

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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COMMUNICATION FROM CAMEROON, EGYPT, INDIA AND NIGERIA

Annex on Telecommunications Mode of Delivery

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 annex reserve the right to amend or supplement it in the light of the course and progress of the negotiations.

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ANNEX

TELECOMMUNICATIONS MODE OF DELIVERY

Explanatory Note

1. This Annex has been drawn up with a view to ensuring that service exporters are able to make full use of telecommunications as a mode of delivery for services where market access has been granted in the Schedules of Concessions. In this respect, due account is taken of the fact that unlike other modes of delivery, access to and use of the domestic distribution systems are an inherent aspect of effective access to markets. It is also intended to distinguish the "horizontal" mode of delivery rôle of telecommunications services for suppliers of other services, from aspects relating to market access for suppliers of telecommunications services themselves.

2. It also recognizes that any provisions relating to telecommunications as a mode of delivery, must take account of the striking differences in the development of telecommunications infrastructures in developing and developed countries. Such differences impede the ability of the developing countries to provide effective access to markets and call for special provisions in order to ensure that improvement of their infrastructures are such as to provide effective non-discriminatory access to all suppliers, while not detracting from the attainment of social, economic and other development objectives of telecommunications policies in developing countries.

Access to telecommunications services

Article 1: For services sectors or sub-sectors where access to markets has been specified in their Schedules of Concessions, Parties shall provide access to their public telecommunications services on reasonable terms and conditions, to ensure that the service suppliers of other Parties are provided effective access to markets. Nothing in this Annex shall oblige a party to provide a public telecommunications network or a public telecommunications service that is not available at the date of entry into force of this Agreement.

Article 2: Parties shall ensure that access to markets for those services included in their Schedules of Concessions will not be nullified by lack of access to the telecommunications network.

Article 3: Parties shall ensure cross-border access to and use of public telecommunications services for the conduct of intracorporate communications by suppliers of those services for which market access has been granted in the Schedules of Concessions.

Article 4: Nothing in this Annex is intended to oblige Parties to provide access to their public telecommunications network for the delivery of

services, including enhanced telecommunications services, which have not been subject to specific access commitments included in their Schedules of Concessions.

Article 5: For the services where access has been granted, and included in the Schedules of Concessions, Parties shall ensure access to and use of domestic telecommunications systems on terms and conditions no less favourable than that accorded to national enterprises, except as provided for in Article 10.

Article 6: Where access and usage conditions are imposed through a system of licensing, Parties shall ensure that such conditions will be reasonable and transparent. Such access and usage conditions may include those relating to the leasing of national and international circuits, conditions for inter-connection, applicable standards and conditions for the attachment of technical equipment.

Article 7: For services included in the Schedules of Concessions, access to telecommunications networks shall be accorded on the same terms and conditions to all Parties to the Framework.

Article 8: Nothing in this Annex shall require Parties to introduce technologies, equipment and processes which they do not deem appropriate or necessary.

Developing country participation

Article 9: The improvement of the telecommunications infrastructure in developing countries is an essential pre-condition for the expansion of their trade in services. Parties endorse and encourage the construction of new and/or improvement of existing network facilities, which can be furthered inter alia by:

- 9.1 agreements between PTOs and users whereby a user or group of users are charged for specific undertakings necessary to provide particular services;
- 9.2 foreign telecommunications services operators and/or domestic users arranging to donate equipment to the PTO on a lease-back basis so as to rapidly bring facilities or services into operation;
- 9.3 special agreements between PTOs and private entrepreneurs to build, operate and transfer (BOT) facilities urgently needed in such countries.

Article 10: Parties agree that:

- (a) developing countries Parties may oblige foreign suppliers of services to provide financial resources and technical assistance aimed at the general improvement of such infrastructure to ensure that all suppliers are able to deliver services through access to the telecommunications network; and

- (b) developing countries Parties may make access to their public telecommunications networks for service suppliers of other parties conditional upon such foreign suppliers providing access to national service exporters via their telecommunications networks.

Article 11: In cases where developing countries Parties determine that an under-capacity exists in their domestic and international public telecommunications services, they may allocate such capacity so as to favour public telecommunications services and domestic service suppliers.

Article 12: Parties recognize that tariffs and other charges on telecommunications services are an essential source of income for developing countries to finance the improvement of their telecommunications infrastructures, and that the maintenance of differential tariffs and other fiscal measures applied to public telecommunications services, telecommunications services operators and users shall not be deemed inconsistent with the provisions of this Annex.

Other provisions

Article 13: Public telecommunications organizations may, through licensing and co-ordination with authorities responsible for supervising sectors for which access has been granted in the Schedules of Concessions, ensure that telecommunications services operators and users conform strictly to the conditions under which they are authorized to conduct business, in terms of the specific telecommunications services they are permitted to exploit.

Article 14: This Annex does not extend to the resale or sharing of public telecommunication services, and nothing in this Annex or in the Framework shall prevent Parties from ensuring that users of leased lines do not bypass the public telecommunications network by inter-connection with third parties.

Article 15: This Annex applies solely to telecommunications and organizational means necessary to provide public telecommunication services and does not extend to data information messages or images carried over such networks, nor to the cross-border movement, storage and processing of information.

Article 16: Nothing in this Annex shall oblige Parties to inter-connect operators and users with foreign counterparts, public or private, for delivery of cross-border services via telecommunications.

Definitions

Article 17:

17.1 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.

17.2 Public telecommunications services

Public telecommunications services constitute telephone, telegraph, tele- 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.

17.3 Commercial enhanced telecommunications services

This term refers to those telecommunications services which a Party has not defined as public telecommunications services in Article 17.2 above.

17.4 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.

17.5 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.

17.6 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.

17.7 Telecommunications user

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

17.8 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.