



## EU/Mexico trade deal to promote foreign investment

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By: Ben Sanderson

On 21 April 2018, the European Union and Mexico reached a deal on a novel trade agreement the “EU-Mexico FTA”. While the agreement keeps with its traditional role by removing remaining customs duties and reducing formalities for trade, the EU-Mexico FTA incorporates innovative elements, such as binding commitments to protect workers’ right and the environment, with an express reference to the Paris Agreement.

The EU-Mexico FTA also incorporates investment protection and dispute settlement mechanisms. However, in common with the EU’s recent trade agreements with Canada, Singapore and Vietnam, the EU-Mexico FTA incorporates the EU’s new approach to investment dispute resolution, namely via a multilateral investment court (yet to be established) rather than international arbitration. Pending the creation of this court, the current draft of the EU-Mexico FTA provides that disputes shall be heard by a Tribunal, whose decisions may be challenged before a permanent Appeal Tribunal. The EU’s proposals for the multilateral investment court are yet to be fully delineated and the multinational negotiation for such a court will no doubt be the subject of much scrutiny and analysis.

At a time where the North America Free Trade Agreement (NAFTA) faces an uncertain future in light of President Trump’s views on the treaty, Mexico has reaffirmed its commitment to investment protection and autonomous dispute settlement mechanisms. In this regard, in January 2018, Mexico became the 162nd country to sign the ICSID Convention (subject to ratification). Along with the deal reached with the EU, this shows a strong commitment on the part of Mexico to create a favourable climate for foreign investors beyond the US – which

today represents over 45 percent of the incoming FDI.

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