

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

MTN.GNS/TEL/W/1

9 July 1990

Special Distribution

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Group of Negotiations on Services

Original: English

Working Group on Telecommunications Services

COMMUNICATION FROM CAMEROON, EGYPT, INDIA AND NIGERIA

Sectoral Annotation on Telecommunication Services

The attached communication is circulated at the request of the delegations of Cameroon, Egypt, India and Nigeria to the members of the Group of Negotiations on Services.

The countries presenting this annotation reserve the right to amend or supplement it in the light of the course and progress of the negotiations.

SECTORAL ANNOTATION ON TELECOMMUNICATION SERVICES

Explanatory Note

1. Telecommunications is a fundamental national infrastructure. While most developed countries have achieved a high level of telecommunications penetration so that a wide range of services is available to residential users and commercial entities, in most developing countries telecommunications services are not universally available and often unreliable. Thus, in developing countries the rôle of telecommunications continues to be that of a basic public utility, rather than a private, commercial sector.

2. The very limited share of developing countries in international trade in telecommunication services can largely be attributed to the inadequacies of their telecommunications infrastructures and the dominant position in the world market of developed country commercial telecommunications operators and transnational users.

3. The international community has recognized that a sustained, long-term commitment to improve the telecommunications infrastructure of developing countries is essential for attainment of their development objectives. Adequate infrastructures to support modern telecommunications also is a precondition for the participation of developing countries in world trade in telecommunications services and for them to competitively export telecommunications services.

4. Global connectivity resulting from implementation of universal technical standards is vital to permitting access by developing countries to information networks and services throughout the world. The existence and continual improvement in and acceptance of international telecommunications standards (primarily established in ITU), are essential to ensuring global end-to-end compatibility and interoperability of telecommunications services. Rapid technological change leading to a diversification of services, equipment and applications raises the urgency of maintaining international standards, especially for developing countries which have had little direct involvement in standards-making in the ITU, ISO or at a regional level.

5. Certain telecommunications services, in particular enhanced services, may be the subject of negotiated market access commitments. For such commitments to be operative, it is necessary to distinguish between the respective responsibilities of public telecommunications organizations (PTOs), telecommunications services operators, and telecommunications users. The Annotation provides clear definitions and their respective responsibilities and functions, so as to facilitate the progressive liberalization of trade in telecommunications services by ensuring that such liberalization does not conflict with the public service functions of telecommunications.

6. This Annotation is presented in the context of the proposals for a Multilateral Framework for Trade in Services of developing countries. The general rules and disciplines set forth in these proposals have a direct relationship to the provisions of this Annotation which addresses the scope, coverage and sectoral peculiarities arising in the application of such a multilateral framework to international trade in telecommunications services.

SECTORAL ANNOTATION ON TELECOMMUNICATIONS SERVICES

Article 1: Purposes

1.1 The purposes of this Annotation are:

1.1.1 to ensure that market access concessions for telecommunications services do not conflict with the public service objectives and functions of Telecommunications, nor with the responsibilities of public telecommunications organizations (PTOs) to promote and defend national social and economic development, national security and sovereignty;

1.1.2 to distinguish issues relating to access to markets for telecommunications service exporters from the rôle of telecommunications as a mode of delivery for international trade in services;

1.1.3 to ensure the expansion of developing country participation in the world market for telecommunications services, and improved access for developing country exporters to distribution channels and information networks;

1.1.4 to ensure conformity with existing intergovernmental disciplines and international arrangements, in particular the International Telecommunication Union (ITU), the International Organization for Standards (ISO), INTELSAT, INTERSPUTNIK, INMARSAT, and regional satellite and other relevant treaty bodies;

1.1.5 to avoid a proliferation of unique standards created by equipment manufacturers, telecommunications services operators or users so as to preserve a vital element for effective and efficient worldwide telecommunications.

Article 2: Definitions

2.1 Telecommunications

Telecommunications refers to any transmission, emission or reception of signs or signals, writing, image, sounds and intelligence of any nature by radio, wire, optical or other electromagnetic systems. The term shall not include the cable or broadcast distribution of mass-audience sound or television programming.

2.2 Public telecommunications services

Public telecommunications services constitute telephone, telegraph, telex and basic data services and other telecommunications services which a Party would designate as public telecommunications services, where it

decides that such services shall be offered to the general public pursuant to national policy objectives of universal service, economic development and national security.

**2.3 Commercial enhanced telecommunications services**

This term refers to those telecommunications services which a Party has not defined as public telecommunications services in Article 2.2 above.

**2.4 Public telecommunications organization (PTO)**

A public telecommunications organization is a public or privately owned body which has been granted exclusive rights for the provision of a public telecommunications network and public telecommunications services.

**2.5 Public telecommunications network**

This is the public telecommunications infrastructure which permits the conveyance of signals between defined network termination points by wire, by radio, by optical or by other electromagnetic means.

**2.6 Telecommunications services operator**

A telecommunications services operator shall be considered an entity or organization which has been licensed or otherwise permitted to provide certain enhanced telecommunications services on a commercial basis.

**2.7 Telecommunications user**

Telecommunications users are residential and commercial subscribers to public telecommunications services and commercial enhanced services offered by telecommunications services operators.

**2.8 Intracorporate communications**

Intracorporate communications are telecommunications which allow firms/entities to communicate with their subsidiaries and branches with which they have a legal relationship with respect to internal administrative, financial and technical matters on a non-commercial basis. This term excludes commercial services supplied to unrelated firms/entities or offered to customers or potential customers.

**Article 3: Scope and Coverage**

**3.1** This Annotation applies to international trade in telecommunications services for which market access has been granted and included in Schedules of Concessions; it is limited solely to telecommunications as defined in Article 2.

