

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1994 Nr. 193

A. TITEL

Verdrag nopens de Organisatie voor Economische Samenwerking en Ontwikkeling, met Aanvullende Protocollen en Memorandum; Parijs, 14 december 1960

B. TEKST

De tekst van Verdrag, Protocollen en Memorandum is geplaatst in *Trb.* 1961, 42.

C. VERTALING

Zie *Trb.* 1961, 60.

D. PARLEMENT

Zie *Trb.* 1962, 28.

E. BEKRACHTIGING

Zie *Trb.* 1961, 60 en 125 en *Trb.* 1962, 28.

F. TOETREDING

Zie *Trb.* 1965, 19, *Trb.* 1971, 145 en *Trb.* 1975, 14.

Behalve de aldaar genoemde Staten heeft voorts nog de volgende Staat in overeenstemming met artikel 16 van het Verdrag een akte van toetreding tot het Verdrag nedergelegd bij de Franse Regering:

Mexico. 18 mei 1994

G. INWERKINGTREDING

Zie *Trb.* 1961, 125, *Trb.* 1962, 28, *Trb.* 1965, 19, *Trb.* 1971, 145 en *Trb.* 1975, 14.

Ingevolge artikel 16 van het Verdrag is de toetreding van Mexico op 18 mei 1994 van kracht geworden.

H. TOEPASSELIJKHEIDVERKLARING

Zie *Trb.* 1962, 28.

J. GEGEVENS

Zie *Trb.* 1961, 60 en 125, *Trb.* 1962, 28, *Trb.* 1965, 19, *Trb.* 1971, 145, *Trb.* 1975, 14, *Trb.* 1977, 181 en *Trb.* 1988, 127.

Voor het op 26 juni 1945 te San Francisco tot stand gekomen Handvest van de Verenigde Naties zie ook, laatstelijk, *Trb.* 1993, 168.

Het op 18 april 1951 te Parijs tot stand gekomen Verdrag tot oprichting van de Europese Gemeenschap voor Kolen en Staal alsmede de op 25 maart 1957 te Rome tot stand gekomen Verdragen tot oprichting van de Europese Economische Gemeenschap en tot oprichting van de Europese Gemeenschap voor Atoomenergie zijn gewijzigd door het op 7 februari 1992 te Maastricht tot stand gekomen Verdrag betreffende de Europese Unie. Van dat Verdrag is de Nederlandse tekst geplaatst in *Trb.* 1992, 74; zie ook, laatstelijk, *Trb.* 1994, 28.

Op 14 april 1994 heeft de Raad van de Organisatie voor Economische Samenwerking en Ontwikkeling overeenkomstig artikel 16 van het Verdrag de Regering van Mexico uitgenodigd tot het Verdrag toe te treden. De Engelse tekst van dit besluit luidt als volgt:¹⁾

Decision of the Council inviting Mexico to accede to the Convention on the Organisation for Economic Co-operation and Development

(Adopted by the Council at its 825th session on 14 April 1994)

The Council,

Having regard to the Convention on the Organisation for Economic Co-operation and Development of 14th December, 1960, (hereinafter called the "Convention") and, in particular, to its Articles 5 a) and 16;

Having regard to the Statement by the Government of the United Mexican States dated 4 April 1994 concerning the acceptance by Mexico of the obligations of membership in the Organisation;

Having regard to the Agreement between the United Mexican States (subsequently referred to as Mexico) and the Organisation for Economic Co-operation and Development on the Privileges and Immunities of the Organisation in Mexico;

Having regard to the Report by the Environment Policy Committee [C(94)24] and the Report by the Committee on Capital Movements and Invisible Transactions and the Committee for International Investment and Multinational Enterprises [C(94)49];

¹⁾ De Franse tekst is niet afgedrukt.

Considering that the Government of Mexico is prepared to assume the obligations of membership in the Organisation;

Decides:

Mexico is invited to accede to the Convention on the terms proposed in the above Statement.

In adopting the Decision inviting Mexico to accede to the Convention on the Organisation for Economic Co-operation and Development, the Council approved the following entry in its minutes:

