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**Analysis and retrospection of the Trade Agreement  
between the European Union and Mexico**

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*“While most of our efforts have been focused lately on tackling the coronavirus crisis, we have also been working to advance our open and fair trade agenda, which continues to be very important. Openness, partnerships and cooperation will be even more essential as we rebuild our economies after this pandemic. I am very pleased, therefore, that together with our Mexican partners, we share similar views and that our continued work could now come to fruition. Today's agreement is clear evidence of our shared commitment to advance our agenda of partnership and cooperation. This agreement – once in force – will help both the EU and Mexico to support our respective economies and boost employment.”*

These statements, delivered by the EU Trade Commissioner Phil Hogan on April 28, 2020, symbolized the conclusion of the EU-Mexico Trade Agreement modernization, after 4 years of negotiation rounds.

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# 1. INTRODUCTION

Since its foundation in 1951, the European Union -or the European Community in its beginnings- has claimed for a strengthening of an economic integration among the members and also a promotion of trade relations with third partners. During the last decades, the EU, as a whole, has negotiated numerous trade agreements with countries around the world. Member States have ceded sovereignty in exchange for the possibility to be part of a regional trading bloc with higher bargaining power in international scenario. The European integration has also become an opportunity for third partners when taking into account the Union as a destination to export. Free movement of goods' policies are an incentive for them due to the enlargement of their potential market. In fact, the Treaty of Rome (1957) already called for internal and external liberalisation. This aim has been clearly achieved and the EU is currently considered one of the main trade partners worldwide. In 2015, the EU was the first exporter and importer around the Globe, with 32,5% of the global trade, followed by United States (12%) and China (10,7%) according to the World Bank. In spite of this integration and liberalization success, the European Union is pushing for a new trade liberalisation round. The Commission considers necessary to update some of the aspects agreed 20 years ago.

The importance of international trade for the EU is such that around 30 million jobs in the Union depend on exports outside the Union (European Commission, 2020). In addition, future predictions forecast that global growth will take place mostly outside the EU; specially in Asia, the Americas and Africa. Therefore, the Union will need to adapt to the new global economic order and open up the economy even more. The current governance of global trade, with the influence hubs located in the United States and China, draws a new panorama for the EU. This, added to the decline of multilateralism, forces states to seek new scenarios that allow them to trade abroad on a bilateral basis. According to the European Commission, the main characteristics of this new generation agreements are opening up each other's markets for goods, services and investment. This implies removing or reducing unnecessary barriers for trade, as well as strengthening competitiveness and safeguarding intellectual property that will encourage innovation. In summary, The EU wants to make sure that imported goods are sold at a fair price without mattering where they come from while, at the same time, protecting EU producers from unfair competition. Its desire is to give a message to the world that it is standing against protectionism. However, the natural evolution of international trade has led countries to consider aspects that are increasingly adaptable to today's reality. In a world as globalized as the current one, treaties increasingly focus less on the elimination of almost non-existent tariff barriers, and more on aspects such as the quality of work, intellectual property or climate change (Rodrik, 2018). The fact that new generation trade agreements increasingly include more political issues has led to a greater number of private stakeholders intervening in the course of their negotiations. In this sense, one of the purposes of this research is to identify how a private actor can lobby EU institutions.

At the same time, the EU is currently in a negotiation process or has recently reached an agreement with ASEAN, Japan, Singapore, Australia, New Zealand, United States (TTIP), Canada (CETA), Mexico, MERCOSUR and Chile. Some of these agreements belong to the so-called “new generation”, which seek to modernize and update some aspects that the texts of the late 1990s did not yet contemplate. This, together with the growing global protectionism that we are experiencing, constitutes the justification of the EU to reinforce its networks of bilateral economic and trade agreements worldwide whereas still sticking to the multilateral setting that the WTO represents.. Mexico was the first Latin American country to sign a trade agreement with the European Union, in 1997 and, since 2016, has been in the process of negotiating to modernize that FTA. The American country is an example of this trend in global trade, where more importance is given to areas such as intellectual property, which is a pillar that will guide the research of this paper. (See appendixes 2 and 3 related to the EU and Mexico trade relations with third partners).

In connecting to the above, this paper is structured as follows: a theoretical background that focuses on New Generation FTA’s and the process of Lobbying the EU Trade Policy, accompanied by a research hypothesis; an overview of the trade relations between both partners and its transition; a comprehensive grasp of geographical indications and its presence in the new FTA’s and, finally, an analysis of tequila’s interest groups and their ways of lobbying the EU institutional framework.

## **2. THEORETICAL BACKGROUND**

### ***2.1. New Generation FTA’s and their legislative process***

The new generation FTA’s are a fundamental part of current EU common trade policy. Driven by the global paradigm shift we have mentioned, the treaties also pose a set of challenges for the EU. On the one hand, the difficulties in maintaining a single voice of consensus of the Member States increase as the FTA’s incorporate more and more issues to the agenda.. These frequent tensions are reflected in the legislative process for their negotiation and the subsequent approval. In this sense, trade negotiation processes of the EU are quite more complex than those of Mexico, both in their process as a whole, as well as in the number of actors involved. It should be noted that not only the main institutions have their role, but there are many other stakeholders that tend to lobby during the negotiations to end up with an agreement considered as beneficial as possible for them. The key points in this process are, firstly, the preparation phase, where the Commission, with the help of its delegation abroad, prepares the ground and conducts impact studies. Once the Commission receives the authorization of the Council, the negotiation rounds begin, of which the same Commission must periodically inform the Parliament and the Council. In the final process, the Commission sends to the Parliament and the Council the agreed text for approval by both institutions. Also, member states have the right to state any objection. (See

Appendix 7 for further information). Once the FTA enters into force, the agreement will be monitored through periodic Joint Committees. This complexity and scope of the process also gives rise to the intervention of a large number of private actors. Let's see it.

## ***2.2. Lobbying the EU Trade Policy***

When we think of a stakeholder, large companies comes to our mind. But lobbying in the EU Trade policy goes much further. From labor unions, industry associations, environmental organizations to digital issues representatives are all examples of stakeholders. The EU trade decisions are subject to a huge and varied amount of interest from all stakeholders on which they will take effect. Organizations that ask to be heard and taken into account can be both business clusters and non-governmental organizations (NGOs).

One of the consequences of the European integration process of recent years has been the transfer of powers of the Member States to the Union. This means that an increasing number of decisions are being made in Brussels and Strasbourg, which has further intensified their interest groups there. Even so, due to the veto power that Member States hold for some decisions, lobbying national governments to influence supranational decisions is still effective, and to a greater extent in mixed agreements like that of Mexico, where not all jurisdictions fall into the Union. However, interest groups are increasingly targeting the three main actors in the EU institutional landscape too: the Commission, European Parliament and Council of the EU (*inter alia* Weiler and Brändli, 2015). Different stakeholders can put pressure on each stage of a treaty preparation: pre-negotiation preparation, negotiations as such, and conclusion of an agreement. However, in the case of trade agreements, due to the weight that has been given to the Commission, which speaks on behalf of the EU as a whole throughout the negotiation process, it has made this institution the most attractive way for groups of interest to lobby (Woll,2009).

There is consensus in the literature that there are two distinct strategies for lobbying: outside and inside lobbying. According to Beyers (2004), the former can be described as a voice strategy. Outside lobbying is a more indirect way to put pressure. Its main actions can be events and public conferences to present a concrete argumentative message. Also, contacting the press to publish or publicize the stakeholder demand is also commonplace. Currently, this lobbying strategy is benefiting from the great impact that social media has on public opinion. On the other hand, inside lobbying is a process that seeks not so much to influence the general public but more direct access to European Union decision makers. This type of lobbying can be done with actions such as contacting EU-officials or drafting reports or positioning letters (*inter alia* Bouwen, 2004). Interested organizations must define their lobbying strategy based on the resources available (Dür, 2008). In this sense, human capital, financial capital, the rooting of the organization in a territory, or the support of a large number of citizens to that interest, are factors that will determine the bargaining power of these interest groups. This could be a reason that

explains why many organizations in any field have established an office in the European capital. Lobbying is also seen as a process of exchange of information (Chalmers, 2013). If we focus on what we have previously described as inside lobbying, the main challenge is to speak to or meet EU-officials who in turn need information. In this process, the interested actor is seeking to introduce its concerns in the political agenda and, if possible, to ensure that design of the policies or programs that favor or solve its need. In return, that organization can provide valuable information to the Commission. This type of information is normally technical, which will be able to provide expertise to a specific institution that is fundamentally political. (See Appendix 8 related to the Transparency Register created in 2008)

To date, literature has paid attention to the lobbying process during trade agreement negotiations by actors in the industrial field (Kim, 2017) and on how large companies with a high amount of resources manage to get the most of the pie in this pressure process (Blanga-Gubbay, Conconi, Parenti; 2020). Also, the existing literature focuses on how interest groups belonging to EU Member States are putting pressure on Brussels. However, there is a significant gap in the scientific knowledge in regards the interest group representations during a FTA negotiations, and, to a greater extent, of an actor defending the organized interest behind a Geographical Indication which in turn, represent one of the most outstanding novelties of the “New generation” free trade agreements.

### **3. OBJECTIVES AND RESEARCH HYPOTHESIS**

In connection to the above, this paper firstly aims to make a global analysis of trade relations between the EU and Mexico. The first objective is to understand how the demanding issues of international trade’s new paradigm are reflected in the modernized FTA. Moreover, the research seeks to contribute to the state-of-the-art of intellectual property and, especially, of geographical indications between both parties.

Secondly and relying on the scientific literature on interest representation in Western democracies, this research aims to provide a comprehensive answer to the hypothesis below:

*H<sub>0</sub>, the high and growing institutional complexity of the EU in trade negotiations with third countries makes interest groups of these countries seek to diversify their ways of lobbying the European institutions.*

### **4. EU-MEXICO TRADE TRANSITION**

Commercial ties between the European Union and Mexico have been constantly active during the last decades. The present section reviews the state-of-the-art as well as the most representative issues of this

strong relationship focusing on the FTA that entered into force in 2000 and, especially, on its modernization process, which concluded in April 2020.