**3.2** The content of messages, such as by voice, data, image, transmitted via a telecommunications medium is excluded from coverage of this

Annotation. Parties may apply, according to national policy, fiscal and regulatory measures on the cross-border movement of information and its storage, processing and use.

3.3 The joint bilateral co-operative arrangements between PTOs which involve provision of services, standardization, accounting rates and settlement procedures, are excluded from this Annotation.

#### Article 4: Technical Standards

4.1 Parties undertake to promote international standards which are primarily established in the ITU to ensure global end-to-end compatibility and interoperability of telecommunications services.

4.2 Parties agree not to employ private, proprietary standards in their public telecommunications services covered by the Annotation.

4.3 Parties agree to co-operate towards reducing problems of interconnection and will encourage a similar commitment by equipment manufacturers and telecommunications services operators.

#### Article 5: Measures to Ensure Access to Information and Distribution Channels

5.1 Parties shall establish in co-operation with the relevant international organizations:

5.1.1 a directory of international value-added networks describing their technical and service features, and accessibility on an on-line basis to PTOs and telecommunications users in the territories of developing countries Parties;

5.1.2. a register of automated information systems on telecommunications and information technologies and know-how, operated by commercial and non-commercial entities, which shall be made accessible to developing countries Parties. The applicability of these systems for indigenous development or export services in developing countries Parties shall be addressed.

5.2 Parties shall co-operate to ensure that access to information services via telecommunications networks is improved. Modifications in the conditions of access to information services shall be subject to prior notification and at the request of any Party, to prior consultations.

5.3 Parties shall:

5.3.1. support the integrity of the INTELSAT system from economic and technical harm with respect to separate satellite systems;

5.3.2. respect the long-standing worldwide pricing policies, range of services and technical assistance programmes of the INTELSAT system.

5.4 Inter-regional, regional and sub-regional telecommunications co-operation among developing countries shall be supported by developed countries Parties.

5.4.1 Grouping or aggregating regional outgoing voice and data traffic under joint arrangements, to secure volume discounts and select optimal transit routes;

5.4.2. greater local manufacture and production or telecommunications equipment and services through arrangements with foreign suppliers, including training and human resource development for technology transfer;

5.4.3 joint-venture agreements between PTOs of developing countries Parties and public or private operators in developed countries Parties, designed to improve access to their markets for telecommunications services.

#### Article 6: Telecommunications Integrity

Parties may take appropriate measures to ensure that:

6.1 public telecommunications organizations conform to the obligations set forth in the International Telecommunication Union Constitution and Convention on the secrecy of international messages, and ensure that telecommunications services operators are so bound;

6.2 the security, confidentiality and privacy of international messages, in whatever form, from unauthorized interference, disclosure, modification or erasure is respected.

#### Article 7: Transparency

7.1 Parties shall ensure that all necessary information on conditions for the efficient use of public telecommunications services is available through an enquiry point. This shall include:

- terms and conditions for use of public telecommunications services;
- licensing requirements as specific for different classes of telecommunications users;
- criteria and procedures for testing and attachment of terminal equipment to the public telecommunications services infrastructure;
- tariffs and other charges.

Article 8: Market Access

8.1 The granting of access to markets to foreign telecommunications services operators:

- shall not imply nor have the effect of extending preferential treatment to foreign entities in terms of regulations applied to a Party's domestic users;
- shall not interfere with a Party's determination of the technologies and equipment which will be permitted to be imported via telecommunications or operated in the domestic market in terms of their compatibility with and suitability to local conditions; and
- shall not require derogation of the public utility responsibilities of PTOs, particularly as regards universal service objectives, which must be fully respected in evolution of liberalization of enhanced services.

8.2 Parties granting market access for telecommunications services in their Schedules of Concessions may specify the extent to which access to their markets by foreign telecommunication service providers may require presence in the national territory.

8.3 Parties shall determine whether a dominant market position is held by any telecommunications services operator or user, and shall take such steps, individually or jointly, as may be necessary to eliminate anti-competitive practices which are found to distort international trade in telecommunications services.

Article 9: Increased Participation of Developing Countries

9.1 Parties agree to allocate financial and human resources to expeditiously assist developing countries in introducing a wide range of improvements in their telecommunications infrastructures leading to better and more widely accessible services.

9.2 Parties agree to give priority to the telecommunications needs of developing countries Parties in multilateral and regional institutions (such as UNDP, World Bank). They shall support ITU programmes for assisting developing countries to improve their telecommunications infrastructures including those of the Telecommunications Development Bureau (TDB) and the Centre for Telecommunications Development (CTD). Such support may be provided both by public agencies and private entities in the form of financial contributions, materials, equipment, training, technology and know-how, which will be channelled to qualified recipients.

9.3 Developing countries Parties may cross-subsidize public telecommunications services from revenues, derived from telecommunications services operators and users, provided tariffs or charges are not deliberately intended to distort or restrict services trade.



9.4 With a view to strengthening their domestic telecommunications capacity and its efficiency and competitiveness, developing countries Parties may impose obligations on foreign suppliers of telecommunications services with respect to transfer of technology, training, provisions of telecommunications equipment on concessional terms, etc., location of data resources and data processing facilities.

Article 10: International Arrangements

10.1 Nothing in this Annotation shall affect rights and obligations under the ITU. The International Trade in Services Organization should consult with the ITU on questions which may arise from the effective implementation of this Annotation. In particular, this refers to responsibilities of the International Consultative Committee on Telegraph and Telephone (CCITT) on matters involving technical standards, conditions of usage of telecommunications facilities and services, and international charging and settlement practices.