

International
Telecommunication
Union



**Overview of the Main Policy & Regulatory
Principles & Issues in
GATS/WTO
- Basic Telecoms & Reference Paper -**

ITU REGIONAL REGULATORY SEMINAR

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Agenda

- ✓ Major WTO/GATS Rules & Principles - Telecom
- ✓ Annex : Telecommunications
- ✓ Regulatory Principles & Issues in the Reference Paper
- ✓ WTO vs. Information Technology Agreement
- ✓ WTO vs. Chinese telecommunications sector
- ✓ Pros & Cons - Years after the Basic Telecom Agreements enforced
- ✓ The New Trade Round on telecommunications



*Basic rules & principles of GATS
on telecommunications*



Major GATS Rules & Principles - Telecom

- ✓ **General Obligations & Disciplines:**
 - Art. II - *Most Favored Nation (MFN)*
 - Art. III – *Transparency*
 - Art. VI – *Domestic Regulation*
- ✓ **Specific Commitments:**
 - Art. XVI – *Market Access*
 - Art. XVII - *National Treatment (NT)*
- ✓ **Progressive Liberalization:**
 - Art. XIX – *Negotiation of Specific Commitment*
 - Art. XX - *Schedule of Specific Commitments (e.g., telecommunications)*
- ✓ **Annex on Telecommunications;**
- ✓ **Annex on Negotiations on Basic Telecommunications;**
- ✓ **The *Reference Paper* with 6 major regulatory frameworks**



Provisions of GATS apply to four Modes of Supply

- Cross-border exchanges of services (e.g., telecommunication services)
- The establishment of a commercial presence in the country where the service is provided (e.g., financial and telecom companies)
- The temporary movement of natural persons to another country to provide service there (e.g., consulting and other professionals in telecom)
- The movement of consumers to the country of importation (e.g., tourists and mobile phone users etc.)



*Schedule of Specific Commitments**

- 'Phased-in' commitments with different timeframe (e.g., telecom by 1 Jan. 2003) taking into account each country's own circumstances – i.e., '*progressive liberalization*'
- Indicate the presence or absence of limitations on ***Market Access*** or ***National Treatment*** (i.e., horizontal commitment) in a given ***sector or sub-sector*** (i.e., sector specific commitment such as telecom services etc.) and ***mode(s) of supply*** in each national Schedule of Specific Commitments on Services
- ***Lists of MFN exemptions*** also need to be submitted together with the Schedule.

For more details: Refer to "*Guidelines for the scheduling of specific commitments under the GATS*", WTO, S/L/92, 28 March 2001 in the proceedings.



Annex on Telecommunications



Objective

“Recognizing the specificities of the telecoms services sector and, in particular, its dual role as a distinct sector of economic activity and as the underlying transport means for other economic activities, the Members have agreed to the Annex with the objective of elaborating upon the provision of the Agreement with respect to measures affecting access to and use of public telecom transport networks and services”



Scope

- *Access to and use of public telecommunications transport networks and services*
- *Not the cable or broadcast distribution of radio or television programming*



Members' Comments on Telecom Issues

- Switzerland: *"commitments should be technology neutral & interpreted in an extensive manner, to include developments such as Internet-based services"*
- USA: *"negotiate a broad range of integrated services (voice, data & video) by all technologies & on their on-line services (e.g., financial & computer services) essential to e-commerce & the networked economy"*
- Chile: *"consider coverage of commitments in light of technological innovations & media convergence. Telecom services have an impact well beyond trade in services; so consider relation with IPR, trade-related investment and e-commerce"*
 - i.e., concerns over **technology-neutral**,
 - **convergence**,
 - **e-commerce** etc.



“The right to regulate”

According to *“The Negotiating Guidelines”*
adopted by the Council for Trade in Services in March 2001

*“the right of Members to regulate, and
to introduce new regulations,
on the supply of services.
The process of [service] liberalization
shall take place with due respect for
national policy objectives,
the level of development, and
the size of economies of individual Members”*



Reference Paper (RP)



Regulatory Principles in the Paper

- **Competition safeguards** or prevention of anti-competitive behavior
- **Interconnection** guarantee and charges
- Transparent or public availability of **licensing** criteria
- **Independence of regulators** from operators
- Fair allocation and use of **scarce resources** (e.g., frequencies, numbers, rights of way etc.) and
- **Universal service**

RP *now adopted by 72 governments;*
** Full text of the RP is in the Proceedings*



Members' comments on the Paper & issues

- Chile: *"RP can continue to serve as a valuable tool to guide the liberalization"*
- EU: *"Reduce regulatory requirements to the minimum necessary to ensure quality of service, including universal service, and to address the issue of scarce resources"*
- Australia: *"More work on licensing requirements & technical standards" and "develop criteria on independence of regulators"*
- Japan: *"Address unreasonably high licensing charges"*
- Switzerland: *"Encourage competition enhancing methods for allocating radio frequencies"*



Information Technology Agreement is..