In the current global geopolitical scenario, the on-going trade war between the United States and China, has meant the adoption of increasing protectionist measures not only by these two trade giants but also by many other actors. In this sense, the EU is gradually losing a fundamental partner such as the United States. For this reason, the EU is committed to strengthening its trade alliances with other countries, and this involves modernizing the older treaties with more ambition. On the Mexican side, the protectionist attitude of the United States has strained relations in USMCA. The dependence of the Mexican economy on the United States is extremely high, with most imports and exports to that territory. According to the above, the diversification of commercial partners is becoming critical for Mexico, in order to depend less on its northern neighbor. This is a clear example of the gravitational model in international trade (Helpman and Krugman, 1985). The economic weight of the United States in terms of GDP is enormous. If we also add the obvious close distance to Mexico, a very powerful natural business relationship is created, and almost impossible to change through laws and treaties. Still, Mexico's diversification aim was evident when Trump became president in 2016. From the following months, the willingness of negotiation with the EU grew very considerably (Interview 1, 2020). Another geopolitical factor to take into account is the Brexit and its impact on the EU external credibility. Considering all these elements, the EU and Mexico intend to demonstrate to the world that their commitment is for the freedom of movement of goods. Also, at the time of writing the final draft of this research, the Covid-19 hit global markets. So much so that Mexico's GDP is projected to fall a 7% in 2020 (Forbes Mexico, 2020). Similar forecasts are made for the EU (France 24, 2020). In this way, the EU-Mexico FTA enters into force at a time when international trade is under the greatest uncertainty in recent decades.

#### ***4.1. The original FTA***

Despite the current claims, the commitment to economic liberalization on both sides began much earlier. According to data extracted from the World Bank (2020), while in 1980 the European Union represented the 15.2% of Mexican imports, in 1997 it represented only the 8.7%. Mexican exports to the EU decreased from 15.9% in 1980 to only 4.6% in 1999. This fact is mainly a result of NAFTA development, as well as the treaties signed by Mexico with some Latin American countries, which had more preferences and advantages over Europeans for Mexico. Both partners were looking to recover free trade relations: the EU wanted the same status as United States and Canada, while Mexico wanted to have free access to an attractive market such as the European. If we look at the history of pre-treaty relations, until 1975, a large agreement was not signed between the two parties, with the former European Economic Community. Until then, the EU was more interested in developing its activity with

African ex-colonies and some Asian countries than with Latin America. The paradigm changed with the entry into force of the old NAFTA in 1994. In European eyes, the United States was benefiting from the Mexican market with conditions that the EU did not have. On the other hand, the political context that occurred in Mexico in 1997, favored a climate of closeness and understanding with the EU. The Institutional Revolutionary Party (PRI), after more than 60 years, lost its power in many administrations (El País, 1997), being the reelection in the Federal Congress its main defeat. The entry of new political actors was an opening in many ways, including the field of foreign trade, a fact that favored the course of negotiations and implementation. Until then, many Mexican political leaders viewed as an invasion of the national sovereignty the fact that an external body such as the EU asked for demanding standards in terms of human rights or compliance with international trade legislation. Mexico's relations with the European Union have had several stages before that first FTA. (See Appendix 9).

Negotiated from 1997 to 2000, at that moment it was considered the only free trade agreement signed by Mexico in which there is an explicit mention regarding to the differences in the level of development of both economies. Therefore, preferential treatment is given to the country, a fact that does not happen in other treaties to which Mexico belongs, such as USMCA, where economies from Mexico, the US and Canada are considered equally developed. In other words, there is an asymmetric treatment in favor of Mexico as the European tariff reduction would conclude in 2003, while the Mexican would do so four years later, in 2007. At the moment that it was concluded, it represented the most extensive trade agreement ever signed by the European Union. It set the main trade disciplines splitted into eleven issues. The chapter of market access included a schedule for tariff liberalisation taking into account the previously mentioned asymmetry. In terms of intellectual property, respect for the most important international agreements on the subject was agreed. However, each party reserved the right to protect effectively Intellectual Property Rights based on the "National Treatment" principle. (See Appendix 10 to find out all the chapters and their content.)

The agreed tariff suppressions or reductions were implemented quite quickly. For an important number of products, tariffs were eliminated exactly in the day that the agreement entered into force. During the following 4 years, all EU tariffs on Mexican industrial products imports were eliminated. After 8 years, all tariffs on European industrial goods imported by Mexico were also eliminated. In contrast, for some important agricultural products, tariff suppressions where not applied. Since 2000, trade in goods between the European Union countries and Mexico has increased in a significant way after the entry into force of the free trade agreement. Both exports and imports have more than doubled. If we try to see it in detail, the exports from the Union to Mexico have grown in a more rapid way than exports from Mexico to the EU. However, both partners strengthened gradually their relations after the agreement implementation. The European Union's share of Mexican exports was 3,8% in 1999 while represented a 4.9 percent in 2013. On the other hand, Mexico's share of EU exports went from 0.5% to 0.7 % (World

Bank, 2020). In terms of sectors, there has been a higher diversification of EU exports to Mexico than Mexican exports to the EU, which are slightly more concentrated.

Nowadays, the European Union is the second largest export destination for Mexico, after the United States, while Mexico represents the 12th export partner of the EU, being the first Latin American country in the rank (Observatory of Economic Complexity, 2019). During the last decade, the trade activity between both partners has clearly increased (see appendixes 4 and 5). Both imports and exports -from the EU point of view- have been growing with the exception of 2008-2009 period, when the global economic crisis strongly affected international trade and, especially, in western countries. Appendix 6 presents the trading activity between Mexico and the EU broken down by Member State. The EU Member States with a higher weight when considering import and exports volumes regarding to Mexico are Germany, as the main European economic power, being by far the largest trader with Mexico among the EU, and Spain, as an attractive market for historical and cultural ties with Latin America is the second partner. France, the Netherlands, Italy, Belgium and the United Kingdom also have a very important role as countries with a large and advanced economy.

In order to follow the evolution of commercial activity between the two parties after the agreement entering into force, Joint Committees and Joint Councils were created. These are the mechanisms used in the governance of bilateral trade agreements, being composed by various representatives from each party. The first meeting of these committees took place in October 2001 (one year after the implementation of the treaty) while the 13th and last meeting (see Appendix 11) was held in May 2019, in a context of full conclusion of the modernized treaty.

#### ***4.2. The modernized FTA***

After 16 years of positive results, the first contacts for an agreement modernization were established. From the European perspective, the 1997 treaty has been outdated in the face of the changing reality that the world is experiencing. The so-called first generation FTA's, which include the agreements that the EU signed in the late 1990s with countries such as Chile, Switzerland, Norway or Mexico; they have become too limited during these last two decades. In this way, it is considered that there is a potential that is not exploited with these countries, and especially in the case of Mexico due to its dimensions in terms of population and market development. The Union considers that European consumers of products from Mexico and European producers that export to Mexico are paying excessively high prices in the current international context. Furthermore, the set of technological changes and innovation of recent years is not reflected in the 1997 legal text. The European pursuit should also be understood in a context of declining multilateralism, where the WTO has seen its power and influence reduced, accompanying the low interest of the US in international trade during the Trump

era. All this draws a picture where the EU has been forced to strengthen the tool of bilateral trade agreements, in order to avoid losing weight on the international scenario.

With this new treaty, the EU seeks to make Mexico update its commercial commitment with the strictest world standards in recent years. In addition, the focus has been placed on promoting innovation and the protection of intellectual property more clearly. For instance, this section includes a list of European designations of origin that will be more protected. The environmental and labor aspects are also updated with stricter parameters than those of 1997. However, the main interest pursued by the European Union is the reduction in tariffs that Mexico still imposes on many European products. The sectors that will benefit the most from this suppression of tariffs are food products and agriculture. Fish products, machinery manufacturing and the pharmaceutical industry will also take advantage from it. In summary, European producers and exporters will gain considerably with the update of the treaty, because they will be able to sell their products to Mexico in a cheaper way. At the same time, European consumers will also benefit in the sense that purchase prices are going to decrease.

In the eyes of Mexico, as mentioned above, it is essential to start diversifying the destinations of its exports. For this reason, they are also looking for an ambitious text that will bring them closer to the European Union, which is currently its second trading partner. The main Mexican interest is the suppression of tariffs in agri-food matters. Consequently, plant products such as bananas or fish products such as tuna will enjoy an increase in exports due to the abolition of tariffs towards Europe. 86% of these agricultural and fishery products will be liberalized, which is a great advance compared to the original treaty. This liberalization will lead to an increase in the production of some products, a fact that will also affect the creation of direct and indirect employment. This was another of the topics pursued by the Mexican Government: providing quality employment to many citizens who are in poverty. In this sense, the new treaty will help protect certain Mexican artisan products, as well as some that are considered "national emblem". Also, according to what Luz María de la Mora, Subsecretariat of Foreign Trade of the Mexican government, explained in a conference in 2019, the new requirements in innovation "will imply that companies in Mexico have to raise their standards in order to have production processes. The fact of bringing these qualities at the highest level is good for the country"

Another interest that Mexico had is to clean up the image of corruption that it has related. Authorities aim to project Mexico as a credible and a reliable partner with which is possible to invest and trade safely and transparently. For this reason, it is aimed to establish demanding parameters to avoid commercial malpractice in both the public and private sectors while including a specific chapter on this issue. The Mexican negotiating authorities had to face the interests of 28 states, with the difficulty that there was a consensus in the entire block. For this reason, Mexico tried from the first moment of the negotiations to achieve strategic agreements with key countries for them (Trujano and Guerrero,

Foreign Affairs Latinoamérica, 2017). These are especially Germany and Spain, but there were also bilateral talks with Italy, France and Portugal.

Negotiations for the agreement concluded definitely at the end of April 2020. This delay is explained by a dispute related to the scope of the reciprocal opening of public procurement markets and its processes, which was the only issue that was missing to reach the final agreement. (see the modernization timeline in Appendix 12). The modernized agreement incorporates new chapters related to subjects very present today. Sustainable development, anti-corruption or telecommunications are some examples of the new content that appears. In terms of trade in goods, the most notable feature of the new treaty is the liberalization of foods such as rice, chocolates, flour, pasta or cookies. In some more sensitive products for Mexico, such as dairy or fruit, a gradual liberalization will be applied depending on the specific case. Another strong point of the new agreement is what refers to intellectual property. It has been one of the most difficult chapters to reach an agreement. The European Union requested a large number of geographical indications and the Mexican producers were not willing to accept them. In the end, a balance point was reached. An example is the fact that Mexican manufacturers will be able to produce “Manchego Cheese” under certain conditions.

Regarding to services, an attempt was made to update the treaty to the numerous recent technological changes. The elements introduced are maritime transport, telecommunications, total liberalization of electronic commerce between the parties. Another new chapter that did not appear in the 1997 treaty is the so-called sustainable development. This is where the commitment to fight climate change is established, through the implementation of supply chains that avoid highly damaging commercial activities for the planet. Finally, an important issue for the EU but specially for Mexico are anti-corruption policies. To guarantee appropriate practices, the improvement of internal control has been included, as well as external and financial information to contribute to the fight against corruption in commerce (See Appendix 13).

