

WORLD TRADE
ORGANIZATION

RESTRICTED

S/GBT/W/1/Add.12/Rev.3

15 February 1997

(97-0614)

Group on Basic Telecommunications

Original: English

COMMUNICATION FROM THE REPUBLIC OF POLAND

Draft Schedule on Basic Telecommunications

Revision

The following communication is circulated at the request of the Republic of Poland to members of the Group on Basic Telecommunications.

In accordance with the decision made by the Group on Basic Telecommunications, the Republic of Poland submits hereby a conditional draft revised offer on basic telecommunications services. The Republic of Poland reserves the right to modify, reduce or retract the offer as a whole or in part, at any time before the end of negotiations concerning basic telecommunications. Moreover, the Republic of Poland reserves the right to make technical changes, amendments and corrections to the offer.

THE REPUBLIC OF POLAND - DRAFT SCHEDULE

Modes of supply:	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	
2.C. TELECOMMUNICATIONS SERVICES (excluding broadcasting*) All sub-sectors	Modes 1), 2), 3), 4) The installation and usage of telecommunications equipment and networks and the provision of telecommunication services requires a licence or permission, with the exception of cases specified by the Minister of Communications in his ordinance. The licences and permissions are available only for the entities registered in Poland. The requirement to obtain licences and permission does not concern the national operator: Telekomunikacja Polska SA (TP SA). The entities with foreign participation in Poland must take the form of limited liability companies and joint stock companies established in Poland.	Modes 1), 2), 3), 4) When the limitations of foreign participation are applied, Polish citizens domiciliated in Poland must have majority in the board of directors and supervising body.	As annexed	

*Broadcasting is defined as the uninterrupted chain of transmission required for the distribution of tv and radio programme signals to the general public, but does not cover contribution links between operators.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>Entities with foreign participation are not allowed to own international networks or to render international facilities based services until 31 Dec. 2002.</p> <p>With reference to international and domestic long-distance services and networks the limitation of foreign capital and voting rights is 49%.</p> <p>Number of licences and permissions can be subject to the publicly available licensing criteria.</p>		

Modes of supply:	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	
2.C: (a) Voice-telephone services; (b) Packet-switched data transmission services; (c) Circuit-switched data transmission services; (d) Telex services; (e) Telegraph services; (f) Facsimile services; (g) Private leased circuit services; International, long distance, local, - public and non-public, facilities-based and on resale-base, - wire-based and radio-based.	(1) None (2) None (3) None except: (a) excluded from all commitments: - international public voice telephone, telex and telegraph services until 31 Dec. 2002, - long-distance domestic public voice telephone services and networks until 31 Dec. 2002, - domestic telex and telegraph services and networks until 31 Dec. 1999, (b) territorial area of the licences and permissions for the local public voice telephone services and networks can be subject to the publicly available licensing criteria. (4) Unbound except for horizontal measures	(1) None (2) None (3) None (4) Unbound except for horizontal measures		

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>o. others - cable television and radio networks services;</p> <p>- public cellular mobile telephone services and networks,</p>	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) The limitation of foreign capital and voting rights is 49%</p> <p>(4) Unbound except for horizontal measures.</p> <p>(1) None except: - only through use of the international network of TP S.A. until 31 Dec. 2002</p> <p>(2) None except: - only through use of the international network of TP SA until 31 Dec. 2002 and according to the international agreements.</p> <p>(3) None except: - the limitation of foreign capital and voting rights is 49%. - only through the use of TP S.A. infrastructure, except microwave connections in the case if TP S.A. is not able to establish such connections in the limited period of time until 31 Dec. 2002.</p> <p>(4) Unbound except for horizontal measures.</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound except for horizontal measures.</p> <p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound except for horizontal measures.</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<ul style="list-style-type: none"> - mobile satellite services and networks - paging 	<p>(1),2),3) None except : - excluded from all commitments until 31 Dec. 2002</p> <p>(4) Unbound except for horizontal measures</p> <p>1), 2) Unbound except pan-european paging systems</p> <p>(3) None</p> <p>(4) Unbound except for horizontal measures.</p>	<p>(1),2),3) None</p> <p>(4) Unbound except for horizontal measures</p> <p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound except for horizontal measures.</p>	

Note 1: The operators authorised to take part in the activity in the scope of all public fixed telephone networks and other non-public telephone networks exceeding the geographic area (voivodship) are obliged to apply in their networks switching devices and interexchange teletransmission equipment belonging to three telecommunications systems selected by means of decision of the Polish Government. The above obligation concerns also other non-telephone telecommunication network exceeding the geographic area (voivodship) in the scope of interexchange teletransmission equipment. The above limitation will expire not later than in 1999.

Note 2: The project of a new Telecommunications Act will be prepared by the end of year 1997.

The Republic of Poland

ANNEX

**Additional commitments
Draft schedule on basic telecom services**

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market.

1. **Competitive safeguards**

1.1 **Prevention of anti-competitive practices in telecommunications**

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

1.2 **Safeguards**

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidisation;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided.

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time or
- (b) after a reasonable period of time which has been made publicly known to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence and
- (b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated is not required.