

Mexico's Experience in Negotiations of Services

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“Mexico’s experience in negotiations of services”

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Structure of presentation

- **Uruguay Round (1986-1994)**
- **The economic importance of the service sector in Mexico**
- **Mexico’s Multilateral and Regional Strategy**
- **Multilateral negotiation experience**
- **Bilateral negotiation experience**
- **Bilateral approaches**
 - Negative list**
 - Positive list**
- **Final remarks**

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Uruguay Round (1986-1994)

- **Subjects of the Uruguay Round**
 - **Market access to industrial goods**
 - **Agriculture**
- **New sectors and issues in the multilateral trading system**
 - **textiles**
 - **Services (GATS)**
 - **intellectual property**
 - **investment measures**
 - **dispute settlement**
- **The creation of the WTO as a new agency of international trade**

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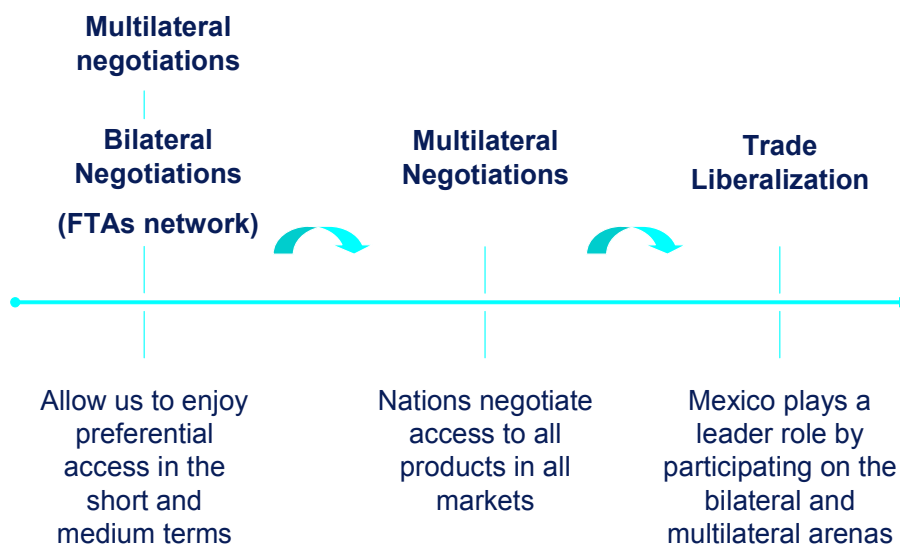
The economic importance of the services sector in Mexico

- **Services represent the most dynamic component in the developed and developing countries. Besides their relevance, they are an indispensable part in the production of most goods**
- **In Mexico, services participate with 66% of GDP and with 60% of the total employment**
- **Mexico's strategy in services promotes trade and development through progressive liberalization**

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Mexico Multilateral and Regional Strategy

How do these negotiations work?



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Mexico: multilateral negotiation experience

WTO

- **The GATS commits member countries to undertake negotiations on specific issues and to enter into successive rounds of negotiations to progressively liberalize trade in services.**
- **Following the standard format which is intended to facilitate comparative analysis.**
- **The GATS provides a credible and reliable system of international rules.**
- **Mexico identifies the services for which the Member guarantees market access and national treatment and any limitations that may be attached.**

