

**GENERAL AGREEMENT
ON TRADE IN SERVICES**

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Negotiating Group on Basic Telecommunications

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COMMUNICATION FROM MEXICO

Response to Questionnaire on Basic Telecommunications

The attached communication is circulated at the request of Mexico to Members of the Negotiating Group on Basic Telecommunications.

MEXICO

Part I

1. According to the relevant regulations in Mexico, basic telecommunications services are those of strategic importance for national development, and include basic public telephone services, telegraph, national satellite communications, and the installation, establishment, operation and running of public telecommunications networks on national territory.

Broadly speaking, our regulatory regime can be described as competition-based because the only services operating under monopoly conditions are telegraph and satellite transmission services, as described below, and telephone services. Other telecommunications services such as cellular telephones, specialized fleet mobile radiocommunications, paging, data transmission, cable TV and value-added services, for example, have always been open to competition. With regard to satellite communications, despite the fact that they operate as a State monopoly, regulations in force provide for the delivery of public services using national satellites, as in the case of teleports and data networks using VSAT earth stations.

Telecommunications services and networks which do not come under the description given in paragraph 1 are not considered to be basic telecommunications. They include value-added telecommunications services and systems which interface with facilities obtained or leased from any public telecommunications network authorized by the Government of Mexico.

2. The regulations in force distinguish between networks and telecommunication services even when the networks and services are closely related. This applies to conventional telephone and cellular telephone services, for example.

The regulations clearly define a telecommunications network, a private telecommunications network, a public telecommunications network and a local supplementary telecommunications network, with reference to the installations, infrastructure or facilities included in the networks. Telecommunications services are defined as those offered to third parties or the general public, whereby a user may establish communication within the telecommunications network or outside it.

3. In our opinion, the definitions of network and service in Mexican regulations correspond to those in the GATS Annex on Telecommunications.

4. The provision of public telegraph services, the setting up of satellite systems, their operation and supervision, satellite transmission delivered by the public service, and earth stations with international links for satellite communications are reserved to the Federal Government or decentralized bodies duly established for this purpose.

Furthermore, basic public national and international long-distance telephone services are reserved to the company Teléfonos de México S.A. de C.V. until 10 August 1996. At the moment, preparations are being made to inform the public of the conditions under which public long-distance telephone services will be opened up to competition as of the above-mentioned date.

5. Public telegraph services and those related to the establishment of satellites and satellite transmission referred to in the reply to question 4, are provided nationally by the decentralized Federal Government entity known as "Telecomunicaciones de México" (Telecomm).

Public telephone services are also supplied nation-wide by a totally private enterprise whose monopoly will end in August 1996 as mentioned above.

6. Under the Law on Foreign Investment, foreigners may hold 49 per cent of shares in basic telecommunications networks and services, or 100 per cent of shares in value-added telecommunications services.

7. Not applicable, as the regime permits competition.

8. Mexico has signed bilateral agreements relating to the supply of some basic telecommunications services with the United States of America. These include, for example, cellular mobile telephone services and specialized fleet radiocommunication services. The main aim of the agreements is to share radio frequency bands in the border areas between our countries.

Similarly, the State has signed a range of agreements with the governments of other countries on interconnecting our basic telecommunications networks.

PART II

Competition

Subsectors

Voice telephone services

- (i) The basic voice telephone service is privatized and at present licensed to two enterprises, one operating at the national level and the other as a subsidiary at the regional level. It must be pointed out that the delivery of this service is open to competition, and applications from enterprises interested in providing it are currently being considered.

At present, national and international long-distance services are supplied exclusively by the two authorized enterprises operating voice services until 1996, when they will be opened up to competition. The Federal Government is analysing the policies to be implemented in this area.

In this subsector, foreign enterprises with legal personality and their own capital resources are allowed to participate as minority shareholders or hold shares with limited voting rights in authorized companies provided they undertake to consider themselves Mexican with regard to the shares they acquire, do not request or accept diplomatic intervention by their countries of origin or foreign countries, or by any public and private international body, on pain of forfeiting all the goods and rights they may have acquired to the Mexican nation.

- (ii) The main requirement of this subsector is that controlling shares should be in Mexican hands.
- (iv) The posts of manager, director and board members may be occupied by foreigners provided they do not have majority control. Foreign ownership of land or facilities is not permitted.

- (v) These kinds of services require a licence from the Ministry of Transport and Communications on behalf of the Federal Executive and can only be issued to Mexican citizens or companies.

The most important conditions to be met by an authorized enterprise relate to tariffs, the quality and range of the service and social commitments in disadvantaged areas.

Telegraph services

- (i) This service is reserved to the Federal Government.

Facsimile services

- (i) The supply of this service is open to competition and foreign suppliers may participate in delivery.
- (ii) Competition for this service is open to an unlimited number of suppliers.
- (v) A permit from the Ministry of Transport and Communications is required to supply these services.

National and international satellite services

- (i) This service is reserved to the Federal Government through a decentralized enterprise, with respect to the administration, control and operation of communications satellites and long distance international links. The national and foreign private sector may compete to supply satellite communications services.

Cellular mobile services

- (i) This service is privatized and open to competition. At present, services are supplied by ten enterprises, one at the national level and nine at the regional level.

Foreign capital may participate in this subsector: foreigners may hold 49 per cent of the capital stock of companies providing these services and up to 100 per cent of capital stock where this is specifically authorized.

