

Mexico and the European Union Sign the Modernized Global Agreement: New Investment Protection Regime and Next Steps for Entry into Force

On **May 22**, within the framework of the **VIII Mexico–European Union Summit**, held at the National Palace, Mexico and the European Union signed the **Modernized Economic Partnership, Political Coordination and Cooperation Agreement between Mexico and the European Union** —also referred to as the **Modernized Global Agreement** or **MGA**. During the same event, the parties also witnessed the signing of the **Interim Trade Agreement** and a letter of intent for the conduct of a political and strategic dialogue between Mexico and the European Union.

The signing of the MGA represents a significant milestone in the Mexico–EU bilateral relationship. The original agreement, signed in 1997 and in force since 2000, made Mexico the first Latin American country to enter into an Association Agreement with the European Union; however, that instrument **did not include substantive investment protections**. The Modernized Global Agreement materially changes that framework by incorporating a **specific investment chapter**, which sets out standards of protection for investors, jurisdictional rules, and a new institutional mechanism for dispute settlement.

Entry into Force, Ratification and Provisional Application

The Modernized Global Agreement will enter into force once it has been ratified by the **European Parliament**, the **Congresses of the 27 Member States of the European Union**, and the **Mexican Senate**. Pending completion of those procedures, the parties expect the **Interim Trade Agreement** to apply.

The MGA also provides for the possibility of provisional application, in whole or in part, in accordance with each party's internal procedures. Such provisional application will begin once Mexico and the European Union have notified the completion of their respective internal procedures. For purposes of the agreement itself, the “date of entry into force of the MGA” is understood as referring to the date of provisional application.

During the period of provisional application, the provisions of the **EU–Mexico Free Trade Agreement** will continue to apply to the extent that they are not already covered by the Modernized Global Agreement.

The Interim Trade Agreement: A Bridge Toward the Modernized Global Agreement

The **Interim Trade Agreement** will replace the **EU–Mexico Free Trade Agreement** upon its entry into force and will remain in effect until the corresponding entry into force of the Modernized Global Agreement.

Unlike the MGA, the Interim Trade Agreement falls within the scope of the European Union's exclusive competences. Therefore, its approval process requires the consent of the European Parliament and the adoption of a Council decision on the conclusion of the agreement, after which it may enter into force.

Importantly, the Interim Trade Agreement, does it include the investor-State dispute settlement system contemplated in the Modernized Global Agreement. It also does not contain substantive investment protection standards and does not replace the bilateral investment treaties currently in force between Mexico and several EU Member States.

A New Investment Chapter

One of the most relevant changes introduced by the Modernized Global Agreement is the inclusion of **Chapter 10**, which governs investment. This chapter establishes a protection regime for covered investments, including rules on jurisdiction, admissibility, substantive protection standards and dispute settlement.

The investment chapter represents a significant change from the original agreement, which did not provide for investment protections. Under the new regime, investments will be protected through standards such as protection against expropriation, fair and equitable treatment, full protection and security, national treatment, and most-favored-nation treatment.

In the area of dispute settlement, the Modernized Global Agreement introduces a relevant departure from the traditional investment arbitration model. The agreement provides for the creation of a **permanent investment tribunal**, whose members will be appointed by a Joint Commission.

The tribunal will be composed of **nine members**: three nationals of Mexico, three nationals of EU Member States, and three nationals of third countries. Its members will be appointed for five-year terms.

The agreement also provides for an **appeal mechanism**. The Joint Commission will appoint six members to the appellate tribunal: two Mexican nationals, two EU nationals, and two nationals of third countries. Appeals will be heard by divisions of three members.

The grounds for appeal include those applicable to annulment of awards under Article 52 of the ICSID Convention, as well as errors of law and manifest errors of fact, including errors in the application of domestic law. This design increases the level of scrutiny over decisions issued under the new system.

Replacement of Bilateral Investment Treaties

Upon the entry into force of the Modernized Global Agreement, the **14 bilateral investment treaties** entered into between Mexico and EU Member States listed in Annex 10-C will cease to have effect and will be replaced by the new agreement.

The treaties to be replaced are:

- Mexico–Benelux BIT of 1998;
- Mexico–Czech Republic BIT of 2002;
- Mexico–Germany BIT of 1998;
- Mexico–Spain BIT of 2006;
- Mexico–Denmark BIT of 2000;
- Mexico–Finland BIT of 1999;
- Mexico–France BIT of 1998;
- Mexico–Greece BIT of 2000;
- Mexico–Italy BIT of 1999;
- Mexico–Netherlands BIT of 1998;
- Mexico–Austria BIT of 1998;
- Mexico–Portugal BIT of 1999;
- Mexico–Sweden BIT of 2000; and
- Mexico–Slovakia BIT of 2007.

Until the Modernized Global Agreement is ratified and the new investment regime begins to apply, the bilateral investment treaties currently in force will continue to govern.

Final Considerations

The Modernized Global Agreement represents a substantive update to the legal framework between Mexico and the European Union. In the field of investment, the agreement introduces a more detailed regime than that found in many traditional bilateral investment treaties, by defining protection standards with greater precision, delimiting jurisdictional scope, and establishing a permanent tribunal with an appellate instance.

However, the full entry into force of the investment regime will depend on a potentially lengthy ratification process, as approval is required both in Mexico and in the 27 EU Member States. In the meantime, the Interim Trade Agreement will operate as a transitional instrument, without replacing existing bilateral investment treaties or incorporating the investment dispute settlement system contemplated in the MGA.

For Mexican and European investors, the new agreement will be relevant for companies structuring their investments, not only because it incorporates substantive protection standards, but also because it marks a transition toward an institutionalized dispute resolution model, with a permanent tribunal, appellate rules, and reduced party participation in the selection of those who will decide their disputes.

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