“The Council

- a) took note of the Note of the Secretary-General C(94)71 concerning the invitation to Mexico to accede to the Convention on the OECD;
- b) noted the declaration of Mexico on Maritime Transport and, in particular, the commitments undertaken in paragraph 6 thereof;
- c) authorised the Secretary-General to sign on behalf of the Organisation the Instrument on the invitation to Mexico to accede to the Convention on the OECD;
- d) authorised the Secretary-General to sign on behalf of the Organisation the Agreement between the United Mexican States and the Organisation for Economic Co-operation and Development on Privileges and Immunities of the Organisation in Mexico;
- e) instructed the Secretary-General to inform Mexico of any Acts adopted by the Organisation between the date of the Decision of the Council Inviting Mexico to accede to the Convention on the OECD and the date of the deposit by Mexico of its instrument of accession to the Convention;
- f) agreed that Mexico shall notify the Organisation within sixty days whether or not it is willing to accede to the Acts referred to in paragraph e) above and that, if Mexico is unwilling to accede to a particular Act or if it wishes to propose amendments or reservations thereto, the matter shall be submitted to the Council. However, Mexico shall not be bound by any Act adopted between the dates specified in paragraph e) above unless it has signified its readiness to accede to such Act;
- g) decided to invite Mexico to be represented by an observer at meetings of the Council and other bodies of the Organisation open to all Member countries until Mexico becomes a member of the Organisation;
- h) agreed that, as from the date of the accession of Mexico to the Convention, the Agreement between the Organisation for Economic Co-operation and Development and the Government of Mexico concerning the participation of Mexico in the work of the Steel Committee, concluded on 5th September 1990, shall terminate.”

Bovenstaand besluit werd genomen nadat op 4 april 1994 de Regering van Mexico een Verklaring had afgelegd inzake haar aanvaarding van de verplichtingen van het Lidmaatschap van de Organisatie. De Engelse tekst van de Verklaring luidt als volgt:¹⁾

**Statement by the Government of the United Mexican States
concerning its Acceptance of the Obligations of Membership in the
Organisation for Economic Co-operation and Development
(4 April 1994)**

The Government of the United Mexican States:

Having regard to the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960 (hereinafter called the "Convention") and to Supplementary Protocols Nos. 1 and 2 to the Convention;

Having regard to Article 16 of the Convention, which provides that the Council of the Organisation may invite any Government prepared to assume the obligations of membership to accede to the Convention;

States the following:

1. The United Mexican States (hereinafter referred to as Mexico) shall, by the deposit of its instrument of accession to the Convention, assume the obligations of membership in the Organisation, accept the views and aims resulting from the Report by the Preparatory Committee of the Organisation of December 1960, and accede to the Acts of the Organisation which shall be in force at the time of such deposit, except as otherwise specified in the present Statement, including its Annexes.

2. Mexico wishes to make the following remarks regarding certain Acts to which it proposes to accede:

Financial Markets

– Recommendation of the Council concerning the review of any Restrictions which Member Countries Impose on Portfolio Investment in Unlisted or Unquoted Securities [Doc. No. C(74)61(Final)].

Remarks:

Mexico is willing to apply the above Recommendation except in the case of institutional investors' operations.

¹⁾ De Franse tekst is niet afgedrukt.

– Recommendation of the Council concerning the Minimum Disclosure and Procedure Rules to be Complied with before Securities may be Offered to the Public [Doc. No. C(75)198(Final)].

Remarks:

Regarding Rule VI.1 of the “OECD Minimum disclosure rules applicable to all publicly offered securities” to which the Recommendation refers, Mexico considers that it is sufficient to provide essential data on the issuer’s annual accounts for the last three financial years, rather than the five years mentioned in that Rule, since that information must be renewed annually under Mexican legislation.

Maritime transport

– Recommendation of the Council concerning Substandard Ships [Doc. No. C(77)117(Final)].

Remarks:

Mexico accepts the Recommendation fully with respect to its fleet dedicated to open sea traffic and is willing to undertake to implement it progressively in regard to its fleet dedicated to cabotage.

– Recommendation of the Council concerning Common Principles of Shipping Policy for Member countries [Doc. No. C(87)11(Final)].

Remarks:

Mexico cannot for the time being accept Annex I to the Recommendation (Guidelines concerning the transport activities of mobile offshore vessels).

Fiscal affairs

– Recommendation of the Council on the Determination of Transfer Prices between Associated Enterprises [Doc. No. C(79)83(Final)].

Remarks:

Mexico will apply the Recommendation taking into account its administrative and technological capabilities.

– Recommendation of the Council concerning Mutual Administrative Assistance in the Recovery of Tax Claims [Doc. No. C(80)155(Final)].

Remarks:

Under the current Mexican fiscal law, fiscal authorities do not have the authority to collect foreign tax claims.

– Recommendation of the Council concerning a Standardised Form for Automatic Exchanges of Information under International Tax Agreements [Doc. No. C(81)39(Final)].

Remarks:

Mexico will use the format and provide the required information according to the provisions in its domestic law.

– Recommendation of the Council concerning the Avoidance of Double Taxation with Respect to Taxes on Estates and Inheritances and on Gifts [Doc. No. C(82)64(Final)].

Remarks:

Currently, Mexican fiscal law does not impose taxes on estates and inheritances and on gifts.

– Recommendation of the Council concerning a Standard Magnetic Format for Automatic Exchange of Tax Information [Doc. No. C(92)50/FINAL].

Remarks:

Mexico will send information using the format in accordance with its technological capabilities.