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GATS Rules

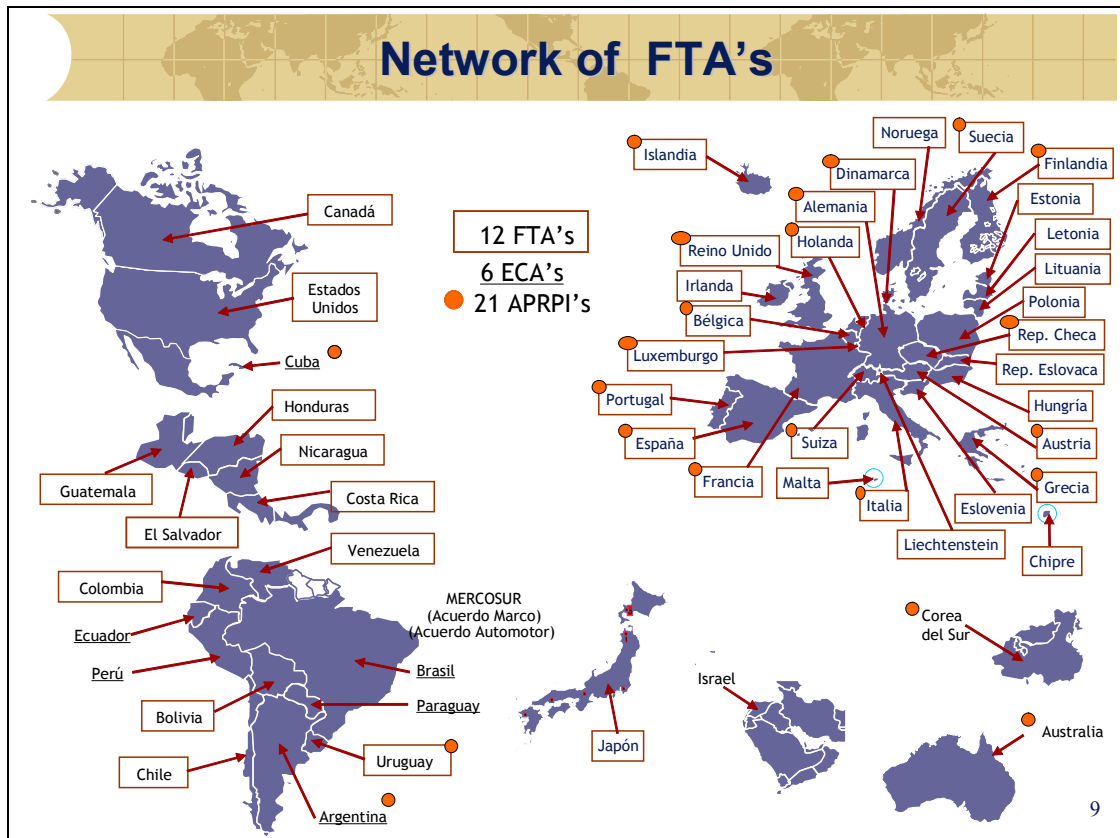
- **Mexico has been participating in the Working Party on GATS Rules**
- **Analyse the need and feasibility of the Emergency Safeguard Measures**
- **On subsidies Mexico has proposed delegations to work in a better definition**
- **Government Procurement: consultations on EC proposal and the scope of Article XIII**

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Mexico: bilateral negotiation experience

- **All FTA's signed by Mexico, with exception of Israel, include a chapter of services**
- **The FTA's comply with the general principles of the international system of trade: most favoured nation and national treatment**
- **Article V of the GATS**
- **Article XXIV of the GATT**

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Approaches in Services

Mexico has been using two major approaches toward the liberalization of trade in services

- “Positive List” or *“Bottom UP”*
- “Negative List” or *“Top Down”*

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Approaches in Services

Decision making

Making a decision on which approach will be used, mostly depends on three key factors:

- ✓ liberalization objectives (degree) of the agreement.
- ✓ level of transparency and predictability of commitments.
- ✓ availability of financial and human resources of the Parties.

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Negative List

- This is the so-called “*list or lose*” technique: all measures not set out in the relevant list of reservations are considered to be fully covered by the agreement and are, therefore, liberalized.
- Non-conforming measures are further liberalized by consultations or periodic negotiations.
- A negative list approach will foster greater transparency

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Reservation and exceptions

- Each country will determine their liberalization commitments and exceptions with respect to the negotiations of:

National Treatment
 Most Favored-Nation Treatment
 Performance Requirements
 Senior Management
 Local Presence

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Example negative list Reservation

Annex I

Sector:	Retail Trade
Sub-Sector:	Sale of Non-Food Products in Specialized Establishments
Industry Classification:	CMAP 623087 Retail Trade of Firearms, Cartridges and Munitions CMAP 612024 Wholesale Trade Not Elsewhere Classified (limited to firearms, cartridges and munitions)
Type of Reservation:	National Treatment (Article 58)
Level of Government:	Federal
Measures:	Foreign Investment Law (Ley de Inversión Extranjera), Title I, Chapter III
Description:	Investment Investors of the other Party or their investments may only own, directly or indirectly, up to 49 percent of the ownership interest in an enterprise established or to be established in the Area of Mexico that is engaged in the sale of explosives, firearms, cartridges, ammunition, and fireworks, excluding the acquisition and use of explosives for industrial and extractive activities, and the preparation of explosive mixtures for such activities.
Phase-Out:	None

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Reservations/annexes

- Existing measures and liberalization commitments (Annex I)
- Reservations for future measures (Annex II)
- Activities reserved to the State (Annex III)
- Exceptions to most favored nation treatment (Annex IV)
- Quantitative Restrictions (Annex V)