### ***4.3. Geographical Indications***

Protected geographical indications are a category or badge that a product receives because of its specific geographical origin. This origin gives it a reputation due to its quality, its artisanal means of production, its tradition, or other components that make it special in that region. Its function is the protection of that product to prevent it from being imitated. The geographical indication also certifies the true origin of the good and assures consumers and producers in the region special rights. More frequently in the most recent treaties, the protection of geographical indications is a matter in dispute during treaty negotiations. On the one hand, many European national producers of meat, for instance, are opposed to increase the degree of the market liberalization allowing Latin American food products to enter more easily. In contrast, the producers of the corresponding geographical indication out of Europe, tend to be

very interested in the free access to the EU market, considering how huge it is. The EU can recognize agricultural and food products, spirit drinks, wines and flavored wines as protected geographical indications. In parallel, there are 3 different types of geographical recognition (See Appendix 14).

International protection of geographical indications is found in the Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), belonging to the World Trade Organization (WTO), and also in specific chapters related to Intellectual Property of Bilateral Trade Agreements, which is the scenario we will focus on. In reference to D. Rodrik's findings, the evolution of commercial treaties and the growing importance of intellectual property has made the incorporation of appellations of origin into them more plausible. Within the framework of the FTA between Mexico and the European Union modernization, the negotiation of an Intellectual Property chapter is developed, in which we are able to find the recognition and protection of Geographical Indications. In the negotiations on these issues, the EU proposed to Mexico a list of 354 (Mexican Secretariat of Economy, 2017) product names in order to look for recognition and protection as geographical indications. 57 of them were cheeses. However, some of these geographical indicators had already been used in the Trade Agreement between the EU and USA. The Mexican private sector and producers did not agree with the great protection that the EU wanted to impose on some of its products, since they can only be produced in the old continent. Some of the products that have been a major problem are dairy products such as Manchego, Feta and Parmesan (Nájar, BBC, 2017). Mexican business sector's version is the fact that for many years in Mexico dairy brands have been developed with European processes, and that is a strong argument for not allowing Mexicans to be banned from using their name. They consider that while the label makes it clear that it has been produced in Mexico and not imported from Europe, no unethical practice would be taking place. Finally, the agreement reached states that 340 European geographical indications will be protected in Mexico, meaning that the union ended up doing some cessions to Mexican cheese producers. The main implications of the entry into force of regulations on geographical indications imply preventing its use in the designation or presentation and avoiding any use that constitutes unfair competition. Also, expressions such as "type", "class" or "style" are prohibited when referring to the product.

On the other hand, Mexico's side claims come from afar. The agreement signed in 1997 established the mutual recognition of the geographical indications of spirit drinks. (See Appendix 15). This step was due to the Mexican interest of protecting its products as the consumption of Tequila and Mezcal was getting high abroad, and also to avoid marketing of drinks with the false appellations of both spirit drinks. Despite of the fact that was Mexico the one who promoted this part of the agreement, there are also many European geographical indications included. Therefore, the scope of protection of it considers two issues: the obligation of both partners to recognize the origins of each parts' indications and, secondly, to avoid trading products with some false appellations regarding to their origins.

Summarizing, this agreement guaranteed to Mexico the exclusive use, in every sense, of Tequila and Mezcal in the EU single market. In consequence, it provides to Mexican exporters an additional incentive to produce for the EU. The legal basis used by the European Union to agree on this protection of spirits with Mexico, was the regulation published in 1989 (see Appendix 16) where the first stones were laid to "establish the general rules regarding the definition, designation and presentation of spirits". What at that time was still the European Economic Community (EEC) was committed to regulate a sector with great weight within agriculture. In this way, the regulation published in 1989 served as the legal basis for the agreement for the protection of spirits with Mexico in 1997, which ended up protecting 182 European spirit drinks in Mexico and Tequila and Mezcal in the EU. Another element that helped the recognition of spirits was the TRIPS agreement administered by the WTO. This legal text came into force in 1995 and included extensive regulation on the protection of geographical indications in international trade. In Articles 23 and 24 (see Appendix 17), specific reference is made to the protection of spirit drinks. 6 years later, in paragraph 18 of the Doha Declaration (see Appendix 18), the commitment of a supranational organization for the protection of spirits was confirmed.

## **5. TEQUILA AND THE EU**

As it is stated in the previous section, in recent years the EU has enhanced the recognition of certain geographical indications, giving them great importance. If we look at Mexico, the oldest and most representative denomination of origin (DO, hereinafter) is the Tequila. This DO was born in 1974 and, since then, has grown over time. Nowadays, its 2 categories, 100% agave and tequila, and its 5 classes (see Appendix 19) are present in 120 countries. One of the main markets is the European Union, where 20,5 million liters are imported each year (TRC, 2019). This constitutes the second export destination for this spirit drink, only behind the US (see Appendix 20).

Over the last few decades, tequila's relationship with the EU has been growing steadily. Below we are going to see in detail what have been the main milestones achieved by this Mexican geographical indication. Previous to the 1997 agreement, Tequila already had some protection in the world, and especially in the EU. The Paris Convention for the Protection of Industrial Property, to which Mexico joined in 1903, provided a framework for protection designations of origin. In the 1980s, in the case that a European company infringed industrial property regarding to tequila, the Mexican government, in charge at the time of its protection, had the right to claim through the aforementioned Paris Convention. In terms of export volume, the incorporation of Spain and Portugal into the EU in 1986 meant a natural entry of tequila into the EU. This fact considerably facilitated trade with the whole community in the 1990s and, even today, they are fundamental markets for this spirit drink.

### ***5.1. Main milestones***

In the early 1980's, when the European Economic Community was composed of 9 states, Mexico was already interested in negotiating greater protection of tequila. The course of those negotiations was fruitless. Europe called for the recognition of 22 spirits in exchange for one, tequila. Mexican authorities rejected the proposal and negotiations were broken. Once again in the 1990's, the EU was called as we know it now, and it was made up of 15 countries. At that time, individual countries such as France, Italy or Portugal already recognized the denomination of origin, but tequila producers aimed to secure the protections of Germany and Spain. In these countries there was no control over the quality of the product, and brands with supposedly Mexican names were generated (Ortega, 2019). Spain's case, according to Ortega, was of particular concern. The prices of tequila were ridiculous and, in regions such as Catalonia, it was made with cane bagasse, which did not guarantee any quality. Even so, these Spanish substitutive spirits had managed to capture 30% of the Community market, a serious threat to Mexican tequila producers. On the Mexican side, the most difficult part of the negotiation was trying to convince major players in Spain and Germany. The aim was for them to pressure their national governments to end these practices contrary to the protection of "regular tequila". Mexicans had the support of Mexican powerful companies with contacts in Germany and Spain, as well as some European beverage producers (Ortega, 2019).

In order to frame those Mexican demands, the European Commission set the parameters of the negotiation. It considered this issue as an extensible bargaining, which implied that tequila shouldn't be the only recognized beverage. Therefore and as a counterpart, many other Geographical Indications of spirits from EU Member States were included in these negotiations and achieved the later protection in Mexico. In addition to tequila, from the Mexican side, mezcal was the other protected denomination. This served as a precedent for countries such as Peru in its negotiations with the EU for the recognition of pisco. For Mexico, the protection was an incentive to improve the quality of tequila companies and make them more competitive. In addition, it was also an encouragement for other denominations of Mexican origin to claim their recognition in supranational institutions. Seen in chronological perspective, this recognition meant opening the doors to tequila in Europe. So much so that in the 100% agave category, the 49,000 liters exported in 1997 have now become 2,100,000 (TRC, 2020).

After the main milestone that Tequila achieved in the European framework in 1997, there have been other subsequent recognitions for the designation of origin. All of them have been persecuted by tequila associations, in order to benefit the reputation of the product and the activity of its producers within the EU Single market. In 2008, the Tequila Regulatory Council submitted the registration application to the Intellectual Property Offices of the European Union (EUIPO) in order to achieve the category of Collective Trademark for Tequila. The registration was granted on September 15, 2009.

Four years later, Tequila became the first non-European geographical indication to have specific protection in European customs, thanks to the customs regulations published on June 12, 2013,

regarding the supervision of the customs authorities of respect for Tequila's intellectual property rights and its regulations (OJEU, 2013). With this measure, control at European customs would be intensified to prevent the entry and circulation of counterfeit products that do not respect intellectual property rights. It meant another advance in the protection of Tequila to ensure its authenticity.

As we previously mentioned, the EU legal basis used for the recognition of 1997 was the common legal text of 1989. In contrast, the latter was replaced with that of 110/2008 (see Appendix 23), whose novelties have been the basis for the protection granted in 2019. This protection, the result of a long process of negotiation, represents the maximum distinctive that the EU can grant to a Geographical Indication. In this way Tequila receives the same protection as any European Geographical Indication on European territory. It is not usual for community institutions to recognize an indication belonging to an external country. In fact, in non-community alcoholic beverages, only pisco from Peru and rum from Guatemala have received the same distinction (Hogan, 2019 ). The request to include tequila in the European registry dates from 2012. However, the process was delayed due to different criteria among the EU countries themselves (Valenzuela, 2019).

For practical purposes, deeper protection should be provided to the spirit drink. First, this 2019 regulation goes much further than the one in 1997 and includes protection regarding to product allusions. The uses and references of tequila as an ingredient or complement in other food goods such as chocolate and other alcoholic beverages such as beer, are also protected from now on. On the other hand, there will be a customs control in transit. As an example, if the route of a product is from Mexico to Hong Kong, but for logistical reasons it has to stop at the Barcelona customs, the European customs will have the ability to identify possible irregularities or violations (TRC, 2020). Consequently, this factor helps protect Tequila, not only in Europe, but when it goes to other destinations in the world and passes through Europe. In addition, with the new regulation, even if the product originates from Mexico, it will receive an extensive revision to avoid any infringement of the designation of origin. Another point is about consumer safety, which states that accurate and truthful information must be available. as for the geographical origin of the product and its qualities, as well as characteristics derived from this origin.

Summarizing, this registration provides advantages to the agave-tequila chain, as well as for European consumers such as the right to exclusive use, that is, no one can use the Tequila Geographical Indication for the same or similar products, without authorization from the Tequila Regulatory Council. However, the interpretation of the facts will not always agree with everyone or, what is the same, the theory is not always understood in the same way by all the parts. Proof of this is how an Amsterdam lower court ruled in Heineken's favor in May 2019. The TRC sued the company for the use of the Tequila brand in its *Desperados* drink. The Mexican body, based on this 2019 protection, alleged that *Desperados* had a

very low percentage of Tequila to advertise and market it under its brand. But the European court ended up passing judgment in favor of the Dutch multinational (Rechtspraak.nl, 2019).