– Recommendation of the Council concerning an OECD Model Agreement for the Undertaking of Simultaneous Tax Examinations [Doc. No. C(92)81/FINAL].

Remarks:

Mexican laws do not allow foreign authorities to carry on activities in the country. Hence, Mexico cannot allow representatives of the competent authorities of other States to enter the country to undertake simultaneous tax examinations.

– Recommendation of the Council concerning the Model Tax Convention on Income and on Capital [Doc. No. C(92)122/FINAL].

Remarks:

Mexico wishes to make reservations and observations on a limited number of provisions of the Model Tax Convention as set forth in a document to be submitted to the Committee on Fiscal Affairs.

Insurance

– Recommendation of the Council Concerning a Common Classification of the Classes of Insurance Recognised by the Supervisory Authorities of the Member Countries [Doc. No. C(83)178(Final)].

Remarks:

Mexico is willing to apply the above Recommendation in a gradual and progressive manner.

Trade

– Recommendation of the Council on Procedure for the Registration of Pharmaceutical Specialties [Doc. No. C(61)106(Final)].

Remarks:

Mexico reserves the right to review the protocols of the pharmaceutical, physiological and clinical tests. Mexico is not in a position to standardise the time limits for the registration procedure with other countries. Under Mexican law, the choice of a trade name for a pharmaceutical product is limited either for health reasons or in order to avoid giving a manufacturer an unfair marketing competitive advantage.

– Recommendation of the Council on Procedure for Labelling Pharmaceutical Specialties [Doc. No. C(63)57].

Remarks:

Mexico considers that the list in the Annex to this Recommendation should include the international non-proprietary name of the product recognized by the World Health Organization, as well as the way it should be administered.

Environment

– Decision of the Council concerning the Minimum Pre-Marketing Set of Data in the Assessment of Chemicals [Doc. No. C(82)196(Final)].

Remarks:

Except regarding pesticides and therapeutic drugs, Mexico does not yet have a system to identify new chemicals and their possible hazards before they are marketed. Such a system would be set up upon consultation with OECD countries and would take into account the OECD Minimum Pre-Marketing Set of Data. An analysis of the actions to be undertaken for the establishment of a system of this kind, and of its implications, costs and benefits, will be carried out in the following months, with a view to setting up such a system.

– Decision-Recommendation of the Council on Compliance with Principles of Good Laboratory Practice (GLP) [Doc. No. C(89)87(Final)].

Remarks:

Mexico would recognise the assurance of an OECD Member country that test data have been generated in accordance with GLP Principles pursuant to this Decision. Mexico will proceed to set up the necessary administrative arrangements.

The nature of Mexico's chemical industry has not required the development of testing activities of the kind addressed by this Decision. When necessary, testing procedures specified by OECD Guidelines would be introduced and they would be carried out under OECD Principles of Good Laboratory Practice.

– Decision-Recommendation of the Council on the Co-operative Investigation and Risk Reduction of Existing Chemicals [Doc. No. C(90)163(Final)].

Remarks:

Mexico has not yet implemented a national programme for the systematic investigation of existing chemicals. An analysis of the actions to be undertaken for the establishment of a programme of this kind, and of its implications, costs and benefits, will be carried out in the following months.

– Decision of the Council concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations [Doc. No. C(92)39(Final)].

Remarks:

Mexico agrees to control transfrontier movements of wastes destined for recovery operations as specified in Annex I of this Decision. However, some of the wastes included in the green list are considered haz-

ardous by Mexican legislation, regulations and official Mexican standards, and shall thus remain subject to national classification and requirements. The Mexican authorities will notify the Secretariat of the specific wastes that would need to be controlled as if they had been assigned to the amber or red lists, and on the applicable requirements, as provided by Paragraph 6 under "II. General Provisions" of Annex I to this Decision.

Tourism

– Decision-Recommendation of the Council on International Tourism Policy. 27 November 1985 [Doc. No. C(85)165/FINAL] amended on 16 January 1987 [Doc. No. C(86)199/Final].

Remarks:

Mexico wishes to make a limited number of reservations as provided for in Annex I.

3. Mexico endorses the objectives of the Code of Liberalisation of Current Invisible Operations and the Code of Liberalisation of Capital Movements and is prepared to accept the rights, obligations and commitments arising therefrom. Mexico proposes to lodge reservations in accordance with paragraph (b) of Article 2 of the two Codes. The texts of these reservations are set out in Annexes II and III to the present Statement. Mexico shall, upon becoming a Member of the Organisation, extend to all OECD Member countries the measures under the North American Free Trade Agreement (NAFTA) which liberalise the direct establishment of, and direct investment in, securities specialists, investment companies, managing companies of investment companies, bonding firms, general deposit warehouses and foreign exchange firms. Further, Mexico shall, no later than the beginning of 1998, review its treatment of the direct establishment of, and direct investment in, other financial institutions where market share limitations apply under NAFTA, and shall consider extending the benefits of the liberalisation measures NAFTA provides concerning such institutions to all OECD Members.

