

# FIRST DRAFT OF THE SECRETARY-GENERAL'S REPORT TO THE SECOND WORLD TELECOMMUNICATION POLICY FORUM TRADE IN TELECOMMUNICATIONS

*To be held in Geneva, 16-18 March 1998*

## Preamble

1. The ITU World Telecommunication Policy Forum (WTPF) was established by Resolution 2 of the Plenipotentiary Conference (Kyoto, 1994). Its purpose is to provide a forum where ITU Member States and Sector Members can discuss and exchange views and information on emerging telecommunication policy and regulatory matters arising from the changing telecommunication environment. Although the WTPF shall not produce prescriptive regulatory outcomes or outputs with binding force, it shall prepare reports and, where appropriate, opinions for consideration by Members and relevant ITU meetings.
2. By Decision 475, the 1997 session of the ITU Council decided to convene the second WTPF in Geneva from 16 to 18 March 1998, immediately before the World Telecommunication Development Conference, in order to discuss and exchange views on the theme of trade in telecommunication services, with the following agenda:
  - "a) the general implications of the World Trade Organization (WTO) agreement on trade in basic telecommunication services for the ITU membership with respect to:*
    - the telecommunications policies, regulations and regulatory structures of ITU Member States;*
    - the implications of the WTO agreement for developing countries, particularly with respect to policies, regulations and financial strategies to promote the development of telecommunication networks and services, as well as on their national economy;*
  - b) actions to assist Member States and Sector Members in adapting to the changes in the telecommunications environment including analysing the current situation (e.g. by case studies) and formulating possible co-operative actions involving ITU Member States and Sector Members to facilitate adaptation to the new environment;*
  - c) the evolution of the international telecommunications environment, particularly the accounting and settlement system, having taken into account activities being undertaken by ITU-T Study Groups";*and that  
*"the Forum shall draw up a report, and, if possible, opinions for consideration by ITU Members and relevant ITU meetings".*
3. In accordance with Decision 475, it is intended that *"discussions at the Forum shall be based on a report from the Secretary-General, incorporating the contributions of ITU Member States and Sector Members, which will serve as the sole working document of the Forum, and shall focus on key issues on which it would be desirable to reach conclusions"*. It is intended that this first draft should be used to trigger contributions from ITU Member States and Sector Members. The sections of this document which are shown in ***bold italic type*** indicate those areas where Member States and Sector Members may wish to focus their

contributions and develop language that could later be incorporated into draft Opinions for consideration by the Forum. However, Member States and Sector Members are, of course, free to make contributions on any topic they feel is relevant to the overall theme.

4. In accordance with ITU Council Document 44, the following timetable is proposed for revision of this document to incorporate contributions from ITU Member States and Sector Members:
- Circulation of this first draft of the report based on available material with an invitation to comment by 15 November 1997
  - Circulation of a second draft report by early December 1997, revised to incorporate comments from the membership, with an invitation to provide further comments by 15 January 1998
  - Circulation of a third draft report by 31 January 1998 for consideration at the second WTPF.

**In order to strengthen this iterative process, we would welcome the designation of a focal point in your office to follow up this matter.**

5. In order to assist with the drafting process, and in accordance with *decides* 3c) of ITU Council Decision 475, "*the Secretary-General shall convene a balanced, informal group of experts, each of whom is active in preparing for the Policy Forum in his/her own country, to assist in this process*". It is proposed that this group would meet twice during the consultation process, once on 1-2 December 1997 and again in late January 1998. Invitations to participate in the informal group of experts will be sent out by the Secretary-General to those who contribute to the consultation process plus others who he feels can make significant contributions and can assist in achieving the desired balance.
6. This first draft of the report has been structured to address the agenda established in Council Decision 475. In addition, Annex A to this report contains a copy of the WTO Reference Paper to which some 61 of the 69 governments submitting schedules under the WTO basic telecommunications agreement have committed themselves in whole or in part. Annex B to the report contains a glossary of some of the terms used therein. Annex C contains a copy of ITU Council Decision 475.
7. If WTPF-98 is to prove a success, it will be because the final report submitted reflects the opinions and contributions of the ITU membership as a whole. For that reason, you are encouraged to submit your comments and contributions by **15 November 1997**, to the following address:

**International Telecommunication Union  
Strategic Planning Unit, Office T.1307  
Place des Nations  
CH-1211 Geneva 20  
Switzerland**

8. Alternatively, comments and contributions can also be submitted by fax (to +41 22 730 5881) or by electronic mail (WTPF98@itu.int). This report, together with other background information relating to the WTPF, to the WTO agreement, to the case studies which will be commissioned and to the general topic of trade in telecommunications, will be posted on the ITU website, at: <http://www.itu.int/wtpf98>.