- sector specific tariff rules – i.e., *eliminate customs duties on covered ICT products*;
- Including products of
 - Computers, telecommunications, semiconductors, software etc., but not consumer electronics
- Participated today by 57 countries
 - 9 countries in Asia & Pacific – e.g., Australia, Hong Kong China, Japan, Korea, Malaysia, New Zealand, Philippines, Singapore & Thailand
- Accounted for approximately 93% of world trade in IT products.
 - The scope of products and participating countries is further on the discussion agenda at the next round.



Implications for developing countries

- WTO/GATS is expected to bring new opportunities and advantages for service industries: e.g.,
 - Increased competition
 - Positive impact on overall efficiency
 - Improvement of export competitiveness
- The areas where developing countries have comparative advantage: e.g.,
 - Business services, including ICT services
 - Tourism and travel services etc.
- The growth of trade in services (exports) for developing countries (9%) exceeded that for developed ones (5.5%) between 1990-2000



WTO vs Chinese Telecom

*The People's Republic of China
Has submitted its Schedule of Specific Commitments on Services,
List of MFN Exemptions &
The Reference Paper**

* WTO document WT/ACC/CHN/49/Add.2, 1 Oct. 2001



What advantages of WTO membership ?

- *“The current tariff of 12% on imported IT components and parts will be lowered to 3% or less, which is expected to result in significantly lower equipment costs and sales prices*
- *WTO accession will remove some of the foreign obstacles that have prevented the Chinese firms from marketing their products outside China.”**

* Xing Fan,
“China's WTO Accession and Its Telecom Liberalization”
At <http://www.csis.org/ics/chinaswtoaccession.html>



China's Schedules of Commitments

- Geographic restrictions for domestic fixed, mobile/cellular, paging & VAS will be phased out by 2007, 2006 & 2003 respectively;
- Foreign investment in all services will be allowed up to 49-50% incrementally or progressively depending upon sub-sectors: e.g.,
 - 49% foreign ownership will be allowed for international & domestic services by 2007,
 - 49% for mobile services by 2006, &
 - 50% of value added paging services by 2003;
- Tariffs on IT products will fall from 13.5% to eventually 0% by 2005



Pros & Cons - Years after the Basic Telecom Agreements enforced

- **Competitive telecom markets**, which reached a size of US\$1.13 trillion in 2001, with more private industries: e.g.,
 - 113 countries with fully or partly private incumbent
 - 49 countries with other private operators (e.g., mobile)
 - 39 countries with no private operators
- **Increased and/or converged regulatory bodies**
 - 112 countries worldwide as of Dec. 2001
 - Sector specific to converged regulators (e.g., OFCOM in the UK, MCMC in Malaysia etc.)
- **Interconnection & settlement of its charges within & cross national borders**
 - Access to the dominant network, interconnect cross-networks (fixed-mobile-internet), and settle interconnection charges are still persistent problems in many countries - both developed and developing - at national and cross-national levels



The New Trade Round on telecom....

According to the Ministerial Declaration adopted at Doha, 14 Nov. 2001
{WT/MIN(01)/DEC/1} and others:

- Some 20 members submitted proposals in telecom sector as of Feb. 2002;
- 106 commitments on telecom were submitted as of Mar.2002;
- *The Guidelines & Procedures for the Negotiation** will be the basis for continuing the next round;
- Telecom remains as a priority issue;
- The current practice of not imposing customs duties on electronic transmissions is to be maintained; ... and
- Milestones for negotiating calendar:
 - initial requests for specific commitments by 30 June 2002
 - initial offers by 31 March 2003
 - Close of negotiations on 1 January 2005



In accordance with Mr. Supachai Panitchpakdi,
the designated director-general of the WTO

*“We’re now approaching upon a new area ...
The WTO is used to dealing with
only external issues.*

*Now it’s time to deal with the domestic regulations
that impede trade liberalization” **

* “2003 trade talks: WTO to focus on domestic rules”, *The Nation*,
Thailand, July 3 2002



Conclusion

This Seminar is hoped to be an informative regional forum to discuss and share experiences on implementing **the general rules and regulations of the WTO/GATS** and **domestic regulatory practices on specific sector - i.e., telecommunications -** for better serving public interests in the global era of information society



References in the Proceedings

- ✓ *WTO Organizational Structure*
- ✓ *WTO Members & Observers (As of April 2002)*
- ✓ *Guidelines for the scheduling of specific commitments under the GATS”, WTO, S/L/92, 28 March 2001*
including: e.g.,
 - Attachment 5: Notes for Scheduling Basic Telecom Services Commitments
 - Attachment 6: Market Access Limitation on Spectrum Availability
 - Attachment 7: Draft Model Schedule of Commitments on Basic Telecommunications
- ✓ *The Reference Paper (Full Text)*



For more information

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The End

Thank you

