

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Technical Barriers to Trade

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COMMUNICATION FROM THE DELEGATION OF THE UNITED STATES

The working draft text of a Protocol on the Approval of Telecommunications Technical Equipment, reproduced below, is being circulated at the request of the delegation of the United States.

WORKING DRAFT TEXT PROTOCOL ON THE APPROVAL OF TELECOMMUNICATIONS TERMINAL EQUIPMENT (TTE) UNDER ARTICLE 5 OF THE GATT AGREEMENT ON TECHNICAL BARRIERS TO TRADE

Preamble

Having regard to the Agreement on Technical Barriers to Trade (Agreement),

Recognizing that the Agreement establishes principles for eliminating technical barriers to trade, and

Desiring to further elaborate on the principles in Article 5 of the Agreement on the determination of conformity with technical regulations or standards,

the Parties to this Protocol hereby agree to the following provisions regarding Telecommunications Terminal Equipment (TTE) produced or manufactured in another Party:

1. Establishment of type approval procedures

1.1. Each Party shall ensure that the approval of TTE from any other Party is based solely upon type approval procedures. Such procedures shall not include inspection of individual products of an approved type. However, nothing in this Protocol shall prevent a Party from carrying out reasonable spot checks to verify conformity with the approved type.

1.2. Each Party may inspect the installation of TTE from any other Party provided that inspection is conducted solely to ensure the proper installation of such TTE and is not used to duplicate inspection of already

type-approved TTE. Such inspection shall be conducted within fourteen calendar days of the date it is requested.

1.3. No Party shall subject TTE from any other Party to duplicative approval procedures, for example in instances where approval has been issued by a service-provider for its use and the service-provider is also an appropriate authority.

1.4. Each Party shall use approval procedures for TTE from any other Party which are no more complex and no less expeditious than the corresponding procedures, in a comparable situation for TTE of national origin or originating in any other country.

2. Access to approval procedures

2.1. Each Party shall ensure that TTE from any other Party are accorded direct and complete access to any approval procedures.

2.2. Each Party shall ensure that TTE from any other Party are accorded access to type approval procedures under conditions no less favourable than those accorded like domestic or imported TTE in a comparable situation.

2.3. Each Party shall ensure that compliance with approval procedures is not made mandatory as long as administrative mechanisms for granting approvals have not been made operational.

3. Transparency

3.1. Each Party shall ensure that all information and requirements concerning product approval are published or otherwise made available on an equal basis to suppliers of foreign and domestic TTE.

3.2. Each Party shall establish a "contact point" (listed in Annex 1) that shall provide, upon request, copies of, or guidance on how to obtain copies of, the information and requirements referred to in Article 3.1.

3.3. Each Party shall ensure that approval is granted or denied within ninety calendar days after the submission of complete test data. Each Party shall ensure that when approval is denied, the reasons for denial are provided, upon request by the supplier of TTE from any other Party. Each Party shall ensure that a review procedure is available for complaints arising from the denial of approval.

3.4. Each Party shall ensure that any exporter or importer of TTE from any other Party receives timely information, upon request, concerning the progress of the type approval procedure for its product and the results of tests, so as to allow corrective measures to be taken.

4. Acceptance of test data from another party

4.1. Each Party shall facilitate the acceptance by appropriate authorities within its territory of test data from firms and laboratories in another Party, provided that such data are produced through procedures for determining conformity with standards designated by the appropriate authority.

4.2. Where no such procedures or standards are designated, each Party shall facilitate acceptance by its appropriate authorities of test data from firms and laboratories in another Party that are acquired through reasonable procedures or according to reasonable standards.

4.3. Each Party shall ensure that its appropriate authorities (listed in Annex 2) are available to exchange views on different test procedures and to consult, upon request from an importer or exporter of TTE from any other Party, with a view to reaching a mutually acceptable understanding concerning test procedures and data.

4.4. The final decision concerning the acceptance of test data from another Party shall be made by the appropriate authorities in each Party.

5. Administrative mechanisms

5.1. Each Party shall ensure that applications for type approval are examined and, if possible, their examination is completed in the order in which they were submitted to the appropriate authorities.

