

Trade in Services

INDONESIA

Schedule of Specific Commitments

Supplement 2

(This is authentic in English only)

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This text supplements the entries relating to the Telecommunication services section contained on pages 4 to 7 of document GATS/SC/43.

# INDONESIA - SCHEDULE OF SPECIFIC COMMITMENTS

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
All Subsectors			<p>(i) Indonesia undertakes additional commitments as per reference paper attached</p> <p>(ii) The foreign service supplier must be a worldclass operator with extensive international experience</p> <p>(iii) Type approval mechanism is in place</p> <p>(iv) Basic telecommunication service tariff is decided by the government;</p>
<u>Local service:</u> Public switched telephone service (7521) Circuit switched public data network services (7523**)	<p>(1) None</p> <p>(2) None</p> <p>(3) Local services are provided exclusively by PT Telkom and 5 regional joint operation scheme operators.</p>	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) None</p>	<p>The period of exclusivity for local services expires in 2011. The Government will conduct a review of policy with respect to whether to permit additional suppliers of such services upon the expiry of this period.</p>
Teleconferencing services (75292)	<p>Type of legal entity required:</p> <ul style="list-style-type: none"> <li>- Joint venture,</li> <li>- Joint operation, or</li> <li>- Contract management</li> </ul> <p>Foreign equity participation is limited to 35 per cent.</p> <p>(4) Natural person for management and technical expert for a JVC is limited to 20 persons.</p>	<p>(4) As specified in 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
<u>Long distance:</u> Public switched telephone service (7521) Circuit switched public data network services (7523**)	(1) None (2) None (3) Long distance services are provided by PT Telkom exclusively Type of legal entity required: - Joint venture - Joint operation or - Contract management	(1) Unbound (2) Unbound (3) None	The period of exclusivity for long distance services expires in 2006. The Government will conduct a review of policy with respect to whether to permit additional suppliers of such services upon the expiry of this period.
Teleconferencing services (75292)	Foreign equity participation is limited to 35 per cent. (4) Natural person for management and technical expert for a JVC is limited to 20 persons.	(4) As specified in 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	
<u>International:</u> Public switched telephone service (7521) Circuit switched public data network services (7523**)	(1) Only through networks of PT Indosat and PT Satelindo. Callback is not permitted. (2) Callback is not permitted. (3) International services are provided exclusively by PT Indosat and PT Satelindo (duopoly). Type of legal entity required: - Joint venture - Joint operation or - Contract management	(1) Unbound (2) Unbound (3) None	The period of exclusivity for international services expires in 2005. The Government will conduct a review of policy with respect to whether to permit additional suppliers of such services upon the expiry of this period.	
Teleconferencing services (75292)	Foreign equity participation is limited to 35 per cent. (4) Natural person for management and technical expert is limited to 20 persons.	(4) As specified in 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>Packet-switched public data network services (7523***)</p> <ul style="list-style-type: none"> <li>- X. 25</li> <li>- Frame relay</li> <li>- Local</li> <li>- Local distance</li> <li>- International</li> </ul>	<p>(1) Only through networks of PT Indosat and PT Satelindo</p> <p>(2) None</p> <p>(3) Three service suppliers are now operating on a non-exclusive basis</p> <p>Type of legal entity required:</p> <ul style="list-style-type: none"> <li>- Joint venture or</li> <li>- Joint operation</li> </ul> <p>Foreign equity participation is limited to 35 per cent.</p> <p>(4) Natural person for management and technical expert is limited to 20 persons.</p>	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) None</p> <p>(4) As specified in horizontal measures</p>	
<p>Telex services</p>	<p>(1) Only through networks of PT Indosat and PT Satelindo</p> <p>(2) None</p> <p>(3) Type of legal entity required:</p> <ul style="list-style-type: none"> <li>- Joint venture or</li> <li>- Joint operation</li> </ul> <p>Foreign equity participation is limited to 35 per cent.</p> <p>(4) Natural person for management and technical expert limited to 20 persons.</p>	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) Foreign service supplier should be a worldclass operator.</p> <p>(4) As specified in 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	
Telegraph services	(1) Only through networks of PT Indosat and PT Satelindo	(1) Unbound		
	(2) None	(2) Unbound		
	(3) Type of legal entity required: - Joint venture or - Joint operation	(3) Foreign service supplier should be a worldclass operator.		
	Foreign equity participation is limited to 35 per cent.			
<u>Domestic:</u> Mobile cellular telephone services (75213)	(4) Natural person for management and technical expert limited to 20 persons	(4) As specified in horizontal measures.		
	(1) None	(1) Unbound		
	(2) None	(2) Unbound		
	(3) Seven operators are now providing service	(3) None		
	Type of legal entity required: Joint venture			
	Foreign equity participation is limited to 35 per cent			
	(4) Natural person for management and technical expert for a JVC is limited to 20 persons	(4) As specified in 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	
Domestic: Personal Mobile Cellular Communication Services	(1) None	(1) Unbound		
	(2) None	(2) Unbound		
	(3) New entry only through a joint venture with state-owned company	(3) None		
	Foreign equity participation is limited to 35 per cent			
Internet Access Services	(4) Natural person for management and technical expert for a JVC is limited to 20 persons.	(4) As specified in horizontal measures		
	(1) Until 2005, only through networks of PT Indosat and PT Satelindo for international access	(1) Unbound		
	(2) None	(2) Unbound		
	(3) More than 30 licences have been issued	(3) None		
	Type of legal entity required: - Joint venture or - Joint operation			
	Foreign equity participation is limited to 35 per cent.			
	(4) Natural person for management and technical expert limited to 20 persons	(4) As specified in 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	
Domestic: Regional and National Paging Services (75291)	(1) None	(1) Unbound		
	(2) None	(2) Unbound		
	(3) Currently there are 10 national operators and over 70 local operators.  Type of legal entity required - Joint venture or - Joint operation  Foreign equity participation is limited to 35 per cent	(3) None		
	(4) Natural person for management and technical expert limited to 20 persons	(4) As specified in horizontal measures		
<u>Domestic:</u> Public payphone services	(1) None	(1) Unbound	- Division of revenue between the payphone operator and PT Telkom is determined by the government	
	(2) None	(2) Unbound		
	(3) Provision and management of terminal equipment for public payphone services are now carried out by several local companies.  Type of legal entity required: - Joint venture, - Joint operation, or - Contract management  Foreign equity participation is limited to 35 per cent.	(3) None		
	(4) Natural person for management and technical expert limited to 20 persons	(4) As specified in horizontal measures		