- (v) Licences must be obtained from the Ministry of Transport and Communications on behalf of the Federal Executive.

PART III

Regulatory Issues

1. We understand the question to be as follows:

Do basic telecommunications suppliers participate in any way in the definition of regulatory issues?

The Ministry of Transport and Communications, on behalf of the Federal Executive, is responsible for formulating regulatory policy. Regulations and amendments thereto emerge from laws, regulations, decrees, agreements and specific individual authorizations issued for interested parties.

With the exception of areas which come under laws which must be approved by the Federal Legislature (Chamber of Deputies), other regulatory instruments are directly within the competence of the Federal Executive.

For general instruments such as laws or regulations, basic telecommunications suppliers and parties working in telecommunications are consulted about how the content of first drafts may affect their interests, or to give them an opportunity to suggest how to improve the proposed measures. Suppliers of goods and services actively participate in drawing up and amending standards during technical standard-setting processes through machinery provided for in the Federal Law on Metrology and Standardization and its regulations, which will shortly be published.

2. The aforementioned Federal Law on Metrology and Standardization lays down and describes the clearly-structured organization of measures concerning metrology and standard-setting and related arrangements. In brief, the Ministry of Transport and Communications is responsible for drawing up preliminary drafts of Mexican standards on telecommunications and submitting them to the relevant national standardization committee for consideration. If there are no comments made, or if the comments do not need to be taken into account, the Ministry then publishes the Mexican official standard in question.

The suppliers of basic telecommunications and telecommunications goods and services in general take part in the aforementioned National Advisory Committee on Standardization when it deals with the telecommunications field, and in working groups when the initial drafts are being drawn up.

3. Under Mexican law, general channels of communication fall exclusively within the purview of the federal authorities. The Federal Executive exercises its powers through the Ministry of Communication and Transport, which in turn oversees a department of communications and technological development.

Under the Sub-Secretariat there are three general directorates dealing with the regulatory issues of telecommunications: the General Directorate of Communications Policies and Standards, the General Directorate of Broadcasting Systems and the General Directorate for the Development of Telecommunications and Informatics. The first two directorates are responsible for regulating telecommunications networks and services, and the third is responsible *inter alia* for the administration and supervision of the radio frequency spectrum.

Under the Law on General Channels of Communication disputes concerning the interpretation of and compliance with provisions on telecommunications are settled on the basis of:

- (i) The terms of licences and contracts themselves;
- (ii) The Law on General Channels of Communication, its regulations and other special laws;
- (iii) In cases not provided for in the Law, the provisions of the Trade Code;
- (iv) Failing that, the rules of the Civil Code of the Federal District and Federal Code of Civil Procedure; and
- (v) Failing that, the needs of the public service in question.

4. The Ministry of Transport and Communications, on the basis of the provisions of Chapter VIII of the Telecommunications Regulation, is responsible for establishing the administrative provisions and technical standards for operating radio communication systems. Authorization from the Ministry,

subject to compliance with the requirements governing licences and permits, is needed to use the radio frequency spectrum. On the basis of the National Frequency Allocation Schedule and the availability of frequencies, the Ministry decides on applications for permits and licences.

5. There is no differential treatment for foreign telecommunications suppliers as compared to national suppliers. Once the necessary requirements for a permit or licence to deliver a specific service have been met, there is no difference in treatment with regard to the allocation and authorization of frequencies.

6. The requirements for numbering codes in public services are based on the Mexican Official Standard on Numbering Codes which is currently being drafted. Network identification codes are assigned only to service suppliers authorized by the Ministry of Transport and Communications and on the basis of registration and supervision by the Ministry.

7. Any national or foreign supplier in possession of a permit or licence from the Ministry of Transport and Communications authorizing the delivery of telecommunications services, in accordance with the technical and administrative requirements and provisions governing foreign investment, invariably receive the same treatment.

8. Under Mexican legislation mandatory standards are those known as Mexican Official Standards. On the basis of procedures under the Federal Law on Metrology and Standardization, the telecommunication standards are going through the ratification process. In the meantime, 22 Mexican Official Standards on telecommunications, dealing with the technical parameters of telecommunications equipment, interfaces and appliances, will shortly be published.

9. The blueprints for Mexican Official Standards, subject to approval, have been submitted to the National Advisory Committee on Standardization for consideration and, if necessary, proposals for amendment. Representatives of national and foreign bodies from the public and private sectors working in telecommunications in the country are represented on the Committee without distinction. The private sector is involved in drafting standards as described in the reply to question 2, Part III, of this questionnaire.

10. Nationally and foreign produced telecommunications equipment which is connected to or uses a general communication channel for marketing or operational purposes must be authorized by means of a certificate of type approval. Laboratory tests and other aspects of equipment approval are provided for in the country's legal instruments. Specific procedures and mutual recognition agreements are in the process of being drawn up and concluded.

11. Under Mexican regulations, telecommunications terminal equipment may freely be attached to authorized networks provided the necessary certificate of type approval has been obtained. The suppliers of services may not make delivery conditional upon the purchase of specific equipment from them or any other enterprise, which means that users may freely choose the supplier and equipment best suited to their needs.

12. There are no restrictions stating that basic telecommunications suppliers which also manufacture telecommunications equipment must use their own switches. However, basic telecommunications suppliers cannot make unjustified and exclusive supply a condition of purchase.