Including this particular recognition for Tequila in the global modernization of the FTA can also be understood as a new step in the importance of intellectual property of new generation treaties.

## ***5.2. Tequila's Interest Groups***

The high protection standards granted to Tequila are not a random outcome. Rather the contrary, they have to be understood as the result of a sustained activity over time of key actors representing the producers' legitimate interests to increase their production, to diversify their target markets. Some of the most important producers are affiliated with the National Chamber of the Tequila Industry which is considered the association including the largest industrial companies in the sector. However, the body which is in charge of regulating and representing the interests of the whole tequila sector is the Tequila Regulatory Council (see Appendix 21). It is worthy to note that the National Chamber of the Tequila Industry exercises a lobbying action over the Mexican Government and the Tequila Regulatory Council (TRC, hereinafter) at a national level, arranging regular meetings with them. Even so, as discussed below, this paper mainly focuses its attention on the TRC, which is able to play a role in the international arena.

Like any other Geographical Indication of Origin, Tequila has stakeholders that seek to improve its accreditation, development, growth, expansion and reputation. Currently, the production of this drink is carried out by companies with different characteristics. From agave farmers, through tequila producers, to packers or marketers. All of them are examples of key players interested in the success of the production and supply chain. Furthermore, the existence of closely related industries such as the production of glass bottles, the horeca sector or tourism should not be forgotten either. Up to a total of 158 tequila companies are accredited to be part of this designation of origin. Among them, we find from large multinationals such as Cuervo and Herradura, with their perfectly consolidated export and production networks, to small family businesses that are beginning to show interest in exporting.

As mentioned, the Tequila Regulatory Council is the institution in charge of recognizing the previous companies as formants of the Geographical Indication. Also, it is the only body in the tequila industry that has the power to speak and negotiate on behalf of the denomination of origin in foreign trade scenarios, under the governmental authorization of the Secretariat of Economy. This organization, founded in 1994, has 5 offices around the world: Madrid, Geneva, Washington, Chicago and Shanghai; the first two being in charge of their activity in Europe. The origins of this body were inspired by Regulation Councils of other European appellations of origin, such as La Rioja wine or cognac, due to the wide experience they had in the old continent's *praxis*. TRC's main functions are the regulation and

verification of the authenticity of the appellation of origin, the generation of useful information for producers' interests and the defense of the appellation in Mexico and abroad. In addition, it is an interesting actor for its 360-degree vision of the sector since the TRC, being a private institution, brings together all the actors in the production chain. Firstly, we find the tequila producers. These are internally divided into large, medium, small and micro, according to their size. Secondly, there are the agave farmers, who are also classified according to the number of agave plants they have. Both the former and the latter have representation on the Board of Directors regardless of their size. Third, packers and traders set up another pillar for TRC. Finally, the Government and public authorities represent the fourth leg. All actors have the right to vote in TRC decisions, except the government, which cannot vote but does retain the right to veto. As we can see, it is not a particularly atomized industry but neither is it highly concentrated. Therefore, the cooperation of each of them helps the TRC to develop its main lines of action: the verification unit, the certification body and the testing laboratories.

### ***5.3. From Jalisco to Brussels: Lobbying the EU Trade Policy***

The materialization of the demands of interest groups presented in the previous section is strongly conditioned by their coordination, as well as the predisposition of public authorities to assume them. In this section, we will see what these phases are like and the role that TRC plays.

Any public institution, as we have seen previously, needs legal and technical knowledge to be able to influence a negotiation or conduct an inside lobbying (De Bruycker and Beyers, 2019). The TRC is responsible for providing this technical knowledge to the Mexican government in order to go to the EU. The valuable information that TRC manages is obtained through constant and exhaustive monitoring in different work areas. In Mexico, the TRC receives the demands of its associates, both tequila producers, agave farmers and packaging companies. These provide their concerns, goals and wishes to the TRC. On the other hand, the constant scientific analysis carried out in the laboratories through physicochemical and microbiological tests, provide a high level of expertise in maintaining the originality and subsequent protection of the beverage. The TRC also has competences in customs. In this sense, the organization is present in all the customs offices in the world where tequila is imported, guaranteeing a crucial level of control and acquisition of information, and, in parallel, monitoring any changes in laws affecting Tequila around the world.

We have previously seen that interest groups, in order to influence EU trade decisions, can directly pressure European institutions or, alternatively, influence and transfer their aspirations to the national authorities so that they are the ones who defend their interests in the European institutions (Dür and Mateo, 2012). Taking into account that we are talking about a non-European industry, the second mechanism becomes more viable. If we keep focusing on this inside strategy, the TRC made its first major move at the European level in the framework of the negotiation of the 1997 spirits agreement

explained above. To achieve this, there was a coordination and a strategy of unity of action among tequila producers, agave farmers, packers, marketers and the Mexican Government (TRC, 2020). In this strategy, the representatives of each of the phases of the production and supply chain discussed in the Board of Directors of the TRC what the priorities and the main interests to pursue were.

In a negotiation process like the one with the EU, the TRC takes the technical arguments, supporting and providing valuable information to the Government. The latter is the one who has the power to negotiate with the European Commission. Looking at it from another perspective, we are in a relationship of symbiosis between national actors (Dunleavy and O'Leary, 1987). Whereas the Mexican Government is the one who takes the voice of the TRC to the European institutions, the TRC is essential to provide technical knowledge -expertise- to a body which is mostly political: the Subsecretariat of Foreign Trade of a Government.

This type of coordination was also reflected once the 1997 agreement was signed. In a previous section we have mentioned the creation of Joint Committees to monitor and regulate compliance with the global free trade agreement, which entered into force in 2000. A posteriori, 13 Joint Committees have been held. Representatives of the Commission and the Mexican Government attended these sessions. Prior to holding some Committees, the TRC has met with members of the Mexican Secretariat of Economy to convey their main concerns regarding the protection of Tequila in the European market. These previous meetings served so that the demands of its associates could reach high European institutions. The most common requests included specific discrepancies regarding some interpretation of the agreement that affects the protection of the appellation of origin in European countries. The Mexican public authorities were in charge of getting the messages to the old continent through the aforementioned Joint Committees (TRC, 2020).

Moving to more recent years, the 2019 recognition was pursued by the TRC, who made the application for registration in 2012 in the European Commission. This action was carried under the necessary authorization of the Mexican government, who is the holder of the denomination of origin. On February 27, 2019, the registration of Tequila as a protected Geographical Indication was published. In this case, it was the private body itself, under the approval of the Mexican public authorities, that went directly to the EU institutions. For the registration of this request, it was necessary to present a technical report, prepared by the TRC itself and the support of the Mexican Institute of Intellectual Property. This dossier, presented to the General Committee of Agriculture, had to pass two filters in the European legislative process. The first was a study of the regulatory impact of the entry into force of this application. The Commission's legal team had to analyze that there was no incompatibility with all existing legislation. Secondly, the so-called public consultation is the period where, once the text has been translated into all the official languages, it is reviewed for approximately two months by the Member States, with the possibility of receiving objections. This was precisely the case. Two spirits

associations (Spanish and Belgian) disagreed, claiming that the TRC's request goes against free trade due to the high requirements required for bottling, labeling and supply. The TRC responded by insisting that bottlers or bulk traders are free but must have the official certificate in their activity to ensure the authenticity of the drink. They also recalled that Tequila already enjoyed this protection thanks to the 1997 agreement. The Commission ended up agreeing with the Mexican body, after insisting on its arguments, and Tequila became a protected GI.

We consider integrating this issue in the present section due to the importance of differences in the performance of both contexts. In the case of 2019, when it comes to presenting technical reports for the maximum protection of a single denomination of origin, it is directly the TRC who turns to the European institutions with its scientific arguments. Since the DO was trying to achieve the highest level of protection which can be recognized by the EU, the Commission was interested in obtaining a clearly technical argument and, consequently, it recognized as an interlocutor the TRC, who could provide it in a more consistent way than a governmental institution (Dür and Mateo, 2012). In contrast, in the case of 1997, the protection of tequila was accompanied by the protection of a large number of other denominations (both European and Mezcal on the Mexican side). Therefore, the defense of the respective recognitions are carried out bilaterally, between the Mexican Government and the European Commission. This framework, then, assumes that the tequila interest groups, represented by the TRC, had to forward their requests to the national government. This can be related to the existing literature regarding the fact that the EU prefers to negotiate with a single counterparty, for reasons of faster efficiency, as well as for equity and legitimacy.

Finally, we see how the TRC itself tries to attract the public to its cause or purpose: to promote the consumption of tequila among Europeans, as well as to encourage its knowledge, protection and reputation. To do this, it organizes public events in European cities, sometimes jointly with tequila producers, where informative and didactic contents of the denomination of origin are exposed. An example of this would be the workshops or tastings of tequila in the cultural houses that Mexico has in European countries (Casa de México en España, 2019). With such actions, the TRC makes the designation of origin known in European countries, in order to create interest in it, and, consequently, to create possible potential niche markets that would need trade flows to supply them. This type of strategy can be categorized within the outside lobbying according to the grounded theory (inter alia, Weiler and Brändli, 2015).

## 6. CONCLUSIONS

This project reviews the modernization of the trade agreement between the EU and Mexico. In so doing, it contributes to the better understanding of the lobbying activities carried on during the negotiations. In particular, the analytical focus is put on the tequila sector.

In global terms, we see how the new agreement coincides with the trend of international trade in regards to the incorporation of elements that go far beyond the abolition of tariffs (Rodrik, 2018). Both sides have shown interest in incorporating issues related to the fight against corruption, the use of new technologies or environmental commitments that will be key to the needs of the global world around us. Intellectual Property is another crucial chapter we have identified, which is often closely related to industrial patents or innovation. However, in the case of territories as rich in DO's as the EU and Mexico, it takes on special importance in the protection of geographical indications.

