

Telecommunications Services Collective Request

Introduction

1. Further to paragraphs 7 and 11 (b) of Annex C of the Hong Kong Ministerial Declaration, the Mission of Singapore is pleased to present the delegation of [] a collective request in telecommunications services on behalf of the following interested Members: Australia, Canada, the European Communities, Hong Kong China, Japan, Republic of Korea, Norway, Singapore, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and the United States of America.
2. This request identifies specific objectives for telecommunications liberalization, while recognizing the flexibilities provided for individual developing country Members in accordance with Article XIX.2 of the GATS. The aforementioned interested Members are also deemed to be recipients of this request.
3. In accordance with paragraph 7 of Annex C of the Hong Kong Ministerial Declaration, this collective request is intended to complement, and not supersede, the bilateral request-offer negotiations and the specificity of bilateral requests.
4. The Mission of Singapore has the further pleasure to invite [] to participate in a plurilateral discussion of this request, which will be organized in Geneva during the Services cluster taking place from 27 March to 7 April, 2006.
5. Please note that 23 other Members have received this collective request in telecommunications services from the aforementioned group of interested Members, and have also been invited to this plurilateral meeting.
6. The aforementioned interested Members reserve the right to modify the content of this request. Additional interested Members may also be identified in the future.
7. Any comments regarding this request, including written questions of a technical nature in advance of the plurilateral meeting, may be addressed to:

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Telecommunications Services Collective Request

1. Telecommunications services are not only important economic drivers in their own right but are also key enablers of trade and development with the potential to improve quality of life for developed and developing countries alike. For these reasons, we recognize telecommunications as a vital infrastructural service and request strong and commercially meaningful commitments for all telecommunications services. When scheduling commitments in this sector, Members' attentions are drawn to the agreed objectives in paragraph 1f(i) of Annex C to the Hong Kong Ministerial Declaration that Members should ensure, to the maximum extent possible, clarity, certainty, comparability and coherence of commitments through adherence to, *inter alia*, the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001. Specifically, we request that your government make commitments on telecommunications services in accordance with the following:

- (a) **Sectoral Coverage:** Commitments should have commercially meaningful coverage of subsectors which are listed in 2.C. of MTN.GNS/W/120, in particular voice and data transmission services and leased circuit services (through any means of technology)¹, and services listed under 2.C.h to 2.C.n. of MTN.GNS/W/120 (often referred to as value-added services during the Uruguay Round).
- (b) **Mode 1:** No national treatment limitations and no substantial market access limitations, specifically:
 - (i) No unbound;
 - (ii) No requirement to use networks of specific suppliers;
 - (iii) No requirement of commercial presence; and
 - (iv) No requirement for commercial arrangements.
- (c) **Mode 2:** No market access or national treatment limitations.
- (d) **Mode 3:** No national treatment limitations and no substantial market access limitations, specifically:

¹ in accordance with S/GBT/W/2/Rev. 1

- (i) No limitations on the establishment or number of service suppliers (eg quotas, exclusive service suppliers, or geographic restrictions within a Member state's territory);
 - (ii) No economic needs tests;
 - (iii) No restrictions on the types of legal entity permitted;
 - (iv) No limitations on nationality or residency; and
 - (v) Majority foreign capital participation and effective control to be allowed.
- (e) **Subsectors 2.C.h. to 2.C.n. in MTN.GNS/W/120:** No limitations on Modes 1 to 3.
- (f) **All telecommunications services provided on a non-facilities or resale basis:** No limitations on Modes 1 to 3.
- (g) **Mode 4²:**
 - (i) Make commitments in accordance with paragraph 1(d) of Annex C of the Hong Kong Ministerial Declaration, in particular new or improved commitments on the categories of Intra-Corporate Transferees and Business Visitors.
 - (ii) No additional limitations beyond horizontal limitations; and
 - (iii) No exclusion of telecommunications services from horizontal Mode 4 commitments.
- (h) **Reference Paper:** Commitments to all provisions of the Reference Paper developed in the Negotiating Group on Basic Telecommunications (see attached).
- (i) **MFN Exemptions:** Removal of all MFN exemptions

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² For this element, the United States is not a requesting Member, but shall be deemed to be a recipient.

Reference Paper developed in the Negotiating Group on Basic Telecommunications

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 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 for specific government uses is not required.

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