

Group on Basic Telecommunications

REPORT OF THE GROUP ON BASIC TELECOMMUNICATIONS

1. This report is made in accordance with paragraph 4 of the Decision on Commitments in Basic Telecommunications, adopted by the Council for Trade in Services on 30 April 1996 (S/L/19). In paragraph 1 of this Decision, the Council also adopted the text of the Fourth Protocol to the General Agreement on Trade in Services and took note of the Schedules of Commitments and Lists of Exemptions from Article II listed in the Attachment to the final Report of the Negotiating Group on Basic Telecommunications (S/NGBT/18).
2. The Decision on Commitments on Basic Telecommunications established the Group on Basic Telecommunications to "conduct consultations on the implementation of paragraph 3 of the Decision". Paragraph 3 states that "during the period from 15 January to 15 February 1997, a Member which has a Schedule of Commitments annexed to the Protocol, may supplement or modify such Schedule or its List of Article II Exemptions" and that "any such Member which has not annexed to the Protocol a List of Article II Exemptions may submit such a list during the same period".
3. At the Group's first meeting in July 1996, participants suggested that the principal issues before the GBT included the desirability of improving the quantity and quality of Schedules offered, and the need to address certain issues which had been left unresolved in April. Subsequently, the Group sponsored frequent rounds of bilateral negotiations on offers and regularly included discussion of outstanding issues in its meetings. In November participants began submitting revised draft offers of commitments on basic telecommunications for consideration. The Group's Report to the Council on Trade in Services (S/GBT/2), which formed part of the Report to the Singapore Ministerial Conference, recommended that Ministers "stress their commitment to bring the negotiations on basic telecommunications to a successful conclusion by 15 February 1997, urge all WTO Members to strive for significant, balanced and non-discriminatory liberalization commitments on basic telecommunications by that date and recognize the importance of resolving the principal issues before the GBT". The Declaration adopted by Ministers in Singapore (WT/MIN(96)/DEC) contained a commitment to "achieve a successful conclusion to the negotiations on basic telecommunications in February 1997". Ministers also stated "We are determined to obtain a progressively higher level of liberalization in services on a mutually advantageous basis with appropriate flexibility for individual developing country members, as envisaged in the agreement, in the continuing negotiations and those scheduled to begin no later than 1 January 2000. In this context, we look forward to full MFN agreements based on improved market access commitments and national treatment".
4. In its discussions on outstanding issues, the Group considered the following matters: ways to ensure accurate scheduling of commitments - particularly with respect to supply of services over satellites and to the management of radio spectrum; potential anti-competitive distortion of trade in international services; the status of intergovernmental satellite organizations in relation to GATS provisions; and the extent to which basic telecommunications commitments include transport of video and/or broadcast signals within their scope.

5. The Chairman issued notes reflecting his understanding of the position reached in discussion of the scheduling of commitments and management of radio spectrum. The first such Note set out a number of assumptions applicable to the scheduling of commitments and was intended to assist in ensuring the transparency of commitments (S/GBT/W/2/Rev.1 of 16 January 1997). The second addressed the allocation of radio spectrum, suggesting that the inclusion of references to the availability of spectrum in schedules was unnecessary and that such references should be deleted (S/GBT/W/3 of 3 February 1997). These Notes are attached to this Report.

6. By 15 February 1997 the total number of schedules submitted had reached 55 (counting as one the offer of the European Communities and their Member States). Nine governments had submitted lists of Article II Exemptions.

7. The Group noted that five countries had taken Article II exemptions in respect of the application of differential accounting rates to services and service suppliers of other Members. In the light of the fact that the accounting rate system established under the International Telecommunications Regulations is the usual method of terminating international traffic and by its nature involves differential rates, and in order to avoid the submission of further such exemptions, it is the understanding of the Group that:

- the application of such accounting rates would not give rise to action by Members under dispute settlement under the WTO; and
- that this understanding will be reviewed not later than the commencement of the further Round of negotiations on Services Commitments due to begin not later than 1 January 2000.

8. The Group also recalled paragraph 6 of the Decision of 30 April, which stated that Members of the World Trade Organization which have not annexed to the Protocol Schedules of Commitments or Lists of Exemptions from Article II may submit, for approval by the Council, Schedules of Commitments and Lists of Exemptions from Article II relating to basic telecommunications prior to 1 January 1998.

9. At its meeting of 15 February 1997, the Group adopted this report and the attached list of the Schedules of Commitments and Lists of Article II Exemptions, which, in accordance with paragraph 3 of the Decision on Commitments in Basic Telecommunications, will be attached to the Fourth Protocol to the General Agreement on Trade in Services in replacement of those attached on 30 April 1996.

WORLD TRADE ORGANIZATION

S/GBT/W/2/Rev.1
16 January 1997

(97-0173)

Group on Basic Telecommunications

Note by the Chairman

Revision

It has been suggested by a number of delegations that it might be helpful to produce a brief and simple note on assumptions applicable to the scheduling of commitments in basic telecoms. The purpose of the attached note is to assist delegations in ensuring the transparency of their commitments and to promote a better understanding of the meaning of commitments. This note is not intended to have or acquire any binding legal status.

NOTES FOR SCHEDULING BASIC TELECOM SERVICES COMMITMENTS

1. Unless otherwise noted in the sector column, any basic telecom service listed in the sector column:
 - (a) encompasses local, long distance and international services for public and non-public use;
 - (b) may be provided on a facilities-basis or by resale; and
 - (c) may be provided through any means of technology (e.g., cable¹, wireless, satellites).
2. Subsector (g) --private leased circuit services -- involves the ability of service suppliers to sell or lease any type of network capacity for the supply of services listed in any other basic telecom service subsector unless otherwise noted in the sector column. This would include capacity via cable, satellite and wireless network.
3. In view of points 1 and 2 above, it should not be necessary to list cellular or mobile services as a separate subsector. However, a number of Members have done so, and a number of offers have commitments only in these subsectors. Therefore, in order to avoid extensive changes in schedules, it would seem appropriate for Members to maintain separate entries for these subsectors.

