

WORLD TRADE ORGANIZATION

RESTRICTED

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Group on Basic Telecommunications

REPORT OF THE MEETING OF 18 OCTOBER 1996

1. The Group on Basic Telecommunications held its third meeting on 18 October 1996. The agenda for the meeting was contained in WTO/AIR/446 of 4 October 1996.
2. Under the first agenda item on exchange of views on progress in bilateral negotiations participants noted that there appeared to be possibilities for progress but that these were evolving slowly. They observed that the political momentum and the flexibility necessary for the negotiations to succeed was not yet manifested. The hope was expressed that the high level contacts of the Group in November and the Singapore Ministerial would help provide the needed political momentum. It was also recalled that participants were aiming to see movement to improve offers by the Singapore meeting so that the outline of the emerging deal could become more clear. One participant reported that recent meetings in Seattle among the Quad countries had succeeded in reconfirming the commitment on the part of these four participants to conclude the negotiations in February. They had also agreed that they should make best efforts to improve their offers before the Singapore Ministerial and two of the participants, the US and EU, had announced an intention to table improved offers in advance of the Ministerial. This effort would be made in the hope that it would help others bring forth higher quality offers. However, some participants noted that progress on achieving a critical mass of new and improved offers would also require progress on the other outstanding issues. Participants also urged that further progress be achieved by the Ministerial on resolving the outstanding issues related to international services and satellite services and stressed that resolution of these issues was essential to the successful conclusion of the negotiations. It was noted that intensive bilateral negotiating efforts were under way and would continue.
3. Under the second agenda item, the exchange of information on developments in telecommunications policies, the representative of Hong Kong, recalling that its offer included commitments on virtual private networks, reported that Hong Kong was already proceeding to liberalize these services: he said the Government had recently called for applications, without limitations on the number, for the provision of virtual private network services.
4. Regarding discussion of outstanding issues related to international services and satellite-based services, the Chairman first invited views on the satellite issues. He drew attention to two informal notes prepared by the Secretariat, one dealing with GATS provisions possibly relevant to inter-governmental satellite organizations and one relating to scheduling techniques, that were intended to help facilitate discussion. He also noted that an informal paper on satellite scheduling issues, highlighting different approaches used in the offers and listing questions raised by such differences was made available by the United States delegation. Many participants reported favourable impressions of the presentations made to delegations the previous afternoon by representative of satellite services companies. Delegations commended, in particular, the industry representatives' expression of clear and unified views as to their support for the work being undertaken and for the success of the negotiations and their support for the elements of the reference paper on regulatory principles and their sense of its importance for their industry. Participants said they saw grounds for optimism in that industry concerns were focused on issues that it should be possible for the Group to address. It was also noted that industry representatives would be looking to the Group to resolve the outstanding technical issues related to

satellite-based services. One delegation recalled that derestriction of offers was important helping satellite companies, as well as others, to understand and support the efforts of the Group. Regarding scheduling-related concerns, participants confirmed that there appeared to be a need for further clarity in schedules as illustrated in the U.S. paper. They noted that the Secretariat note on scheduling may help to focus suggestions on ways to achieve greater precision. It was suggested that while the Group would need a common understanding of how to clearly articulate commitments related to satellite services, some differences in language may nevertheless be justified. It was noted that it was important to be able to list services commitments in schedules in a technology-neutral manner, but that where there were limitations relating to certain types of technology a clearly understood way should be found to make schedules specific and clear.

5. On international services issues, participants emphasized that not enough progress had been made and that substantial further work was necessary. One representative suggested that there was now a need to focus more closely on solutions for the problems identified. Others noted a need to explore possible options in greater detail and to embark soon on what may be expected to be a difficult drafting exercise. It was stressed that the information that had been shared concerning the importance of the problem had confirmed that international services were crucial to the negotiations and that the issues raised deserve a solution. However, the solutions found should not create market access barriers, apply in an extra-territorial manner, or impart undue discretionary powers to regulatory authorities. It was also suggested that any safeguards would need to be both transitory and proportional to the problem as well as consistent with GATS disciplines, including MFN treatment. The view was expressed that GATS provisions neither endorse nor condemn ex-post or ex-ante licensing approaches and that many valid reasons may exist for national differences in using these approaches. One representative observed that three types of options had begun to emerge from discussions: one, to introduce a fair trade commitment permitting regulatory authorities to retain the power to impose licensing conditions to protect competition, usually ex-post; a second concerning licensing based on equivalent competition considerations, implemented on an ex-ante basis, restraining monopoly suppliers from non-liberalizing regimes from entering liberalized markets as a means to reduce the risks of distortion, and the third involving an auto-discipline commitment by non-liberalizing Members to restrain their monopoly providers from engaging in unfair practices in international services. He concluded that he did not see the options as mutually exclusive. For example, the auto-discipline approach could be combined with the first approach on the maintenance of reserve powers by regulators, thus creating a mechanism for ensuring that both ends of a circuit would be subject to control and allowing regulators to work in concert. Another representative expressed the belief that the problems involved were solvable once they were fully defined and understood. He saw the problem as relating to both inbound and outbound traffic, voice and data, and traffic related to countries with monopolies as well to countries that are not yet fully competitive. He observed that it was not yet clear that participants had reached a common view on the definition of the problem. He also asserted the view that a licensing regime based on equivalence of competitive opportunities would not be consistent with the MFN obligation of the GATS. Regarding the proposal relating to "auto discipline" commitments, it was noted that there had been exploration of this approach in bilateral sessions to determine whether those who maintain monopolies may be willing to undertake such a commitment.

6. With respect to the organization of future work, the Chairman recalled that it was agreed that high-level officials would be invited to participate in the activities of the Group during the week of 11 - 15 November.

7. Under other business, the Chairman asked participants to finalize their views on the contents of the Group's report to Council for Trade in Services for the Singapore Ministerial meeting in December. After presenting comments on the draft report, participants agreed to the changes to be incorporated and adopted the report.