049 - Brussels  
BELGIUM

Brussels, 19 April 2017

Subject : **ESF Position Paper on Priorities on Modernisation of the EU-Mexico FTA**

Dear Commissioner Malmström,

Please find attached the ESF Position Paper on the Modernisation of the EU-Mexico FTA. The paper goes deep into sector specific requirements, that we hope will contribute to guiding the negotiators in getting an ambitious deal for the services industries.

ESF welcomes your statement last February with your Mexican counterpart, Minister of Economy Ildefonso Guajardo, to accelerate the EU -Mexico trade talks and takes note of the progress made in the last rounds. We encourage you to highlight the importance of trade in services in these negotiations, when you will meet him in the coming days, since substantive commitments in services were one of the missing features of the original Free Trade Agreement in 2000/2001.

In the market access negotiations related to services, ESF takes for granted that the offer that Mexico tabled in the now-into-question Trans Pacific Partnership - which was also tabled in negotiations of the Trade in Services Agreement (TiSA) - forms the baseline for the services and investment FTA negotiations. The relevant texts agreed so far in the TiSA talks should also be used as point of departure for the Services chapter. On the European side, ESF considers that the Comprehensive Economic and Trade Agreement (CETA) concluded between the EU and Canada shall be the benchmark for those negotiations.

As for the scheduling method, Mexico being a developed economy member of the OECD, ESF calls the negotiators to use the negative list approach, so as to ensure a good readability of the FTA's commitments. Such a method obliges the negotiators to review together all service sectors and produce greater liberalisation results and greater clarity, since it is much easier for businesses to assess whether their sector is covered or not and what the limitations are.

Logistic service suppliers being in charge of effectively crossing the borders with goods, ESF strongly supports improvement in Mexico's customs procedures. Mobility of service suppliers is a key priority for business in the EU-Mexico FTA. Negotiators should notably allow faster Business Visa and Work permits delivery procedures for all categories of natural persons covered under Mode 4.

On investment, ESF calls for an FTA which covers pre-establishment commitments as well as a post-establishment protection. Equity caps should be removed, with limited exceptions. There is a strong interest from the EU services industry in favour of having a state of the art investment protection in the EU-Mexico FTA, which will not diminish the current level of protection that is currently achieved by the 16 existing BITs with EU Member States, but will be extended to the whole EU. As a result, it is vital that the relationship between both partners includes a neutral, binding, transparent and efficient investor-state dispute resolution mechanism.

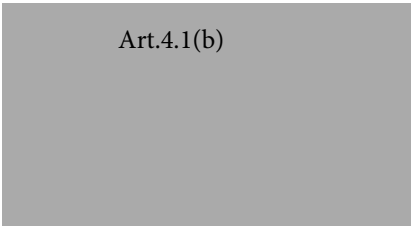
The question of public procurement should benefit from particular attention in the FTA negotiations since Mexico is not yet a member of the Government Procurement Agreement (GPA). ESF calls for a comprehensive market access to public procurement for services, with low thresholds and substantive coverage of all public institutions and entities, committing the partners to remove any discrimination, or preference to local suppliers, in the bidding by any EU or Mexican businesses.

The Paper takes also position of other horizontal issues like on the rules on State-Owned Enterprises (SOEs) and on cross-border data flows and e-commerce, as well as on domestic regulation.

We remain at your disposal for any further information you and your services would find necessary.

Yours sincerely,

Art.4.1(b)



Pascal Kerneis  
Managing Director

Cc: Mr. Jean-Luc Demarty, Director General, DG Trade  
Ms. Helena Koenig, Director, DG Trade, Chief EU-Mexico FTA Negotiator