Focusing on Tequila's DO, the main findings of this research can confirm our main initial hypothesis. Therefore, the analyzed lobbying structure of a non-European Geographical Indication in the context of a trade agreement negotiations is far more aligned and co-ordinated with government institutions in the same country, than in the case of more purely industrial sectors belonging to EU Member States, where lobbying is usually produced more independently by large companies or associations of the same. This could be explained by two factors. Firstly, both the physical distance and legal complexity for non-European interest groups with EU institutions could, *a priori*, create a competitive disadvantage against EU interest groups when pursuing their interests in the Union. However, this research constitutes an example of how the persistent coordination between public and private national institutions of a non-EU sector has served to reach desirable goals. In this way, tequila's stakeholders' interests are reflected in the European legal framework, obtaining the highest protection for the DO, the same level than any European Geographical Indication can reach. Secondly, the added value that a Geographical Indication brings to the country in terms of culture, tradition or history may encourage institutions to become involved in their protection (Coombe, Ives and Huizenga; 2014), although, as a result, the interests of private companies are those which end up receiving this protection. In contrast, in the case of outside lobbying (Dür and Mateo, 2012) we have seen how the TRC on his own and without the need of Mexican institutions support, has demonstrated capacity to conduct its lobbying actions.

The analyzed lobbying structure (see Appendix 24), which is composed by a wide range of mechanisms and strategies, has led to a successful performance of the DO in the EU market. In this way, the present project could illustrate an applicable lobbying model for other Latin American denominations of origin to pursue their protection in high European institutions.

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## 8. APPENDIXES

### APPENDIX 1: Interview table

Interview number	Organization	Name	Role	Date
1	British Consulate in Guadalajara (Mexico)	Manuel Mandujano	Deputy Head of Trade & Investment of the Department for International Trade in Guadalajara	15/04/2020
2	EU Delegation in Mexico	Anonymous	Anonymous	23/04/2020
3	Tequila Regulatory Council	Anonymous	Anonymous	25/04/2020

Figure 1

*APPENDIX 2: The State of EU Trade. Source: European Commission (2018)*

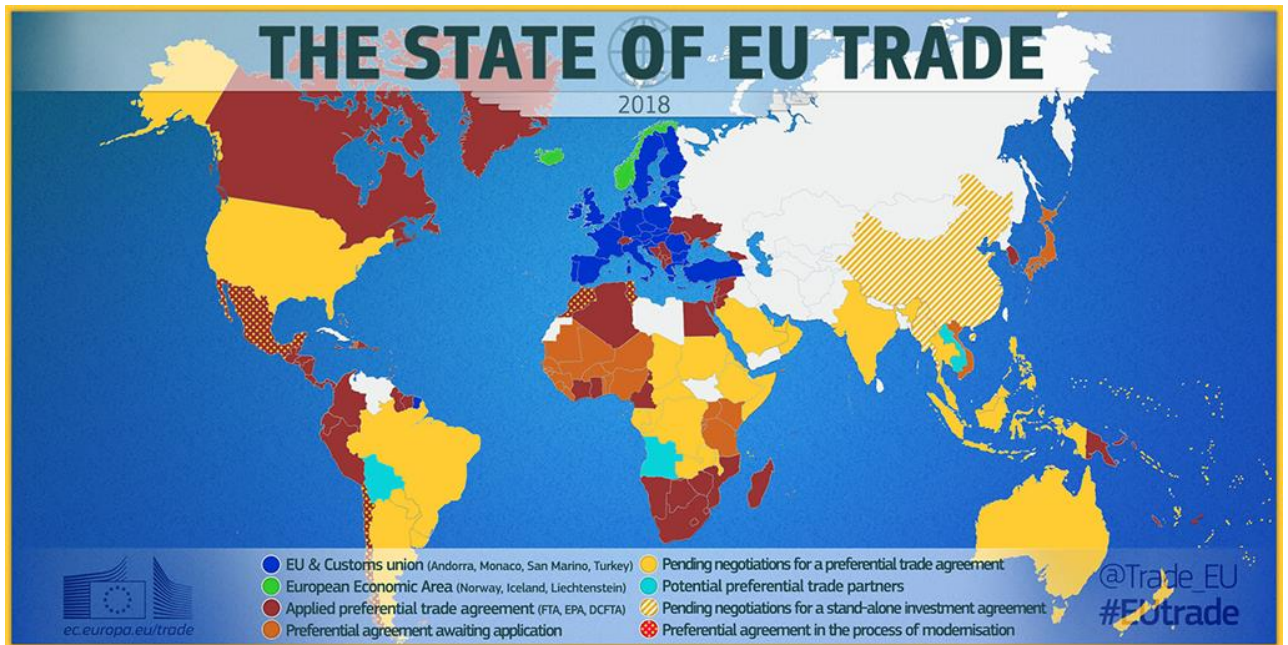


Figure 2

*APPENDIX 3: The State of Mexico Trade. Source: Mexican Subsecretariat of Foreign Trade (2017)*

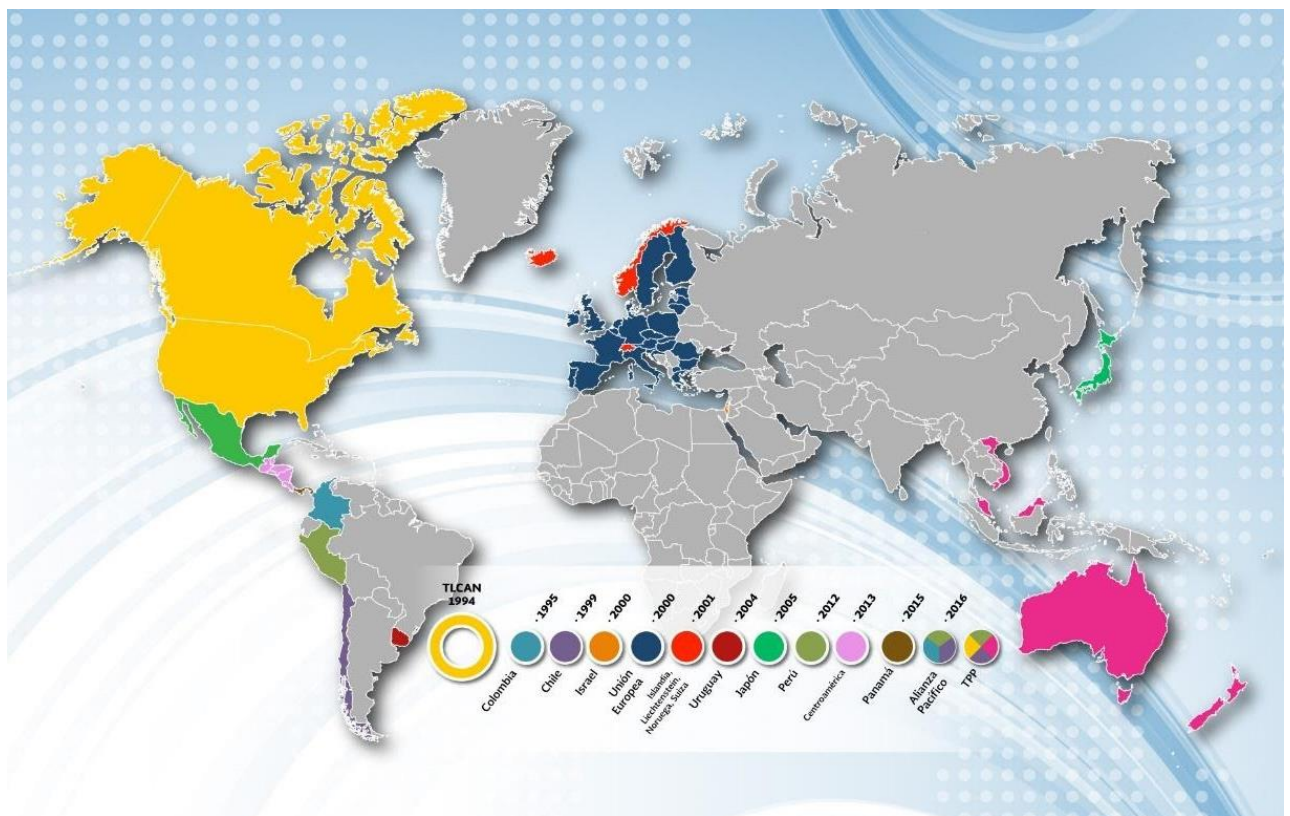


Figure 3

*APPENDIX 4: EU-MEXICO Trade evolution during the decade after the FTA came into force. Source: Eurostat & Banxico.*

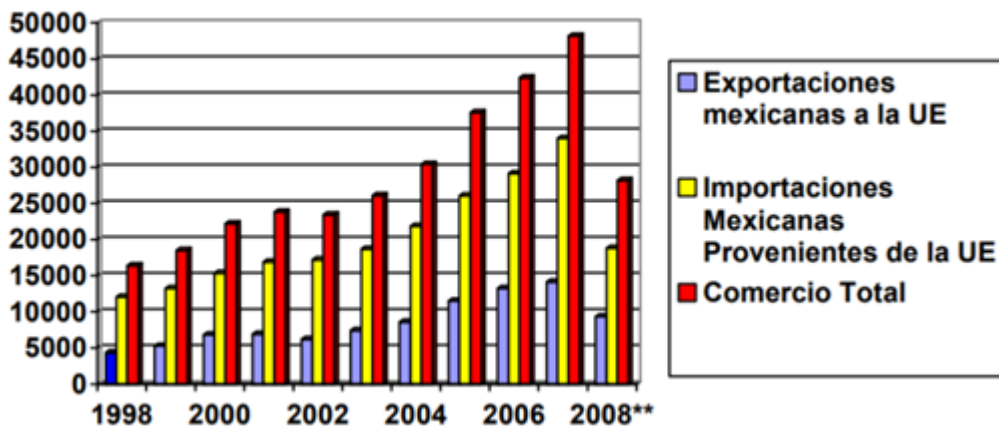

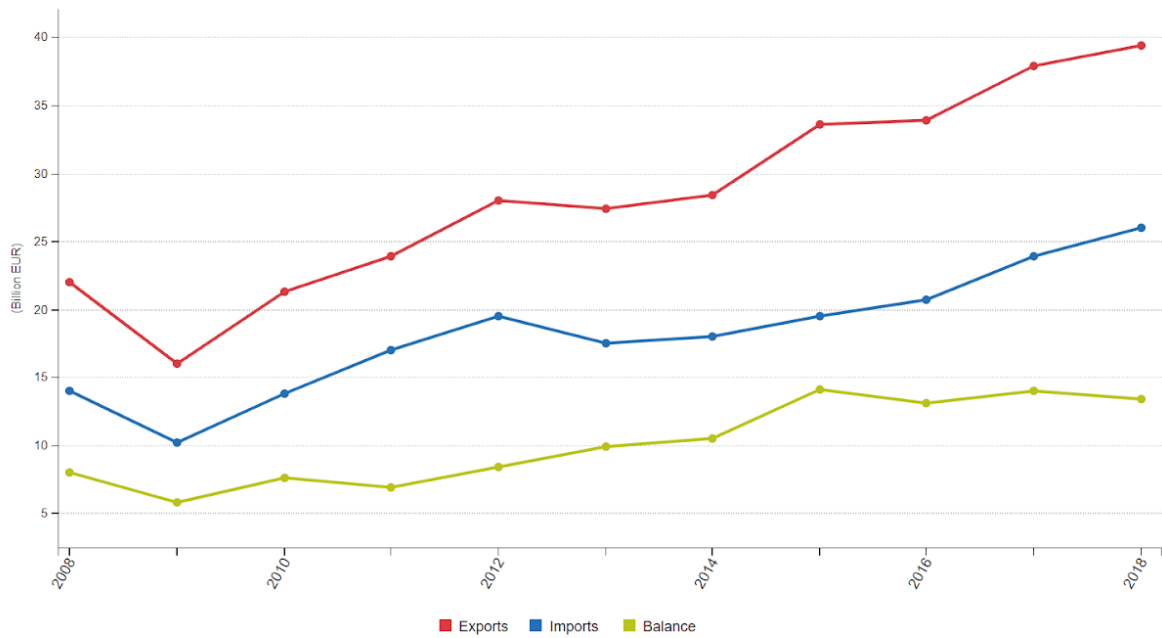


Figure 4

**APPENDIX 5: EU-MEXICO Trade evolution during the last decade. Source: Eurostat**

Imports, exports and balance for trade in goods between the EU-28 and Mexico, 2008-2018 



