

WORLD TRADE ORGANIZATION

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Group on Basic Telecommunications

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COMMUNICATION FROM GUATEMALA

Draft Offer on Basic Telecommunications

The attached communication is circulated at the request of Guatemala to members of the Group on Basic Telecommunications.

The Permanent Mission of Guatemala to the United Nations and Other International Organizations with headquarters in Geneva presents its compliments to the Secretariat of the World Trade Organization and has the honour, pursuant to the decisions of the Group on Basic Telecommunications, to attach the Draft Conditional Offer on Basic Telecommunications by the Government of Guatemala and to request that it be circulated to members of the Group on Basic Telecommunications.

The Government of Guatemala reserves the right to modify, reduce or extend the present Conditional Offer at any time, in the light of progress in the work of the Group on Basic Telecommunications, the level of commitments of the participants in the negotiations and developments in the situation in Guatemala. The Government of Guatemala also reserves the right to make technical changes and corrections to the offer.

Guatemala is mindful of the benefits to the country's development of unilaterally liberalizing the telecommunications sector and promoting the participation of private operators.

In order to open up Guatemala's telecommunications market, the Government has prepared the present initial offer for submission at the sectoral negotiations in the World Trade Organization.

This communication offers unlimited market access and national treatment for national and foreign private suppliers and services on the local and international telecommunications market.

Guatemala reserves the right to modify, reduce or extend the present offer at any time, in the light of progress in the work of the Negotiating Group on Basic Telecommunications, the level of commitments of the participants in the negotiations and the successful development of the new legal framework and consolidation of the institutional regime for at least the year 1997, for the purposes of notifying Members whether the offer will be modified before 1 January 1998, at which time the commitments undertaken enter into force.

The Government of Guatemala guarantees that any possible changes made in Guatemala's offer will at no time limit access for foreign service suppliers; on the contrary, they will keep to the basic principles of national treatment and market access. Possible changes would be aimed at improving and never at diminishing the offer, in the light, above all, of technical and procedural matters.

GUATEMALA - LIST OF SPECIFIC COMMITMENTS

Modes of supply:		(1)	Cross-border supply	(2)	Consumption abroad	(3)	Commercial presence	(4)	Presence of natural persons
Sector or subsector		Limitations on market access			Limitations on national treatment		Additional commitments		
2.	COMMUNICATIONS SERVICES								
C.	Telecommunications services								
ALL SECTORS									
(a)	Telephone services (7521)								
(b)	Packet-switched data transmission services (7523)								
(c)	Circuit-switched data transmission services (7523)								
(d)	Telex services (7523)								
(e)	Telegraph services (7522)								

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
(f) Facsimile services (7521, 7529) (g) Private leased circuit services (7522, 7523)	(3) *Subject to the issue of a frequency user's title and/or Telecommunications Registration Certificate by the Superintendency of Telecommunications *Subject to availability of frequency	(3) None	
(o) Other * Paging services (75291) * Cellular services (75213) * Personal Communications services * Mobile data services * Satellite services	(4) *Subject to the issue of a frequency user's title and/or Telecommunications Registration Certificate by the Superintendency of Telecommunications *Subject to availability of frequency *Unbound, except as indicated by horizontal commitments	(4) Unbound, except as indicated by horizontal commitments	

ADDITIONAL COMMITMENTS BY GUATEMALA IN REGARD
TO REGULATIONS TO FACILITATE COMPETITION

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

Users mean telecommunications service consumers.

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.

2.2 Interconnection to be ensured

With the limits to which market access is permitted, 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 only during the period from 18 May 1997 to 18 May 2000.

2.5 Interconnection: dispute settlement

If, within a period of 40 (working) days, the parties have not reached agreement on access to essential resources, the Superintendency of Telecommunications (SIT) shall issue a ruling under the procedure specified in the General Telecommunications Law.

Only an appeal for review may be lodged against a decision by the Superintendency of Telecommunications, and it shall be settled by the Ministry of Communications, Transport and Public Works. An administrative appeal shall lie against any decision by the Ministry of Communications, Transport and Public Works resulting from an appeal for review.

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 criteria for granting a user's title

Where a user's title is required, the following will be made publicly available:

- (a) All the criteria for granting a user's title and the period of time normally required to reach a decision concerning an application for a user's title; and
- (b) the terms and conditions of individual titles.

The reasons for the denial of a user's title 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.