¹Including all types of cable.

WORLD TRADE
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S/GBT/W/3
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Group on Basic Telecommunications

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CHAIRMAN'S NOTE

Market Access Limitations on Spectrum Availability

Many Members have entries in the market access column of their schedules indicating that commitments are "subject to availability of spectrum/frequency" or similar wording. In light of the physical nature of spectrum and the constraints inherent in its use, it is understandable that Members may have sought to rely on these words to adequately protect legitimate spectrum management policies. There is, however, doubt that words such as "subject to availability of spectrum/frequency" as listed in the market access column of many Members' schedules achieve that objective.

Spectrum/frequency management is not, *per se*, a measure which needs to be listed under Article XVI. Furthermore under the GATS each Member has the right to exercise spectrum/frequency management, which may affect the number of service suppliers, provided that this is done in accordance with Article VI and other relevant provisions of the GATS. This includes the ability to allocate frequency bands taking into account existing and future needs. Also, Members which have made additional commitment in line with the Reference Paper on regulatory principles are bound by its paragraph 6.

Therefore, words such as "subject to availability of spectrum/frequency" are unnecessary and should be deleted from Members' schedules.

ATTACHMENT

**Schedules of Commitments and Lists of Article II Exemptions
to be annexed to the Fourth Protocol of the General
Agreement on Trade in Services**

Argentina	S/GBT/W/1/Add.55 + S/GBT/W/12 (List of Article II exemptions)
Antigua and Barbuda	S/GBT/W/1/Add.44 + S/GBT/W/8 (List of Article II exemptions)
Australia	S/GBT/W/1/Add.10/Rev.2
Bangladesh	S/GBT/W/1/Add.38 + S/GBT/W/7 (List of Article II exemptions)
Belize	S/GBT/W/1/Add.52
Bolivia	S/GBT/W/1/Add.4/Rev.1
Brazil	S/GBT/W/1/Add.28/Rev.1 + S/GBT/W/10 (List of Article II exemptions)
Brunei Darussalam	S/GBT/W/1/Add.35
Bulgaria	S/GBT/W/1/Add.8/Rev.1 + S/GBT/W/1/Add.8/Rev.1/Corr.1
Canada	S/GBT/W/1/Add.6/Rev.2
Chile	S/GBT/W/1/Add.37/Rev.1
Colombia	S/GBT/W/1/Add.46
Côte d'Ivoire	S/NGBT/W/12/Add.31/Rev.1
Czech Republic	S/GBT/W/1/Add.11/Rev.1
Dominica	S/GBT/W/1/Add.51
Dominican Republic	S/GBT/W/1/Add.30
Ecuador	S/NGBT/W/12/Add.26
El Salvador	S/GBT/W/1/Add.13
European Communities and their Member States	S/GBT/W/1/Add.1/Rev.2
Ghana	S/GBT/W/1/Add.17/Rev.1
Grenada	S/GBT/W/1/Add.22
Guatemala	S/GBT/W/1/Add.41
Hong Kong	S/GBT/W/1/Add.20/Rev.1
Hungary	S/GBT/W/1/Add.26/Rev.1
Iceland	S/GBT/W/1/Add.27
India	S/GBT/W/1/Add.24/Rev.1 + S/NGBT/W/19 (List of Article II exemptions)

Indonesia	S/GBT/W/1/Add.15/Rev.1
Israel	S/GBT/W/1/Add.32
Jamaica	S/GBT/W/1/Add.45
Japan	S/GBT/W/1/Add.29/Rev.1
Korea, Republic of	S/GBT/W/1/Add.33/Rev.1
Malaysia	S/GBT/W/1/Add.21/Rev.1
Mauritius	S/GBT/W/1/Add.19
Mexico	S/GBT/W/1/Add.16/Rev.2
Morocco	S/GBT/W/1/Add.54
New Zealand	S/GBT/W/1/Add.25/Rev.1
Norway	S/GBT/W/1/Add.23
Pakistan	S/GBT/W/1/Add.31 + S/GBT/W/5 (List of Article II exemptions)
Papua New Guinea	S/GBT/W/1/Add.36
Peru	S/GBT/W/1/Add.18 + S/GBT/W/1/Add.18/Corr.1
Philippines	S/GBT/W/1/Add.42
Poland	S/GBT/W/1/Add.12/Rev.3
Romania	S/GBT/W/1/Add.14/Rev.1
Senegal	S/GBT/W/1/Add.43/Rev.1
Singapore	S/GBT/W/1/Add.7/Rev.1
Slovak Republic	S/GBT/W/1/Add.3/Rev.2
South Africa	S/GBT/W/1/Add.9/Rev.2
Sri Lanka	S/GBT/W/1/Add.40 + S/GBT/W/6 (List of Article II exemptions)
Switzerland	S/GBT/W/1/Add.5/Rev.1 + S/GBT/W/1/Add.5/Rev.1/Corr.1
Thailand	S/GBT/W/1/Add.39
Trinidad and Tobago	S/GBT/W/1/Add.48
Tunisia	S/GBT/W/1/Add.34
Turkey	S/GBT/W/1/Add.49/Rev.1 + S/GBT/W/11 (List of Article II exemptions)
United States of America	S/GBT/W/1/Add.2/Rev.1 + S/GBT/W/9 (List of Article II exemptions)
Venezuela	S/GBT/W/1/Add.50/Rev.1