

ANNEX XIII

REFERRED TO IN ARTICLE 8.21

TELECOMMUNICATIONS SERVICES

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ARTICLE 1

Scope and Definitions

1. This Annex applies to measures by the State Parties affecting trade in telecommunications services.¹ It shall not apply to measures by the States Parties relating to broadcasting or cable distribution of radio or television programming.²
2. Nothing in this Annex shall be construed:
 - (a) to require a State Party to authorise a service supplier of any other State Party to establish, construct, acquire, lease, operate, or supply telecommunications transport networks or services, other than as provided for in its Schedule of Commitments; or
 - (b) to require a State Party, or to require a State Party to oblige service suppliers under its jurisdiction to establish, construct, acquire, lease, operate or supply telecommunications transport networks or services not offered to the public generally.
3. For the purposes of this Annex:
 - (a) “telecommunications services” means the transmission and reception of signals by any electromagnetic means offered to the public generally. The sector of telecommunications services does not cover the economic activity consisting of content provision which requires telecommunications services for its transport;
 - (b) “regulatory authority” means the body or bodies entrusted with any of the regulatory tasks assigned in relation to the issues mentioned in this Annex;
 - (c) “major supplier” means a supplier that has the ability to materially affect the terms of participation having regard to price and supply in the relevant markets for telecommunications networks or services as a result of its position in it; and
 - (d) “telecommunications transport network” means the public telecommunications infrastructure which permits

¹ For the purposes of this Annex, “trade in telecommunications services” shall be understood in accordance with the definition contained in subparagraph (a) of Article 8.2 (Definitions) of the Agreement.

² For the purposes of this Annex, “broadcasting” shall be defined as provided for in the domestic laws and regulations of each State Party.

telecommunications between and among defined network termination points.

ARTICLE 2

Competitive Safeguards

1. Each State Party shall maintain appropriate measures for the purpose of preventing suppliers from engaging in or continuing anticompetitive practices.
2. The anticompetitive practices referred to in paragraph 1 shall include, in particular:
 - (a) engaging in anticompetitive cross-subsidisation;
 - (b) using information obtained from competitors with anticompetitive results; and
 - (c) not making available to other service suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to supply services.

ARTICLE 3

Interconnection

1. This Article applies to linking with suppliers providing 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 supplied by another supplier, where specific commitments are undertaken.
2. Any supplier authorised to provide telecommunications services shall have the right to negotiate interconnection with other providers of telecommunications networks and services. Interconnection should in principle be agreed on the basis of commercial negotiation between the providers concerned.
3. Where the domestic laws and regulations require suppliers to interconnect, such interconnection shall be provided in a timely manner, on terms and conditions (including technical standards and specifications) that are transparent, reasonable, having regard to economic feasibility, and sufficiently detailed and unbundled so that the supplier need not pay for network components or facilities that it does not require for the services to be supplied. Such interconnection shall be provided at technically feasible points in addition to the network termination points offered to the majority of users, subject to reasonable charges and to an assessment by the regulatory authority, where appropriate.
4. Each State Party shall ensure that every supplier, which according to domestic regulation is obliged to provide interconnection, makes publicly available the procedures applicable for interconnection negotiations.

5. Each State Party shall ensure that major suppliers either make their interconnection agreements available to service suppliers of another State Party or publish their reference interconnection offers.

6. Where suppliers are unable to resolve disputes regarding the negotiation of an interconnection agreement as referred to in paragraph 3 within a reasonable period of time, each State Party shall ensure that the suppliers have recourse to assistance from an independent domestic body, which may be a regulatory authority as referred to in Article 6 (Regulatory Authority), to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time.

7. If a dispute referred to in paragraph 6 cannot be resolved, that body or authority shall fix the conditions for the interconnection in accordance with the principles governing the sector in question as well as those set out in this Annex. Assistance may include special conciliation proceedings.

ARTICLE 4

Universal Service

1. Each State Party has the right to define the universal service obligation it wishes to adopt or maintain.

2. Each State Party shall administer any universal service obligation that it adopts or maintains in a transparent, objective, non-discriminatory, and competitively neutral manner.

ARTICLE 5

Licensing Procedure

1. Where a licence is required for the supply of a telecommunications service, the competent authority of a State Party shall make the following publicly available:

- (a) the terms and conditions for such a licence;
- (b) the period of time normally required to reach a decision concerning an application for a licence; and
- (c) the criteria for granting rights of use of scarce resources.

2. Except for licences relating to the use of frequency spectrum, where a licence is required for the supply of a telecommunications service, and if the applicable conditions are fulfilled, the competent authority of a State Party shall reach a decision, as a general rule within 12 months from the date the submission of its application has been considered complete under that State Party's domestic laws and regulations.³

³ The 12-month period of time shall not apply to Paraguay. Rather, a decision shall be made within a reasonable period of time after the submission of an application.

3. The competent authority of a State Party shall promptly notify the applicant of the outcome of its application after a decision has been taken. In case an application for a license is denied, the competent authority of the State Party shall, upon request disclose the reason for the denial to the applicant.

ARTICLE 6

Regulatory Authority

1. Each State Party's regulatory authority for telecommunications services shall be separate from, and not accountable to, any supplier of telecommunications services.

2. Each State Party shall ensure that the decisions of, and the procedures used by, its regulatory authority are impartial with respect to all market participants.

3. Each State Party shall ensure that suppliers of another State Party affected by a decision of the regulatory authority of the State Party have recourse to appeal to an independent administrative body or a court, in accordance with that State Party's domestic laws and regulations.

ARTICLE 7

Scarce Resources

Each State Party shall carry out its procedures for granting rights of use of scarce resources including frequencies, numbers and rights of way, in an objective, timely, transparent and non-discriminatory manner. Each State Party shall make publicly available the current state of allocated frequency bands but detailed identification of frequencies for specific government uses is not required.

ARTICLE 8

International Mobile Roaming Services

1. Each State Party shall endeavour to cooperate on promoting transparent and reasonable rates for international roaming services aiming to reduce such rates and to promote trade growth between the Parties and enhance consumer welfare.

2. The State Parties shall ensure that clear information is available for international roaming service users.