4. Mexico is willing to associate itself with the Declaration on International Investment and Multinational Enterprises adopted by the Governments of OECD countries on 21 June 1976, as amended on 13 June 1979, 17 May 1984 and 4–5 June 1991 and is prepared to accept the commitments arising therefrom. Pursuant to the Third Revised Decision of the Council on National Treatment [C(91)147/FINAL, as amended by C(92)179/FINAL], Mexico proposes to lodge exceptions to National Treatment in accordance with Article 1 of the Decision. The text of these exceptions is set out in Annex IV to the present Statement.

5. In the event that Mexico should wish to abstain from, or make a remark in respect of any Act of the Organisation which by oversight was

not mentioned in paragraph 2 above, Mexico will bring the matter to the Council of the Organisation for decision or other appropriate action within a period of twelve months after the date of deposit of the instrument of accession.

6. Mexico shares the policy aims expressed by the Member countries in the Ministerial Declarations adopted within the framework of the OECD, and is willing to associate itself with those mentioned in Annex V, subject to the remarks contained therein.

7. Mexico has the intention to participate in the activities and bodies of interest to a limited number of Members which are mentioned in Annex VI. Mexico will consider subsequent participation in other programmes of common interest to a limited number of Member countries or relating to special activity sectors.

8. Since Mexico will be entitled, from the date of its accession to the Convention, to participate in the work of the Steel Committee, as in other Committees, on the same basis as other Members of the Organisation, Mexico will regard, from the date of its accession, the Agreement between the Organisation and Mexico on the participation of Mexico in the work of the Steel Committee concluded on the 5th of September of 1990, as terminated.

9. Following Mexico's accession to the OECD, Mexico will participate in other international organisations or groupings in a manner consistent with the aims and undertakings of the OECD and with its position as a Member of the Organisation.

Annex I

- Decision-Recommendation of the Council on International Tourism Policy, 27th November 1985, [Doc. No. C(85)165(Final)]. Amended on 16th January, 1987 [Doc. No. C(86)199(Final)].

Remarks on Annex I:

Mexico reserves its position concerning import duties and taxes relief for coffee and tea provided in subsection b) i). Mexican regulations do not expressly authorise the granting of an exemption for tobacco products or any combination of these.

With respect to subsection b) ii), Mexico reserves the right to require sanitary authorisation and submission of the medical prescription whenever the imported medicines are considered to be psychotropic substances, as well as when those medicines are not available in Mexico.

Mexico reserves its right to admit the material referred to under subsections c) i) under the temporary importation procedure.

With respect to the last sentence of section c), Mexico reserves its right to grant free of import duties and taxes temporary importation for a period not exceeding 12 months.

Mexico reserves the right to apply the provisions of subsections d) iv) and v) only to non-resident travellers.

Mexico reserves its position on the admission of ground handling equipment under the temporary importation procedure with relief from all import duties and taxes.

Remarks on Annex II:

Mexico reserves the right to require valid passports and/or visas for nationals of countries with which Mexico does not have a bilateral agreement. It cannot be guaranteed that the issue charge for visas will not exceed the administrative costs.

Mexico also requires the submission of a written declaration that indicates the amount of cash, cheques or both, imported by the traveller when such amount exceeds the equivalent of US\$ 10,000 (approximately 10,000 units of account).

Mexico reserves the right of its appropriate services to examine transit passengers and baggage.

Mexico uses a red/green self-selection system.

Annex II

Reservations to the code of liberalisation of capital movements

List A,
I/A

Direct Investment:

– In the country concerned by non residents:

Remark:

The reservation applies only to:

- i) Acquisitions exceeding a total of 49 per cent of the equity of a Mexican company, which are subject to review if the total value of the assets of that company exceeds US \$ 25 million;

- ii) Acquisition of land used for agriculture, livestock or forestry purposes; however, "T" shares which represent the value of such land may be purchased up to a total of 49 per cent of the value of the land;
- iii) Investment in:
 - a) Retail trade in gasoline and distribution of liquefied petroleum gas;
 - b) Supply of fuels and lubricants for ship, aircraft and railroad equipment exceeding a total of 49 per cent of equity;
 - c) Construction of oil pipelines and other derivative products and oil and gas drilling exceeding a total of 49 per cent of equity, unless an authorisation is granted;
- iv) Investment exceeding a total of 49 per cent in fishing, other than aquaculture, in coastal waters or fresh waters or in the Exclusive Economic Zone;
- v) Investment exceeding a total of 49 percent of equity in the manufacture and assembly of auto parts, unless certain requirements are met;¹⁾
- vi) Investment in financial institutions, except:
 - a) Ownership up to a total of 30 per cent of common stock in financial holding companies, commercial banks and, provided an authorisation is granted, in securities firms and securities specialists;
 - b) Ownership up to a total of 49 per cent of common stock in limited scope financial institutions, securities advisory companies and managing companies of investment companies, and, provided authorisation is granted, in insurance companies, financial leasing companies, factoring companies, general deposit warehouses, bonding companies, foreign exchange firms, and up to a total of 49 per cent of the fixed stock in investment companies;
 - c) Ownership up to a total of 100 per cent of common stock in credit information institutions and securities rating agencies, provided an authorisation is granted; and
 - d) Ownership of at least 99 per cent of common stock in a subsidiary of the following type: bonding companies, general deposit warehouses, foreign exchange firms, securities specialists and