Source: Eurostat (online data code: ext\_lt\_maineu)

eurostat 

Figure 5

**APPENDIX 6: EU-Mexico trade of goods splitted by member states. Source: Own elaboration, data retrieved from Eurostat 2018.**



Figure 6

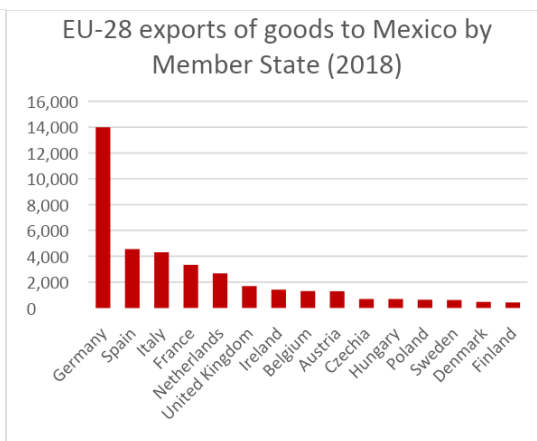


Figure 7

***APPENDIX 7: EU FTA's legislative process. Source: own elaboration through EU Commission infographics.***

In the first place and as a preparation phase, the Commission is responsible for preparing reports on the impact that a supposed treaty would have, public consultations on the contents that should appear in the agreement, as well as an informal position of what the two parties want. This dynamic is an example of how the member states hand over their decision-making capabilities, who give all the negotiating power to the Commission. The aforementioned reports are often commissioned to the EU's external delegations, in this case, the one located in Mexico City. The delegations carry out research activities in the arena, speak in first person with actors from the partner country, as well as monitor the subsequent compliance of the agreement. In summary, they offer logistical support to the executive power of the Union (Interview 2, 2020). Once the Commission decides to move forward with the process, it establishes the main negotiating guidelines and communicates it to the Council, the Parliament and the national parliaments. The Council approves and authorizes the "negotiating mandate" to the Commission. The Chief Negotiator of the Commission on trade issues proposes to experts in the field of the Commission that they will conduct the negotiations.

The negotiators in charge establish the negotiation rounds, their scheduling, as well as the topics discussed in each of them. The Commission must periodically report the status of the negotiations to the Commission and the Parliament. The Commission regularly consults the Council's Trade Policy Committee (TPC), which is responsible for assisting the Commission in negotiated matters. Throughout this negotiating process, it is also common for some governments of the member states to speak to intervene to pressure their interests. An example of this is the FTA with Mercosur. Some states with significant meat production were reluctant to the high levels of liberalization that the agreement has included. In the final negotiation process, the Commission sends the final text of the future agreement to Parliament and the Council. Next, the lawyers and linguists of the Commission and the Council review the text, to avoid misunderstanding and legal confusion. It also ensures that both parties understand the same. In addition, the text must be written in the 23 official languages of the Union (Charter of Fundamental Rights of the European Union, 2012).

Once the final text is established, the negotiators of both parties consider negotiations to be finished. The Commission sends the text to the Parliament and the Council, which is now ready to be signed. For the signing process, the Commission writes the proposals on the decisions of the provisional application of the agreement and its conclusions. The Trade department of the Commission sends these proposals to the Council and to the College of Commissioners so they can adopt their positions. The Council confirms that the treaty can be signed so, consequently, both parties sign it. The Council decides who does it and is usually signed by a government minister of the country that presides over the Council that year. After signing, the Council sends the agreement to Parliament. At this stage, the

Trade Committee consults with members of employers' associations, industries, unions, environmental organizations and other experts. This committee writes a report on the treaty and votes on it. This is the document that will serve as a reference to the Parliament. Finally, the agreement is voted by the chamber of representatives. Once Parliament approves it, member states (in the case of a mix agreement) must ratify it, and on the other hand, the other partner involved as well. To make a point, the mixed powers are those that the Union shares with the Member States, while the exclusive or pure ones are those in which the EU has complete decision-making power. This degree of delegation has historically been questioned and debated (Meunier and Nicolaïdis, 1999). Once all these steps have been approved, the agreement can come into force. As we are going to see later, the EU regularly monitors the agreement through the Joint Committees, and also receives information and consideration on-site from its delegation abroad.

From the Mexican side, the mechanisms Mexico has in order to intervene during FTA negotiations in Brussels can be materialized through the Permanent Mission in the EU. This mission includes a Mexican Embassy covering the territories of Belgium and Luxembourg. The ambassador of these two countries holds, at the same time, the position of head of the Mexican Mission to the EU. In addition to these stable diplomatic structures, the voice of the Mexican Government also arrives in Brussels frequently through the visit of Ministers to address specific areas of action. Another channel of communication occurs during the negotiation of trade agreements like that we are studying. In this case, they do not necessarily have to be the highest authorities on both sides. A group of members, capable in both the legal and technical fields, are the representatives of the Mexican Government and the Commission during the negotiating rounds, where the interests of private sectors such as tequila's are exposed.

***APPENDIX 8: EU Transparency Register. Source: own elaboration through data from DW.com***

To improve its image and avoid being viewed as a "club of friends", the EU created a transparency portal in 2008 (Transparency Register), an open database for stakeholders to register, to disclose their financial information and interests to the Commission and the Parliament. This tool also allows citizens to have access to information from lobby organizations. Most of the organizations that push Brussels, belong to the European territory, but according to data from this same registry published by DW.com, about 10% come from overseas. Of these, the country whose organizations spend the most in lobbying is the United States, followed by far by China and Japan. In the case of Mexico, we find it at number 19 among the non-European countries list.

**APPENDIX 9: Main stages of EU-Mexico relations. Source: Own elaboration**

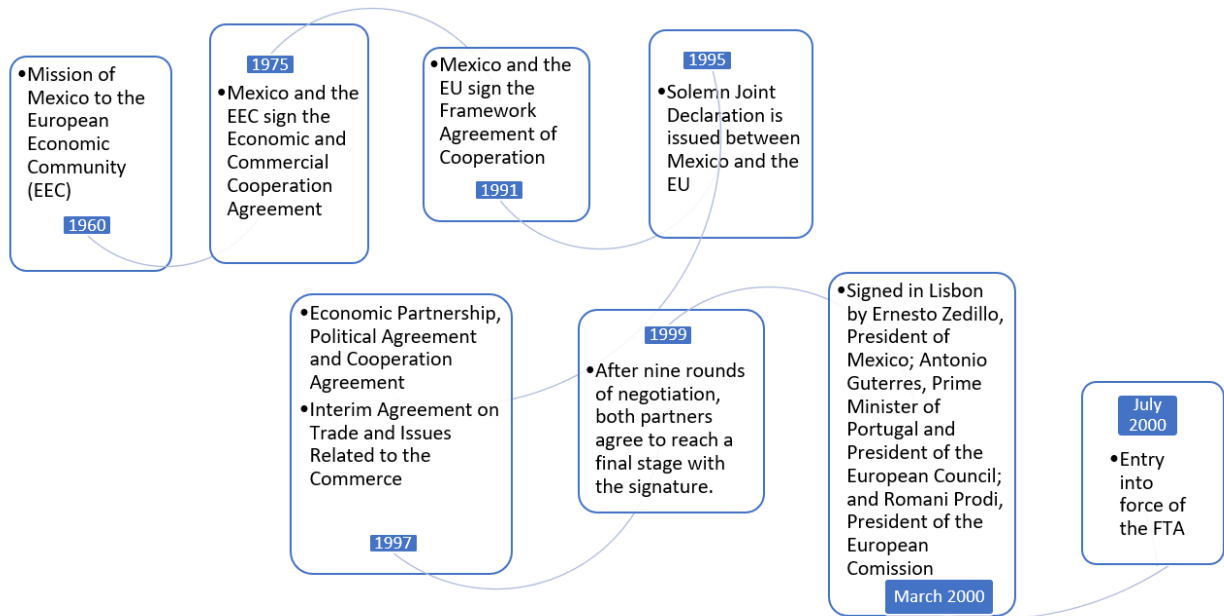


Figure 8

***APPENDIX 10: Main contents included in the chapters of 1997 FTA between the EU and Mexico. Source: own elaboration***

- **Market access**, including a schedule for tariff liberalisation: A process of bilateral and preferential, progressive and reciprocal relief, incorporating the fundamental principles of "national treatment" and "no discrimination". Recognition of asymmetry between Mexico and the EU.
- **Origin Rules**, and customs cooperation: Ensure that the advantages of the FTA-EU are granted only to goods produced in the free trade zone and not to goods that are fully or mostly elaborated party in other countries outside the area.
- **Safeguards**: Description of the emergency measures that will be taken to protect national industries, in case of a sudden rise in imports due to the same treaty. Safeguards can be bilateral, if the sudden raise of imports come from the other partner, or global, if they come from the rest of the world.
- **Standards, Technical Regulations** and Conformity Assessment Procedures: Retain the rights to adopt and enforce the rules provided, when these do not represent unnecessary barriers for trading.
- **Sanitary** and Phytosanitary Measures: It confirms the right of each country to determine the level of sanitary protection that considers appropriate. In addition, it states that each country can reach the level of protection based on scientific principles and a risk assessment; as long as they don't turn into unjustified restrictions to trade.
- **Government procurement**: It sets the access conditions of the suppliers of goods, services and public works to the Mexican and European government purchasing systems. Both parties agreed to gradually and reciprocally open the markets in the framework of transparency.
- **Competition policies**: Promote technical cooperation and information exchange, avoiding monopolistic practices or restricting trade between the parties.
- **Trade in services**: The treaty refers to two areas: cross-border trade in services, which covers construction, transport, telecommunications, tourism or port services; and financial services. Commitment not to establish restrictions of service providers in the territories.
- **Investment** and related payments: Both parties are encouraged to promote mutual investment. The foreign investor will enjoy non-discriminatory treatment in the countries of the region, with respect to its establishment, acquisition, expansion and administration. Streamlining many bureaucratic processes.
- **Intellectual property**: Respect for the most important international agreements on the subject. However, each country reserves the right to protect effectively Intellectual Property Rights based on the "National Treatment" principle. This section also refers to the recognition of geographical indications of both regions.