## HORIZONTAL MEASURES

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Definitions:			
"Director": one or a group of persons entrusted by the shareholders of a services providing entity with the final overall control and direction of the enterprise, and legally responsible to act on behalf of the enterprises inside and/or outside of the court.			
"Manager": Senior employee of a service supplier who primarily directs the management of the organization, receiving general supervision or direction principally from the board of directors of the business, including directing the service supplier or a department or sub-division thereof, supervising or controlling the work of other supervisory, professional or managerial employee or having the authority to hire or fire or recommend such or other personal actions.			
"Technical Expert/Advisor": Person employed by a service supplier who possesses a standard of high or common (i) qualifications referring to a type of work or trade requiring specific technical knowledge or (ii) knowledge essential or proprietary to the service, research equipment, techniques or management.			
"Joint Operation": A joint operation is an undertaking between one or several foreign and Indonesian enterprises of temporary nature, to handle one or several project/businesses without establishing a new statutory body according to Indonesian laws.			
"Joint venture": A joint venture is a legal entity organized under Indonesian law and having its domicile in Indonesian, in the form of cooperation between foreign capital and Indonesian (national) capital.			
"Contract management": Contract management is a contract organized under Indonesian law in the form of cooperation on management of temporary nature between Indonesian (national) capital and foreign capital.			

**ATTACHMENT TO THE REPUBLIC OF INDONESIA  
SCHEDULE ON BASIC TELECOMMUNICATIONS**

REFERENCE PAPER

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-subsidization;
- (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 authority 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. Regulatory Authority

The regulatory Authority is 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 and transparent manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.