- managing companies of investment companies, and of the fixed stock in investment companies, by non-resident financial institutions of the same general type of activities, provided an authorisation is granted;
- vii) Investment in air, maritime, road transport²⁾ and related services, including cabotage and port services, except:
 - a) Participation up to a total of 25 per cent of equity in national air transport, aerotaxi and specialised air services and, provided an authorisation is granted, above a total of 49 per cent in the administration of air terminals;
 - b) Participation up to a total of 49 per cent of equity in interior navigation and coastal sailing, except tourist cruises and the exploitation of dredges and other naval devices for ports; in integral port administration and port pilot services for interior navigation; and in foreign commerce shipping and port services for interior navigation where participation may be authorised up to 100 per cent; and
 - c) Participation up to a total of 49 per cent of equity in railroad related services;
 - viii) Investment in radio and television broadcasting, and investment exceeding a total of 49 per cent of equity in cable television, basic telephone, videotext and enhanced packet switching services³⁾, newspapers for national distribution and, in cellular telephony where participation may be authorised up to 100 per cent;
 - ix) Investment by a foreign government or state enterprise in any kind of communications or transports activities or direct or indirect investment by a foreign government or state enterprise, or direct or indirect investment in financial institutions, except for commercial banks, financial holding companies, securities specialists and securities firms where the restriction applies only to investment by entities that exercise governmental authority functions;
 - x) Acquisition of real estate in the restricted zone and investment in aircraft building, assembly or repair, in shipbuilding and ship repairs, or in any activity requiring a concession, except through an enterprise incorporated in Mexico;

- xi) Investment in construction activities⁴), legal services and private education services exceeding a total of 49 per cent of equity, unless an authorisation is granted.

List B,
III/A1

Operations in real estate:

- In the country concerned by non-residents.

Remark: The reservation does not apply to:

- i) The acquisition by foreign non-residents of real estate outside a 100-kilometer strip alongside the Mexican land border and a 50-kilometer strip inland from the Mexican coast, provided the investor agrees to consider himself Mexican and to refrain from invoking the protection of his government regarding the property thus acquired;
- ii) The acquisition by foreign non-residents of real estate through a real estate trust within the zone defined above.

List A,
IV/A1,
A2,
B1, C1
and D1

Operations in securities on capital markets:

- Issue through placing or public sale of domestic securities and on a foreign capital market.

Remark:—The reservation applies only to debt securities denominated in domestic currency.

- Introduction of domestic securities on a recognised foreign capital market.

Remark: The reservation applies only to debt securities denominated in domestic currency.

- Issue through placing or public sale of foreign securities on the domestic capital market.
- Purchase in the country concerned by non-residents.

Remark: The reservation applies to the purchase of:

- i) shares and other securities of a participating nature which may be affected by the laws on inward direct investment and establishment;

- ii) debt securities denominated in domestic currency.
 - Purchase abroad by residents:

Remark: The reservation applies to the purchase of foreign securities by:

- i) securities firms for their own account;
- ii) financial institutions if the security is denominated in domestic currency.

List B,
V/A1, A2,
B1, C1,
C3, D1,
D2 and D4

Operations on money markets:

- Issue through placing or public sale of domestic securities and other instruments on a foreign money market.

Remark: The reservation applies only to securities and other instruments denominated in domestic currency.

- Introduction of domestic securities and other instruments on a recognised foreign money market.

Remark: The reservation applies only to securities and other instruments denominated in domestic currency.

- Issue through placing or public sale of foreign securities and other instruments on the domestic money market.
- Purchase of money market securities in the country concerned by non-residents.

Remark: The reservation applies only to securities denominated in domestic currency.

- Lending through other money market instruments in the country concerned by non-residents.

Remark: The reservation applies only to lending in domestic currency by non-resident financial institutions to resident financial institutions.

- Purchase of money market securities abroad by residents.

Remark: The reservation applies to the purchase of foreign securities by:

- i) securities firms for their own account;

- ii) financial institutions if the security is denominated in domestic currency.
- Sale of money market securities abroad by residents.

Remark: The reservation applies only to the sale to non-resident financial institutions of debt securities issued in domestic currency by resident banks.