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Positive List

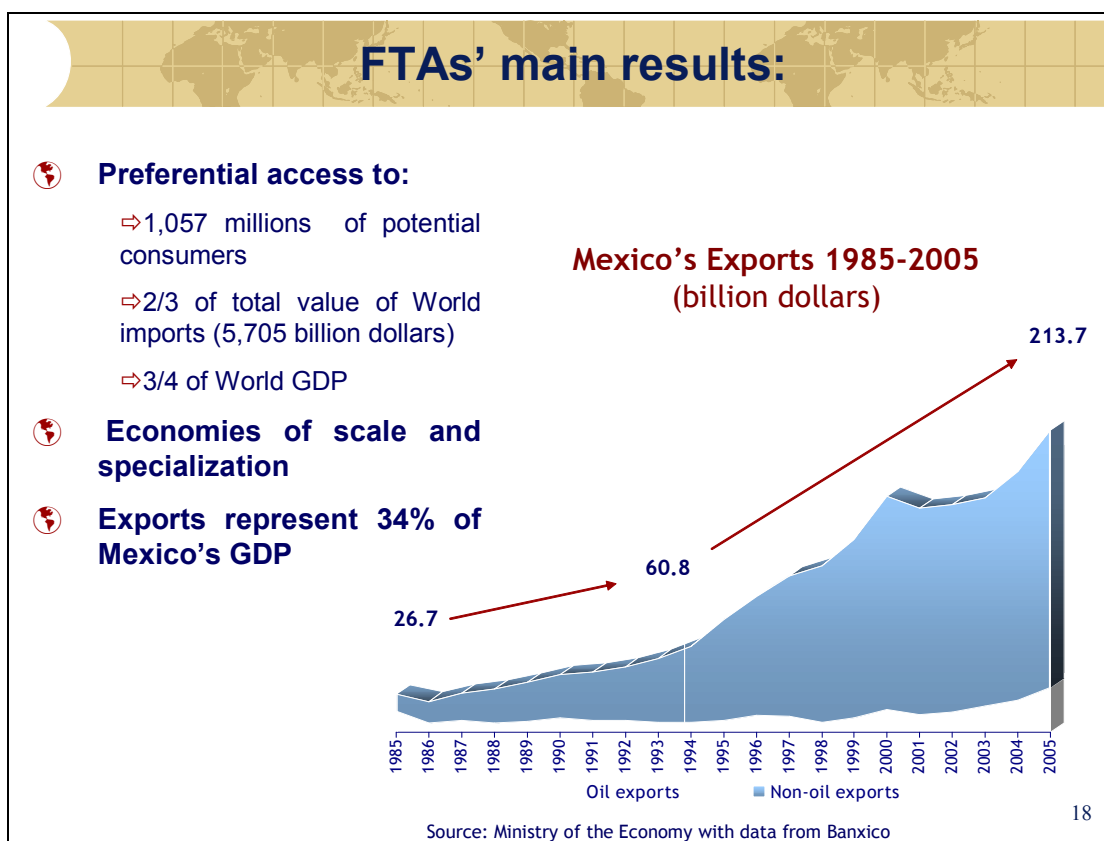
- It specifies the sectors covered by the provisions of the agreement.
- Countries undertake national treatment and market access commitments, indicating the type of access or treatment offered to services or service suppliers in scheduled sectors.
- A country will not be bound in those particular sectors and sub-sectors excluded from the schedules.

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Example of positive list

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
C. <u>Retail trade services</u> - Retail sales of food, beverages and tobacco in specialized establishments (CPC 6310)	1) None 2) None 3) None Foreign investment of up to 100 per cent of the registered capital of enterprises. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
- Retail sales of food products in supermarkets, self-service stores and shops (CPC 6310)	1) None 2) None 3) Foreign investment of up to 100 per cent of the registered capital of enterprises. Trade union and co-operative stores do not allow foreign investment. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
- Retail sales of non-food products in department stores and shops (CPC 632)	1) None 2) None 3) Foreign investment of up to 100 per cent of the registered capital of enterprises. Trade union and co-operative stores do not allow foreign investment. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	
- Retail sales of motor vehicles, including tyres and spare parts (CPC 61112)	1) None 2) None 3) Foreign investment of up to 100 per cent of the registered capital of enterprises. Trade union and co-operative stores do not allow foreign investment. 4) Unbound, except as indicated in the horizontal section.	1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section.	

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Final remarks

- ✓ The top-down (negative list) mechanism has been the main guideline underlying Mexico's approach to liberalization of trade in services.
- ✓ Why?
 - a) Entails a higher level of commitment between the Parties since it binds existing measures for the entire service sector,
 - b) while allowing for reservations in areas where national law is incompatible with basic principles.
- ✓ The major challenge we have faced: need to identify all national non-conforming measures before any agreement could be finalized.

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Final remarks

- 🌐 The negative list approach provides a better understanding of the liberalization degree among the Parties
- 🌐 Mexico has an attractive framework; provides long term certainty for all economic agents, including investors and service providers
- 🌐 Mexico represents a great opportunity for entrepreneurs to do business as partners in joint-ventures
- 🌐 Access to better services and reduction of costs

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Thank you

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