

**Council for Trade in Services
Special Session**

COMMUNICATION FROM THE UNITED STATES

Review of Progress in Telecommunications Services

The following communication, dated 4 December 2007, from the delegation of the United States as coordinator of a collective request in this sector, is being communicated to Members of the Council for Trade in Services.

I. INTRODUCTION

1. Pursuant to the Hong Kong Declaration, Annex C paragraph 7, since February 2006, a number of Members have prepared and delivered collective requests to various recipient Members in addition to requests for this sector in the bilateral part of the negotiations. Six market access clusters and four plurilateral meetings were held between April 2006 and September 2007, during which participants provided responses on and indications of how existing commitments and potential offers might relate to this collective request. Ten Members (Australia, Canada, EC, Hong Kong China, Japan, Korea, Norway, Singapore, the United States, Chinese Taipei) co-sponsored the collective request on Telecommunications Services as a clear indication of their individual market access interest in this sector. Twenty-two Members received the request in this sector. None were least developed countries (LDCs). The request identifies a series of objectives to help WTO Members schedule effective market access commitments in the telecommunications services sector. The summary below highlights the status of negotiations on the collective request since the Hong Kong Ministerial Conference. The collective request is attached to this report.

2. The United States is circulating this status report as coordinator of the Telecommunications Services Collective Request. This state of play only represents the general views of the co-sponsors of the request. The co-sponsors appreciate the engagement of all recipients so far and hope that future discussions will allow progress toward meeting the objectives of the plurilateral request.

II. OVERALL STATUS

3. At the plurilateral meetings, participants provided responses as to how existing commitments and potential offers relate to this collective request. Most recipient Members participated in the plurilateral meetings. Co-sponsors asked recipients and other co-sponsors about their abilities to offer bindings of any current openness or, if required, to adopt new reforms to meet any aspect of the request. Some recipients also asked questions of co-sponsors to clarify the request and, to benefit from the fact that co-sponsors have deemed themselves recipients, explore the extent to which co-sponsors are prepared to meet aspects of the collective request themselves. All co-sponsors participated in this process and provided written responses to concerns raised by recipients. Co-sponsors also provided responses related to elements of the request applicable to them.

4. Only a few positive signals were provided by some recipients about meeting certain aspects of the request. Few gave concrete information on future offerings that would meet the request in a manner that provided effective market access. Indeed, certain Members indicated that they will not

meet key elements of the request, and will not offer to reduce or eliminate existing restrictions on market access. In this context, the conclusion that remains is that many recipients have not indicated that their next offers are likely to provide effective market access in this important sector.

5. In order to illustrate this conclusion, it is instructive to examine certain elements of the request that appear unlikely to be fulfilled. For example, while some recipients indicated possible improvements in sectoral coverage, fifteen of twenty-two trading partners have not provided comprehensive sectoral coverage in their offers nor indicated whether improvements will be forthcoming. On the other hand, only one of ten co-sponsors does not have full sectoral coverage, and that Member has indicated a willingness to improve in this area.

6. For mode 1, seventeen of twenty-two recipients have not indicated potential progress in this area, and indeed two recipients have indicated they will not make new offers for mode 1. Similarly, for mode 3, eighteen of the twenty-two recipients have market access limitations and provided little by way of indications in offering to bind any current openness or to reduce or eliminate limitations identified in the collective request. Almost half of those eighteen have given strong indications that no progress would be forthcoming. By contrast, co-sponsors significantly meet these elements of the request, or have indicated a positive sign to make reductions or eliminate restrictions, with few exceptions.

7. In the other areas of the request (i.e., commitments for value-added services; commitments on a non-facilities or resale basis; Mode 4; full Reference Paper commitments; and, removal of MFN exemptions), a similar trend can be seen – generally over half of the recipients have indicated that they do not intend to meet these aspects of the request, while most of the co-sponsors have already covered all of these elements of the request.

ATTACHMENT

Collective Request in Telecommunications Services

1. Telecommunications services are not only important economic drivers in their own right but are also key enablers of trade and development with the potential to improve quality of life for developed and developing countries alike. For these reasons, we recognize telecommunications as a vital infrastructural service and request strong and commercially meaningful commitments for all telecommunications services. When scheduling commitments in this sector, Members' attentions are drawn to the agreed objectives in paragraph 1f(i) of Annex C to the Hong Kong Ministerial Declaration that Members should ensure, to the maximum extent possible, clarity, certainty, comparability and coherence of commitments through adherence to, *inter alia*, the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001. Specifically, we request that your government make commitments on telecommunications services in accordance with the following:

- (a) Sectoral Coverage: Commitments should have commercially meaningful coverage of subsectors which are listed in 2.C. of MTN.GNS/W/120, in particular voice and data transmission services and leased circuit services (through any means of technology)¹ and services listed under 2.C.h to 2.C.n. of MTN.GNS/W/120 (often referred to as value-added services during the Uruguay Round).
- (b) Mode 1: No national treatment limitations and no substantial market access limitations, specifically:
 - (i) No unbound;
 - (ii) No requirement to use networks of specific suppliers;
 - (iii) No requirement of commercial presence; and
 - (iv) No requirement for commercial arrangements.
- (c) Mode 2: No market access or national treatment limitations.
- (d) Mode 3: No national treatment limitations and no substantial market access limitations, specifically:
 - (i) No limitations on the establishment or number of service suppliers (eg quotas, exclusive service suppliers, or geographic restrictions within a Member state's territory);
 - (ii) No economic needs tests;
 - (iii) No restrictions on the types of legal entity permitted;
 - (iv) No limitations on nationality or residency; and
 - (v) Majority foreign capital participation and effective control to be allowed.
- (e) Subsectors 2.C.h. to 2.C.n. in MTN.GNS/W/120: No limitations on Modes 1 to 3.

¹ in accordance with S/GBT/W/2/Rev. 1

- (f) All telecommunications services provided on a non-facilities or resale basis: No limitations on Modes 1 to 3.
- (g) Mode 4²:
 - (i) Make commitments in accordance with paragraph 1(d) of Annex C of the Hong Kong Ministerial Declaration, in particular new or improved commitments on the categories of Intra-Corporate Transferees and Business Visitors.
 - (ii) No additional limitations beyond horizontal limitations; and
 - (iii) No exclusion of telecommunications services from horizontal Mode 4 commitments.
- (h) Reference Paper: Commitments to all provisions of the Reference Paper developed in the Negotiating Group on Basic Telecommunications (see attached).
- (i) MFN Exemptions: Removal of all MFN exemptions

² For this element, the United States is not a requesting Member, but shall be deemed to be a recipient.