- Borrowing through other money market instruments abroad by residents.

Remark: The reservation applies only to borrowing in domestic currency by resident financial institutions from non-resident financial institutions

List B,
VI/BI
and D1

Other operations in negotiable instruments and non-securitised claims:

- Issue through placing or public sale of foreign instruments and claims on a domestic financial market.
- Purchase abroad by residents.

Remark: The reservation applies to the purchase of foreign instruments and claims by securities firms on their own account.

List A,
VII/B1,
C1 and D1

Operations in collective investment securities:

- Issue through placing or public sale of foreign collective investment securities on the domestic securities market.
- Purchase of collective investment securities in the country concerned by non-residents.

Remark: The reservation applies only to securities denominated in domestic currency.

- Purchase abroad of collective investment securities by residents.

Remark: The reservation applies only to the purchase of securities denominated in domestic currency by financial institutions.

List B,
IX/A

Financial credits and loans:

– Credits and loans granted by non-residents to residents.

Remark: The reservation applies only to:

- i) credits and loans granted in domestic currency by non-resident financial institutions to resident financial institutions;
- ii) credits granted by non-resident financial institutions to resident banks.

List A,
X(ii)/A2

Sureties, guarantees and financial back-up facilities in cases not directly related to international trade, international current invisible operations or international capital movement operations, or where no resident participates in the underlying international operation concerned:

– Sureties and guarantees given by residents in favour of non-residents.

Remark: The reservation applies to guarantees granted by resident banks in connection with lending by non-residents to residents.

List A,
XI/A1
and 2

Operation of deposit accounts:

– By non-residents in domestic currency with resident institutions.

Remark: The reservation applies to:

- i) non-resident financial institutions, except when the funds deposited correspond directly to the sale of foreign currency or related transactions;
 - ii) term deposit accounts of non-residents with resident banks.
- By non-residents in foreign currency with resident institutions.

Remark: The reservation applies to:

- i) non-residents other than enterprises having an address in Mexico;
- ii) term deposit accounts of non-residents with resident banks.

List A,
XV/B2

Physical movement of capital assets:

– Export of means of payment.

Remark: The reservation applies only to the export of certain domestic coins of low denomination.

¹⁾ As of 1 January 1999, non-resident investors will be allowed to participate up to 100 per cent in this sector without prior authorisation.

²⁾ Non-resident investors will be allowed to participate in international ground transportation of passengers, tourism and loading within Mexico and the administration of bus stations for passengers and auxiliary activities up to a total of 49 per cent of equity as of 18 December 1995, up to 51 per cent as of 1 January 2001 and up to 100 per cent as of 1 January 2004.

³⁾ As of 1 July 1995, non-resident investors will be allowed to participate up to 100 per cent of equity in these activities without prior authorisation.

⁴⁾ As of 1 January 1999, non-resident investors will be allowed to participate up to 100 per cent of equity in these activities without prior authorisation.

Annex III

Proposed reservations to the code of liberalisation of current invisible operations

C/1. Maritime freights (including chartering, harbour expenses, disbursements for fishing vessels, etc.)

Remark: The reservation refers to the fact that automotive companies subject to a trade balance requirement have an incentive to resort to Mexican companies for the transport of automobiles and parts to the extent that freight provided by such Mexican companies can be added to the value of export or subtracted from the value of imports for the purpose of trade balance calculations. The reservation ceases to apply on 1 January 2004.

C/2. Inland waterway freight, including chartering.

Remark: The reservation does not apply to tourist cruises and dredgers.

C/3. Road transport: passengers and freights, including chartering.

Remark: The reservation applies to the following operations:

- a) for passengers:
 - transit;
 - "closed-door" tours;
 - picking up or setting down on an international journey;
 - transport within the country.
- b) for freight:
 - transit;
 - delivery on an international journey;
 - collection on an international journey;
 - return cargo where collection is authorised;
 - return cargo where delivery is authorised;
 - transport within the country.

C/5. For all means of inland waterway transport: harbour services (including bunkering and provisioning, maintenance and minor repairs of equipment, expenses for crews, etc.)

D/2. Insurance relating to goods in international trade.
Annex I to Annex A, Part I, Paragraph 1.

Remark: The reservation applies to goods in transit, to or from Mexican territory, if the risks insured are carried by Mexican residents, unless the insurance contract is entered into without solicitation on the part of the non-resident insurer.

D/3. Life assurance.
Annex I to Annex A, Part I, Paragraph 2.

Remark: The reservation does not apply to contracts entered into by residents abroad.

D/4. All other insurance.
Annex I to Annex A, Part I, Paragraphs 5 and 6.

Remarks: The reservation on paragraph 5 applies to contracts for: persons, when the contract is entered into in Mexico; risks in Mexican territory; credit insurance; civil liability related to events that may occur in Mexican territory; and all means of transport registered in Mexico or owned by Mexican residents.

