

MEXICO – MEASURES AFFECTING TELECOMMUNICATIONS SERVICES

Notification of an Agreement

The following communications, dated 1 June 2004, from the Permanent Missions of Mexico and the United States, are circulated at their request.

June 1, 2004

H.E. Ms. Linnet F. Deily
Ambassador
Permanent Representative
Permanent Mission of the United States to
The World Trade Organization
Route de Pregny 11
1292 Chambesey
Switzerland

Dear Ambassador Deily:

Over the past several days, delegations of the United States and Mexico (the "Parties") have been discussing a mutually agreed solution of the dispute *Mexico – Measures Affecting Telecommunications Services* (WT/DS204/R). Notwithstanding the fact that Mexico does not share the interpretation of Mexico's World Trade Organization (the "WTO") commitments as set forth in the panel findings, Mexico will not exercise its right to appeal under Article 16 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (the "DSU") in light of the following understanding reached by the Parties to comply with the recommendations of the panel report:

1. The Parties agree that thirteen (13) months constitutes a reasonable period of time to comply with the recommendations of the Report, as set forth in paragraphs 2 to 6 of this letter.
2. Within two (2) months of adoption of the Report, Mexico shall have in force revised International Long Distance Rules (the "ILD Rules"). Mexico shall completely eliminate those aspects of the current ILD Rules that implement the "uniform settlement rate" system, the "proportional return" system, and the requirement that the carrier with the greatest proportion of outgoing traffic to a country negotiate the settlement rate on behalf of all Mexican carriers for that country. Thus, the new ILD Rules shall allow the competitive commercial negotiation of international settlement rates.
3. Within thirteen (13) months of adoption of the report, Mexico shall have in force regulations (*Reglamentos*) authorizing the issuance of permits (*permisos*) for the resale of

international long distance public switched telecommunications services. Such *Reglamentos* will regulate commercial agencies (*comercializadoras*) established in Mexico and permit them to purchase and resell these telecommunications services through the use of capacity of concessionaires, within the limits established in Articles 52 and 61 of Mexico's Federal Telecommunications Law.

4. The Parties anticipate that the competitive commercial negotiation of international settlement rates resulting from the revisions of the ILD Rules described in paragraph 2 will result in reasonable and cost-oriented rates.
5. The United States recognizes that Mexico will continue to prohibit International Simple Resale (ISR).
6. Once Mexico has complied with the obligations set out in paragraphs 2 and 3, and provided that international settlement rates offered do not increase above the rates established by commercial negotiations concluded in May 2004 between United States carriers and the Mexican carrier authorized under the current ILD Rules, the Parties will file a notice with the Dispute Settlement Body stating that a mutually agreed solution to this dispute has been achieved. Provided that Mexico has complied with this agreement, the United States shall not seek recourse to Article 21.5 of the DSU, concerning any finding or recommendation of the panel report.

The Parties shall consult periodically regarding the implementation of this agreement.

I have the honor to propose that this letter done in the English and Spanish languages, both texts being equally authentic, and your letter of confirmation in reply shall constitute an agreement between our two Governments, effective as of the date of the letter in reply.

Sincerely,

(Signed) Eduardo Pérez Motta,
Ambassador

June 1, 2004

H.E. Mr. Eduardo Pérez Motta
Ambassador
Permanent Representative
Permanent Mission of Mexico to
the World Trade Organization
Avenue du Budé 16 (7 piso)
1202 Geneva
Switzerland

Dear Ambassador Pérez Motta:

I am pleased to receive your letter of today's date, which reads as follows:

"Over the past several days, delegations of the United States and Mexico (the "Parties") have been discussing a mutually agreed solution of the dispute *Mexico – Measures Affecting Telecommunications Services* (WT/DS204/R). Notwithstanding the fact that Mexico does not share the interpretation of Mexico's World Trade Organization (the "WTO") commitments as set forth in the panel findings, Mexico will not exercise its right to appeal under Article 16 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (the "DSU") in light of the following understanding reached by the Parties to comply with the recommendations of the panel report:

1. The Parties agree that thirteen (13) months constitutes a reasonable period of time to comply with the recommendations of the Report, as set forth in paragraphs 2 to 6 of this letter.
2. Within two (2) months of adoption of the Report, Mexico shall have in force revised International Long Distance Rules (the "ILD Rules"). Mexico shall completely eliminate those aspects of the current ILD Rules that implement the "uniform settlement rate" system, the "proportional return" system, and the requirement that the carrier with the greatest proportion of outgoing traffic to a country negotiate the settlement rate on behalf of all Mexican carriers for that country. Thus, the new ILD Rules shall allow the competitive commercial negotiation of international settlement rates.
3. Within thirteen (13) months of adoption of the report, Mexico shall have in force regulations (*Reglamentos*) authorizing the issuance of permits (*permisos*) for the resale of international long distance public switched telecommunications services. Such *Reglamentos* will regulate commercial agencies (*comercializadoras*) established in Mexico and permit them to purchase and resell these telecommunications services through the use of capacity of concessionaires, within the limits established in Articles 52 and 61 of Mexico's Federal Telecommunications Law.
4. The Parties anticipate that the competitive commercial negotiation of international settlement rates resulting from the revisions of the ILD Rules described in paragraph 2 will result in reasonable and cost-oriented rates.
5. The United States recognizes that Mexico will continue to prohibit International Simple Resale (ISR).

6. Once Mexico has complied with the obligations set out in paragraphs 2 and 3, and provided that international settlement rates offered do not increase above the rates established by commercial negotiations concluded in May 2004 between United States carriers and the Mexican carrier authorized under the current ILD Rules, the Parties will file a notice with the Dispute Settlement Body stating that a mutually agreed solution to this dispute has been achieved. Provided that Mexico has complied with this agreement, the United States shall not seek recourse to Article 21.5 of the DSU, concerning any finding or recommendation of the panel report.

The Parties shall consult periodically regarding the implementation of this agreement.

I have the honor to propose that this letter done in the English and Spanish languages, both texts being equally authentic, and your letter of confirmation in reply shall constitute an agreement between our two Governments, effective as of the date of the letter in reply."

I have the honor to confirm that the understanding referred to in your letter done in the English and Spanish languages, both texts being equally authentic, is shared by my Government, and that your letter and this letter in reply shall constitute an agreement between our two respective Governments, to enter into force on the date of this letter.

Sincerely,

(Signed) Linnet F. Deily
Ambassador