5.2. Each Party shall ensure that its appropriate authorities base their type approval decisions on the advice of independent technical experts.

5.3. Each Party shall limit the scope of required information to that which is indispensable in order to establish the conformity of the TTE from any other Party to technical specifications.

5.4. Each Party shall ensure that any fees imposed for approving TTE from any other Party shall be equitable in relation to any fees chargeable for approving TTE of national origin or originating in any other country.

5.5. Each Party shall ensure that the siting of appropriate authorities' approval facilities and the selection of samples for type approval shall not cause unnecessary inconvenience for importers and exporters of TTE from any other Party.

5.6. Each Party shall ensure that confidentiality of information about imported products arising from or supplied in connection with obtaining type approval shall be respected in the same way as for domestic products.

6. Institutions, consultation and dispute settlement

6.1. There shall be established under this Protocol a "Group of Experts on Telecommunications Terminal Equipment" (Group) composed of representatives from each of the Parties. This Group shall elect its own chairman and meet

as necessary, but not less than once a year, for the purpose of affording Parties the opportunity to consult on any matters relating to the operation of the Protocol or the furtherance of its objectives, and to carry out such other responsibilities as may be assigned to it by the Parties. The Group shall be responsible for updating, at least annually, the covered list of products contained in Annex 3.

6.2. Consultation and settlement of disputes with respect to any matter affecting the operation of this Protocol shall be according to the procedures of Article 14 of the Agreement.

7. Scope of application

7.1.1. For the purposes of this Protocol, TTE is telecommunications equipment which is purchased, leased, or specified by the user and can be connected to telecommunications networks (including, but not limited to voice - and data networks).

7.1.2. The specific products or product classes covered by this Protocol are identified in Annex 3.

7.1.3. The coverage of Annex 3 may be amended at any time by the agreement of the Parties, and shall be reviewed at least once a year at the meeting of the Group with a view to determining whether any amendments are desirable.

7.2. This Protocol applies to telecommunications networks that are regulated or controlled by Parties. Each Party shall facilitate application of the provisions in Articles 1 through 5 of this Protocol to telecommunications networks in its territory that it does not regulate or control. This Protocol does not apply to wholly-owned private networks that do not connect to a network regulated or controlled by a Party.

8. Final provisions

8.1. This Protocol shall be deposited with the Director-General of the CONTRACTING PARTIES to the GATT. It is open for acceptance by signature or otherwise, by signatories of the Agreement on Technical Barriers to Trade or by other governments acceding to the Agreement pursuant to the provisions of Article 15 thereof.

8.2. This Protocol shall not apply as between any two Parties if either of the Parties, at the time either accepts or accedes to this Agreement, does not consent to such application.

8.3. Reservations may not be entered in respect of any of the provisions of this Protocol without the consent of the other Parties.

8.4. This Protocol shall enter into force on _____ for the governments which have accepted or acceded to it by that date. For each other government it shall enter into force on the thirtieth day following the date of its acceptance or accession to this Protocol.

8.5. Each government accepting and acceding to this Protocol shall ensure, not later than the date of entry into force of this Protocol for it, the conformity of its procedures relating to approval of TTE equipment with the provisions of this Protocol. In addition, each Party shall promptly provide the Group with a copy of its laws and regulations and amendments thereto which are relevant to the TTE product approval process.

Annex 1
(List of Contact Points)

Annex 2
(List of Appropriate Authorities)

Annex 3
(List of Products)

The following is a list of products covered by the Protocol:

- private branch exchanges: electromechanical and electronic (digital and analog);
- key systems: electromechanical and electronic;
- telephone sets, including the primary instrument: pushbutton, rotary dial, multibutton (ket sets), call directors, recording and answering sets, automatic dialers, coin and [picture phones, vue sets, home terminals (home computers or viewdata sets)];
- facsimile equipment;
- intercom systems;
- dictation systems;
- [- station accounting systems];
- alarm system equipment: industrial security, fire and public security;
- [- mobile radio equipment (including paging systems)]; and
- modems [and data sets].

Annex 4
(Definitions)

Approval Procedures:

Type Approval:

Appropriate Authority:

Service Provider:

Required Information: Information that the exporter or importer is obliged to provide in order to obtain type approval.