The reservation on paragraph 6 concerns the fact that prior approval is required and that the contract must be entered into through a Mexican insurance company.

D/6. Conditions for establishment and operation of branches and agencies of foreign insurers. Annex I to Annex A, Parts III and IV.

E/1. Payment service.

Remark: The reservation applies to the provision by non-residents of payment services in Mexico and to their provision abroad in domestic currency.

E/2. Banking and investment services.

Remark: The reservation applies to the provision in Mexico by non-residents of banking and investment services.

E/3. Settlement, clearing and custodial and depository services.

Remark: The reservation applies to the provision of custodial and depository services in Mexico by non-residents.

E/4. Asset management.

Remark: The reservation applies to:

- i) the provision of asset management services in Mexico by non-residents, except for the safekeeping of assets;
- ii) the provision of asset management services by residents to non-residents wishing to invest in Mexico through a trust.

E/5. Advisory and agency services.

Remark: The reservation applies to the provision of advisory and agency services in Mexico by non-residents, except for operations concerning mergers, acquisitions, restructurings, management buyouts and venture capital.

E/7. Conditions for the establishment and operation of branches, agencies, etc. of non-resident investors in the banking and financial services sector.

Annex II to Annex A, paragraphs 1, 4a and 5.

Remarks: The reservation on paragraph 4a concerns the fact that only banks and securities firms may establish representative offices, and that their establishment is subject to authorisation.

The reservation on paragraph 5 concerns the fact that the right to act as a self-employed intermediary is restricted to Mexican nationals.

Annex IV

Exceptions to national treatment to be lodged under the third revised Decision of the Council on National Treatment

I. Investment by established foreign-controlled enterprises

Trans-sectoral: Acquisitions of Mexican-controlled enterprises exceeding a total of 49 per cent of the equity of the Mexican enterprise are subject to review if the total value of the assets of the enterprise to be acquired exceeds US \$ 25 million or such other amount as may be determined annually by the National Foreign Investment Commission. (Authority: Foreign Investment Law 1993 (FIL)).

Real estate: Acquisition of land used for agriculture, livestock or forestry purposes is not permitted. However, "T" shares which represent the value of such land may be purchased by foreign-controlled enterprises up to 49 per cent of the value of the land. [Authority: Mexican Constitution, FIL, Agrarian Law].

Oil and gas: Only Mexican nationals and Mexican companies with a foreigner exclusion clause may engage in retail trade in gasoline and distribution of liquefied petroleum gas. Participation in the supply of fuels and lubricants for ship, aircraft and railroad equipment may not exceed a total of 49 per cent of equity. Investment in the construction of oil pipelines and other derivative products and oil and gas drilling exceeding a total of 49 per cent may be authorised up to 100 per cent. [Authority: FIL; Reglementary Law to Article 27 of the Mexican Constitution in the Oil Sector and its Regulations; Regulations on Gas Distribution].

Fishing: Foreign investment is permitted up to a total of 49 per cent of equity in fishing, other than aquaculture, in coastal waters or fresh waters or in the Exclusive Economic Zone [Authority: FIL; Fisheries Law].

Autoparts: Foreign investment is permitted up to 49 per cent of equity in the autoparts industry. 100 per cent ownership is allowed with respect to investors that qualify as "national suppliers". As of 1 January 1999, foreign investment will be free. [Authority: FIL, Decree for the Development and Modernisation of the Automotive Industry].

Financial institutions: Investment is not permitted, except with respect to:

a) ownership up to a total of 30 per cent of common stock in financial holding companies, commercial banks and, provided an authorisation is granted, in securities firms and securities specialists;

b) ownership up to a total of 49 per cent of common stock in limited scope financial institutions, securities advisory companies and managing companies of investment companies, and, provided an authorisation is granted, in insurance companies, financial leasing companies, factoring

companies, general deposit warehouses, bonding companies and foreign exchange firms, and up to 49 per cent of the fixed stock of investment companies;

c) ownership up to 100 per cent of common stock in credit information institutions and securities rating agencies, provided an authorisation is granted; and

d) ownership of at least 99 per cent of the common stock in an affiliate of the following type: bonding companies, general deposit warehouses, foreign exchange firms, securities specialists and managing companies of investment companies, and of the fixed stock in investment companies, by foreign financial institutions engaged in the same general type of activities, provided an authorisation is granted. Acquisition by foreign financial institutions of other financial institutions established in Mexico is subject to an authorisation requirement. Affiliates of foreign financial intermediaries established in Mexico are not allowed to open subsidiaries, agencies or branches in another country. Until 1 January 2000, affiliates of foreign financial institutions are not allowed to issue subordinated debt, except for debentures acquired by the parent company. [Authority: FIL, Credit Institutions Law; Law for the Regulation of Financial Institutions; Stock Market Law; General Law for Credit Organisations and Auxiliary Activities; Surety Institutions Law; Insurance Institutions General Law; Investment Companies Law].