- **Dispute resolution:** Problems arising from the interpretation of the agreement will be treated in a similar way to WTO dispute resolution mechanisms. A Joint Council integrated by members from the government of Mexico, the Council of the European Union and the Commission will monitor the implementation of the Treaty.

***APPENDIX 11: 13th EU-Mexico Joint Committee (introduction chapter)***

**13th EU-Mexico Joint Committee  
(Trade Issues)**

**21 May 2019**

**Joint Minutes**

The 13th EU-Mexico Joint Committee on trade issues took place on 21 May 2019.

The Mexican side was led by Under Secretary Luz María de la Mora. The Commission side was led by DG Trade Deputy Director General, Helena König. Experts on both sides also participated (delegation list attached).

**I) Introductory remarks**

Both sides stressed the strong strategic relations between the Parties as well as the long history of collaboration at the multilateral level. They recalled the significance of the strong bilateral trade and investment relationship and agreed on the importance of holding regular meetings of the Joint Committee under the existing Agreement.

Mexico highlighted that, since the trade decisions of the Global Agreement entered into force, the trade and investments have had a deep growth between the Parties, the respective markets were opened to each other, diversifying imports, and promoting value chains. It has also benefited consumers by providing them with more options and promoted strategic partnerships between Mexican and EU companies through the network of trade agreements of both Parties.

The Parties also stressed the important achievement reached in April 2018 with the political agreement on the trade part of the modernised Global Agreement. Both sides agreed on the need for a swift conclusion of all outstanding aspects of the modernisation process to allow proceeding to the signature and ratification of the modernised Global Agreement.

The EU informed Mexico that it is preparing the 2018 Implementation Report on the existing Agreement, which will confirm the importance of the bilateral trade relation and the positive trends. The report will show that bilateral trade flows in goods and services continue to grow, demonstrating the positive effects of the Global Agreement for both sides.

On the multilateral issues, the Parties showed their concerns about the WTO system, specifically on the dispute settlement mechanism and the Appellate Body.

**APPENDIX 12: EU-Mexico FTA - Modernization timeline. Source: Own elaboration**

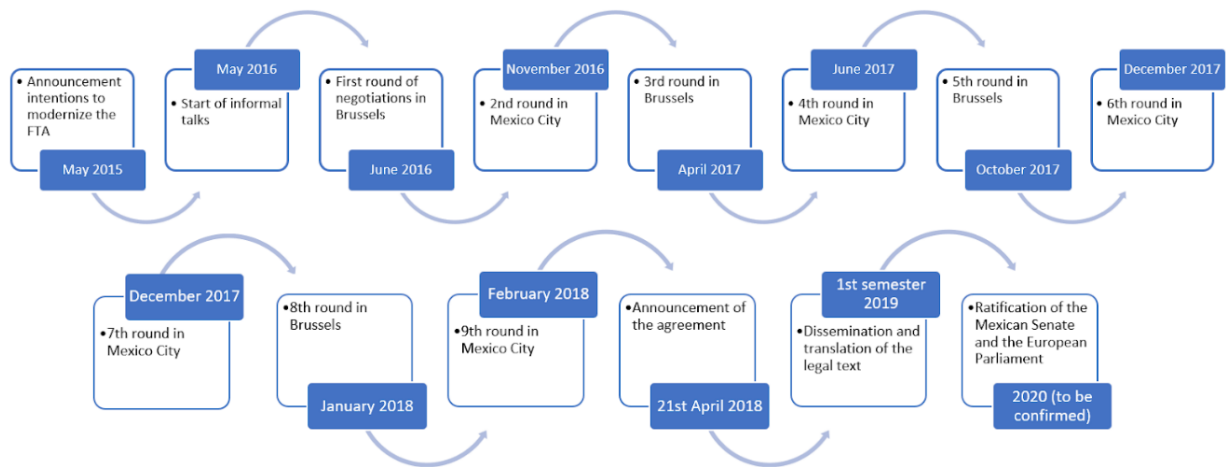


Figure 9

***APPENDIX 13: New issues of the EU-Mexico modernized FTA. Source: Own elaboration with data of the Mexican Secretariat of Economy***

- **Trade in goods:** liberalization of products such as rice, chocolates, flour, pasta or cookies. In some sensitive products for Mexico, such as dairy or apple trees, liberalization will be gradual in specific terms depending on the product.
- **Rules of origin:** update of the criteria to consider a product originating from a territory.
- **Trade facilitation:** it is a new chapter that seeks to simplify and make more transparent the customs legal procedures.
- **Intellectual property:** It has been one of the most difficult chapters to reach an agreement. The European Union requested a large number of geographical indications and the Mexican producers were not willing to accept them. In the end a balance point was reached. An example is the fact that Mexican manufacturers will be able to produce “Manchego Cheese” under certain conditions.
- **Services:** At this point an attempt was made to update the treaty to the numerous recent technological changes. The elements introduced are maritime transport, telecommunications, total liberalization of electronic commerce between the parties, financial services and more freedoms for people who enter to provide a business service.
- **Sustainable development:** a commitment is established to use supply chains and steadfastly against climate change in a sustainable way.
- **SMEs:** promoting activity so that small and medium-sized companies participate more in international trade, through incentives and more information
- **State-owned companies:** Principles are established for private companies to compete fairly with public companies,
- **Anti-corruption:** Includes the improvement of internal control, external and financial information to contribute to the fight against corruption in commerce.
- **Dispute resolution:** Mechanisms to resolve misunderstandings regarding the interpretation of the Treaty are improved. Regarding investments, for the first time a court with arbitrators is established to encourage international investment and provide certainty to investors.

***APPENDIX 14: Categories of Geographical Indications recognized by the European Union. Source: own elaboration with retrieved data from the EU Commission official webpage***

- **Protected designation of origin (PDO):** In this category, the strong ties that the product has with the place where it has been made is especially valued. Wines, agricultural products and food products are the most frequent. In the case of wines, they must have the 100% of the grapes cultivated in the same geographical area.
- **Protected geographical indication (PGI):** The main asset to take into account is the relationship between the name of the product and its geographical area, since it is recognized for its reputation and attributes. In this typology, agricultural, food and wine products are the most common. The wines, in this case, must have at least the 85% of their grapes from that geographical area.
- **Geographical indication of spirit drinks and aromatised wines (GI):** In this case, the European Union recognizes special locations where spirit drinks or aromatised wines are produced that have a reputation and outstanding attributes. An example would be Tequila or Mezcal from Mexico.

***APPENDIX 15: 1997 Agreement between the EU and Mexico on spirit drinks (first page).***  
***Source: Published in the Official Journal of the European Communities (1997)***

No L 152/16



Official Journal of the European Communities

11. 6. 97

**AGREEMENT**

**between the European Community and the United Mexican States on the mutual  
recognition and protection of designations for spirit drinks**

THE EUROPEAN COMMUNITY, hereinafter called 'the Community',

of the one part, and

THE UNITED MEXICAN STATES,

of the other part,

hereinafter called 'the Contracting Parties',

DESIROUS of improving the conditions for the marketing of spirit drinks on their respective markets, in accordance with the principles of equality, mutual benefit and reciprocity,

HAVE AGREED AS FOLLOWS:

*Article 1*

The Contracting Parties agree, on the basis of non-discrimination and reciprocity, to facilitate and promote trade between them in spirit drinks.

*Article 2*

This Agreement shall apply to products falling within code 2208 of the International Convention on the Harmonized Commodity Description and Coding System.

For the purposes of this Agreement:

*Article 3*

The following designations are protected:

- (a) as regards spirit drinks originating in the Community, the designations listed in Annex I;
- (b) as regards spirit drinks originating in the United Mexican States, the designations listed in Annex II.

*Article 4*

1. In the United Mexican States, the protected Community names:

- may not be used otherwise than under the conditions laid down in the laws and regulations of the Community, and

*APPENDIX 16: EU 1576/89 Regulation on Spirit Drinks, adopted by the Council.  
(Heading) (In Spanish). Source: Published in the Official Journal of the European  
Communities (1989).*

REGLAMENTO (CEE) N° 1576/89 DEL CONSEJO

de 29 de mayo de 1989

por el que se establecen las normas generales relativas a la definición, designación y  
presentación de las bebidas espirituosas

EL CONSEJO DE LAS COMUNIDADES EUROPEAS,

Visto el Tratado constitutivo de la Comunidad Económica Europea y, en particular, sus artículos 43 y 100 A,

Vista la propuesta de la Comisión <sup>(1)</sup>,

En cooperación con el Parlamento Europeo <sup>(2)</sup>,

Visto el dictamen del Comité Económico y Social <sup>(3)</sup>,

Considerando que, en la actualidad no hay ninguna disposición comunitaria específica que contemple las bebidas espirituosas y, en particular, por lo que respecta a la definición de estos productos y a las disposiciones relativas a su designación y a su presentación; que, habida cuenta la importancia económica de estos productos, se impone la adopción de disposiciones comunes en este campo, con el fin de contribuir al funcionamiento del mercado común;

Considerando que las bebidas espirituosas constituyen un mercado importante para la agricultura comunitaria; que dicho mercado se debe, en buena medida, al renombre que estos productos se han ganado en la Comunidad y en el mercado mundial; que este renombre va unido al nivel cualitativo de los productos tradicionales; que es conveniente, pues, con el fin de mantener tal mercado, conservar un cierto nivel cualitativo para estos productos; que la forma más adecuada de hacerlo es mediante la definición de los productos, teniendo en cuenta los usos tradicionales que sustentan esta fama; que conviene, además, reservar el empleo de las denominaciones así definidas para productos cuyo nivel cualitativo corresponda al de los productos tradicionales, con el fin de evitar que estas denominaciones se desvaloricen;

<sup>(1)</sup> DO n° C 189 de 23. 7. 1982, p. 7 y DO n° C 269 de 25. 10. 1986, p. 4.