~ Air transport and related services: Foreign investment is not permitted except for participation up to a total of 25 per cent in national air transport, aerotaxi and specialised air services, and the administration of air terminals where participation may be authorised up to 100 per cent. (Authority: Mexican Constitution; General Means of Communication Law; FIL; Law on Nationality).

Land transportation and related services: Foreign investment is not permitted except for participation up to a total of 49 per cent of equity in railroad services. Foreign investment will be allowed in international ground transportation of passengers, tourism and loading within Mexico up to a total of 49 per cent as of 18 December 1995, up to 51 per cent as of 1 January 2001 and up to 100 per cent as of 1 January 2004. [Authority: FIL; General Means of Communication Law; Law on Nationality].

Maritime transport and related services: Foreign investment is not permitted except for participation up to a total of 49 per cent of equity in interior navigation and coastal sailing – other than tourist cruises and the exploitation of dredges and other naval devices for ports –, in integral port administration and port pilot services for interior navigation; and, provided an authorisation is granted, in foreign commerce shipping and port services pertaining to interior navigation. [Authority: Mexican Constitution; FIL; Law on Navigation; Law of Ports; Law on Nationality].

Radio and television broadcasting (excluding cable television): These activities are reserved to Mexican nationals and Mexican companies

with a foreigner exclusion clause. [Authority: Radio and Television General Law; FIL and its Regulations].

Telecommunication services and cable television: Foreign investment is permitted up to 49 per cent of equity in cable television, basic telephone, videotext and enhanced packet switching services and cellular telephony where foreign investment may be authorised up to 100 per cent. Investment in videotext and enhanced packet switching will be free as of 1 July 1995. [Authority: Regulations to the FIL; Regulations of Cable Television].

Newspapers: Foreign investment in newspapers for exclusive internal circulation may not exceed a total of 49 per cent of equity. [Authority: FIL].

Construction: Foreign investment in construction activities may be authorised above a total of 49 per cent, and will be free as of 1 January 1999. [Authority: FIL].

Legal services: Foreign investment in law firms may be authorised above a total of 49 per cent of equity. [Authority: FIL].

Education services: Foreign investment may be authorised above a total of 49 per cent of equity. [Authority: FIL].

II. Official aids and subsidies

Special credits for small-scale enterprises qualifying under the micro-industry programme are available only to Mexican-controlled enterprises. [Authority: Federal Law on the Development of the Micro-industry].

III. Tax obligations:

None.

IV. Government purchasing:

None.

V. Access to local finance:

None.

Annex V Declarations with which Mexico associates itself

Education

– Declaration on Future Educational Policies in the Changing Social and Economic Context – 20 October 1978

Environment

- Declaration on Environmental Policy – 14 November 1974.
- Declaration on Anticipatory Environmental Policies – 8 May 1979.
- Declaration on “Environment: Resource for the Future” – 20 June 1985.

Employment, Labour and Social Affairs

- Declaration on Policies for the Employment of Women – 16 and 17 April 1980.
- Declaration on the Social Aspects of Technological Change – 19 November 1986.

Remarks:

The Mexican labor law protects those workers displaced by structural change through different mechanisms such as dismissal compensation scheme, which among other things contemplates adjustments due to the introduction of new technologies or new production processes (Federal Labor Law, article 439). The law does not contemplate the existence of unemployment insurance and does not consider income support to workers displaced by new technologies.

A Retraining Scholarship Programme for Unemployed and Displaced Workers (PROBECAT for its Spanish acronym) provided to low-income job searchers one single time short-term vocational training allowance of one minimum wage.

Information, Computer and Communications Policy

- Declaration on Transborder Data Flows – 11 April 1985.

International Investment and Multinational Enterprises

- Declaration on International Investment and Multinational Enterprises – 21 June 1976.

Scientific and Technological Policy

– Declaration on Future Policies for Science and Technology – 19 and 20 March 1981.

Trade

– Declaration on Trade Policy – 4 June 1980.

Annex VI**OECD activities and bodies of interest to a limited number of members in which Mexico wishes to participate****Development**

Development Centre

Education

Centre for Educational Research and Innovation

Environment – Chemicals

Special Programme on the Control of Chemicals

Science, Technology and Industry

Steel Committee

Programme of Co-operation in the Field of Road Transport Research

Megascience Forum

Ad Hoc Working Party on Pulp and Paper

Nuclear Energy

OECD Nuclear Energy Agency

OECD Nuclear Energy Agency Data Bank

Territorial Development

Co-operative Action Programme on Local Economic and Employment
Development

Uitgegeven de *drieëntwintigste* september 1994.

De Minister van Buitenlandse Zaken,

H. A. F. M. O. VAN MIERLO