Considerando que el Derecho comunitario debe reservar a ciertos territorios, entre los que pueden figurar a título excepcional ciertos países, el uso de denominaciones geográficas que aludan a ellos, en la medida que entre las fases del proceso de producción se desarrolle en dicha zona geográfica la fase de terminación del producto, durante la cual éste adquiere su carácter y sus cualidades definitivas; que, reconociendo de este modo a los productores afectados derechos exclusivos, las disposiciones comunitarias mantendrán para las denominaciones de que se trate su carácter de indicaciones de procedencia, a no ser que, haciéndose de dominio público, se conviertan en denominaciones genéricas; que las denominaciones en cuestión tienen también la función de asegurar la información del consumidor en cuanto a la procedencia de un producto caracterizado por las materias primas utilizadas o por los procesos particulares de su elaboración;

Considerando que el medio normal y habitual de informar a los consumidores es el de incluir en la etiqueta determinadas menciones; que las bebidas espirituosas están sometidas, por lo que respecta a su etiquetado, a las reglas generales establecidas por la Directiva 79/112/CEE del Consejo, de 18 de diciembre de 1978, relativa a la aproximación de las legislaciones de los Estados miembros en lo que se refiere al etiquetado y presentación y publicidad de los productos alimenticios <sup>(4)</sup> modificada en último lugar por la Directiva 86/197/CEE <sup>(5)</sup>; que, habida cuenta la naturaleza de los productos de que se trata, conviene, para informar mejor al consumidor, adoptar disposiciones específicas complementarias de estas reglas generales, y en particular incorporar en la definición de los productos las nociones relativas al envejecimiento y al grado alcohólico mínimo para el consumo humano;

Considerando que si la Directiva 79/112/CEE hace obligatorias ciertas menciones en el etiquetado, sin embargo es relativamente imprecisa en lo que respecta al lugar de fabricación; que esta noción, en el sector de las bebidas a que se hace referencia, reviste una importancia muy especial, debido a la asociación que a menudo hace el consumidor entre la bebida y su lugar de fabricación; que la ausencia de tal mención en este ámbito ocasiona el riesgo de dar al consumidor la impresión de un origen falso; que es conve-

***APPENDIX 17: Article 23 of WTO's TRIPS agreement. Source: World Trade Organization (1995)***

*Article 23*

*Additional Protection for Geographical Indications  
for Wines and Spirits*

1. Each Member shall provide the legal means for interested parties to prevent use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication in question or identifying spirits for spirits not originating in the place indicated by the geographical indication in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like.<sup>4</sup>
2. The registration of a trademark for wines which contains or consists of a geographical indication identifying wines or for spirits which contains or consists of a geographical indication identifying spirits shall be refused or invalidated, *ex officio* if a Member's legislation so permits or at the request of an interested party, with respect to such wines or spirits not having this origin.
3. In the case of homonymous geographical indications for wines, protection shall be accorded to each indication, subject to the provisions of paragraph 4 of Article 22. Each Member shall determine the practical conditions under which the homonymous indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.
4. In order to facilitate the protection of geographical indications for wines, negotiations shall be undertaken in the Council for TRIPS concerning the establishment of a multilateral system of notification and registration of geographical indications for wines eligible for protection in those Members participating in the system.

*APPENDIX 18: Article 18 of Doha Declaration. Source: World Trade Organization (2001)*

18. With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.

**APPENDIX 19: Types of Tequila. Source: National Chamber of the Tequila Industry (2015)**

<p><b>Types of Tequila</b></p> <p>1. Tequila Blanco (Silver) It is an un-aged tequila that is normally bottled right after being distilled.</p> <p>2. Tequila Joven (Gold) It is not aged but flavored by glycerin or sugar syrup.</p> <p>3. Tequila Reposado (Restedor Aged) It is aged for 2-12 months in a white oak barrel.</p> <p>4. Tequila Anej (Extra aged or vintage) It is aged for 1-3 years which is dark in color and smooth in texture.</p> <p>5. Tequila Extra Anejo (Ultra Aged) This concept was starts from 2005 where it is aged for at least 3 years.</p>	 <p><b>TEQUILA BLANCO</b>      COLOR: CLEAR      TASTE: DRY      SCENT: LIME</p> <p><b>TEQUILA GOLD</b>      COLOR: GOLD      TASTE: HINTS OF VANILLA AND CARAMEL      SCENT: FLORES AND BUTTER</p> <p><b>TEQUILA REPOSADO</b>      COLOR: GOLD AND GREEN SHADES      TASTE: WOODY      SCENT: SWEET PINE</p> <p><b>TEQUILA AÑEJO</b>      COLOR: PALE OLIVEY YELLOW      TASTE: SMOOTH AND SWEET      SCENT: HINTS OF ORANGE PEEL AND HAZELNUT</p> <p><b>TEQUILA EXTRA AÑEJO</b>      COLOR: PALE AMBER      TASTE: RICH AND SMOOTH      SCENT: HINTS OF HONEY AND OAK</p>
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Figure 10

*APPENDIX 20: Main Tequila's export destinations (2018) Source: Tequila Regulatory Council*

<b>Top ten Tequila exports in the world in 2018</b>			
LUGAR	PAIS	LITROS A 40% ALC. VOL.	% DEL TOTAL
1	United States of America	183 847 720	82.54 %
2	Germany	5 483 614	2.46 %
3	Spain	3 297 836	1.48 %
4	France	2 925 639	1.31 %
5	UK and Northern Ireland	2 319 743	1.04 %
6	Japan	1 907 853	0.86 %
7	Canada	1 895 685	0.85 %
8	Latvia	1 679 402	0.75 %
9	South Africa	1 485 706	0.67 %
10	Colombia	1 388 224	0.62 %
.....	Resto de los países	16 508 233	7.42 %
<b>GRAN TOTAL DE EXPORTACIONES</b>		<b>222 739 655</b>	<b>100</b>

*Figure 11*

**APPENDIX 21: Tequila Agroindustry data since the TRC creation. Source: Tequila Regulatory Council.**

Agriculture	1995	2018	growth
Agricultores		8,000	
Hectáreas de agave		174,000	
Registered Agaves		523 millones	
Municipalities with agave	37	157 de 181	324 %
<b>INDUSTRIA</b>	<b>"Income for more than 70,000 FAMILIES"</b>		
Companies	36	155	330 %
NATIONAL MARKET VALUE		\$ 16,500 MDP	
IEPS		\$ 5 500 MDP	
National market share		35%	
Presence on international markets	120 countries (value + de 1.7 USD billion)		
Tequila in the Global markets		0.9 %	
Valor de las EXPORTACIONES		\$ 1,700 MD USD	
	Millones de litros (40 % Alc. Vol.)		
<b>TOTAL exports</b>	<b>64.5</b>	<b>222.7</b>	<b>245 %</b>
TEQUILA exports	63.4	108.1	70 %
ExportortsTEQ. 100%	1.1	114.4	10,300 %
<b>TOTAL production</b>	<b>104.3</b>	<b>309.1</b>	<b>196 %</b>
TEQUILA production	88.7	138.9	56 %
TEQ. 100 % production	15.6	170.1	990 %
	Miles de Toneladas		
<b>agave consumption</b>	<b>278.7</b>	<b>1,139</b>	<b>309 %</b>
	Millones de plantas		
Consumed Plants	9 - 10	54	468 %
National certified Trademarks	327	1,438	340 %
International certified Trademarks	189	331	75%

Figure 12

*APPENDIX 22: Tequila DO map. Source: Tequila Regulatory Council*



*Figure 13*

***APPENDIX 23: EU 110/2008 Regulation on spirit drinks, which repeals (EEC) No 1576/89 (Heading). Source: Published in the Official Journal of the European Union***

L 39/16

**EN**

Official Journal of the European Union

13.2.2008

**REGULATION (EC) No 110/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 15 January 2008**

**on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

(3) The production of spirit drinks constitutes a major outlet for Community agricultural products. This strong link to the agricultural sector should be emphasised by the regulatory framework.

(4) To ensure a more systematic approach in the legislation governing spirit drinks, this Regulation should set out clearly defined criteria for the production, description, presentation and labelling of spirit drinks as well as on the protection of geographical indications.

**APPENDIX 24: EU inside lobbying structure in the Tequila industry. Source: own elaboration**

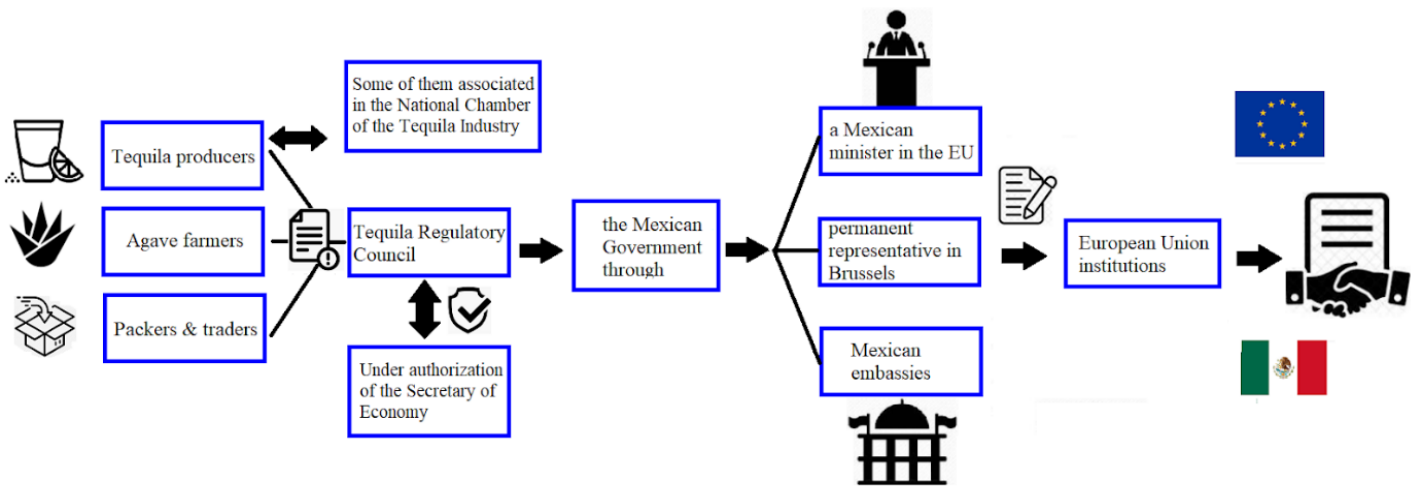


Figure 14