## 1. INTRODUCTION

### Trade in telecommunications

9. The telecommunication sector is one of the major components of the world's economy. The value of telecommunication sales (equipment and services combined) is expected to exceed \$US 1 trillion in 1998. Furthermore, telecommunication networks are a major facilitator of trade in other goods and other services. For instance, the value of financial services traded over the SWIFT international telecommunication network exceeds \$US 1 trillion *each day*.<sup>1</sup>
10. Nevertheless, the level of telecommunication services which are traded between countries is low. International telecommunication traffic accounts for less than ten per cent by value and below five per cent by volume of global telecommunications. Comparisons with other sectors of the economy suggest that these figures should be closer to 30 per cent.
11. The two main reasons why so little international telecommunication traffic is traded across borders are high prices for users and restricted market access for service providers:
  - Consumers pay at least three times more for each minute of international telecommunication traffic than they do for domestic telecommunication traffic, even though the costs of service provision may be quite similar
  - Until the start of 1998, only a handful of countries permitted competitive provision of international telecommunication services.
12. This situation may change. The WTO basic telecommunications agreement, signed on 15 February 1997 and due to be implemented on 1 January 1998, commits some 69 countries to a programme of progressive opening of their basic telecommunication service markets to competitive entry and increased foreign investment.
13. It is expected that competition in the provision of international telecommunication services will bring about a significant reduction in the level of prices as well as in the differential between domestic long-distance and international telephone services. As an example, on the Internet, the price of one minute of traffic is identical, regardless of distance or destination. Competition is also expected to reduce the level of price differences charged between countries. The WTO agreement should also promote foreign and domestic investment in the telecommunication sector and, as a consequence, the development of each country's telecommunication infrastructure and services.

### Telecommunications in the context of a trade-in-services agreement

14. The GATT Uruguay Round trade negotiations which began in 1986 and ended in 1994 were the first to cover services in addition to goods. At their conclusion in Marrakesh in April 1994, 125 countries signed the General Agreement on Trade in Services (GATS), which covers trade in all commercial services (without exception) and applies to all measures taken by a WTO Member in the implementation of its obligations and commitments in respect to the Agreement, including laws, rules, procedures, regulations, decisions and administrative actions at all levels in a country's administrative structure.

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<sup>1</sup> These figures are taken from ITU's "World Telecommunication Development Report 1996/97: Trade in Telecommunications". SWIFT stands for Society for Worldwide Interbank Financial Telecommunication.

Telecommunications plays a significant role in this Agreement, not least because of its dual role: as a tradable service in its own right and as a mode of delivery of other services and goods.

15. Of the 125 countries which signed the GATS in 1994, about half made specific commitments to open their telecommunication markets, but only a handful were prepared to allow entry into their basic telecommunication markets, that is, the provision of voice telephone, telex, telegraph, data transmission and private leased circuits. Because of this, it was decided to extend the negotiations in the specific area of basic telecommunications. The agreement reached on 15 February 1997 was significant because 69 countries made commitments to open their markets to competition and foreign investment in basic telecommunication services, some immediately on entry into force of the agreement on 1 January 1998, and others progressively over the next few years. These 69 countries collectively provide some 94 per cent, by value, of global telecommunication services. Several other countries are planning to make basic telecommunications commitments before the end of 1997.
16. Countries made essentially two types of commitments. The first are related to market access and national treatment and indicate which sectors and subsectors of the country's telecommunication market are open to entry by services and service providers from other WTO Member countries, subject possibly to specified limitations. There is also under this first type of commitment an undertaking to treat these services and service suppliers no less favourably than the country's own services and service suppliers, unless otherwise specified. These commitments are contained in each country's schedules of specific commitments. The second type are commitments on regulatory and trade disciplines and on legal obligations.

## **2. GENERAL IMPLICATIONS OF THE WTO AGREEMENT ON BASIC TELECOMMUNICATION SERVICES FOR THE ITU MEMBERSHIP WITH RESPECT TO THE TELECOMMUNICATION POLICIES, REGULATIONS AND REGULATORY STRUCTURES OF ITU MEMBER STATES**

### **Direct implications**

17. Countries which have signed the WTO telecommunications agreement must now put in place the regulatory structures and procedures to meet their obligations and specific commitments. They may need to modify existing laws, regulations and administrative guidelines to bring them in line with these obligations and commitments and benefit from the new environment that this treaty creates, or they may need to draft new laws and regulations where these do not exist. Some of these will be in areas such as competition policy, price regulation, interconnection and consumer protection in which the country may not traditionally have had any significant legislation and procedures. In addition, many countries will have to set up regulatory agencies that are independent of the operating companies and service providers.
18. With respect to their specific commitments, countries will need to put in place the structures and procedures to allow new operators and service providers to enter those segments of their telecommunication markets which they were committed to open on the date indicated in their commitments and under the conditions indicated. In the specific field

of international telecommunications, it may involve permitting foreign-owned telecommunication service providers to establish international gateway switches and to interconnect with the network of the incumbent major supplier. One of the most immediate tasks to be fulfilled, as stated in the WTO Reference Paper, is to publish a description of the procedures applicable for interconnection to a major supplier and thereafter to publish actual interconnection agreements or a reference interconnection offer.

19. The GATS, together with each country's schedule of commitments, specifies in considerable detail the regulatory framework that each WTO Member country has to put into place. The legal, regulatory and trade obligations are contained essentially in three areas: the main body of the GATS (the Framework Agreement), the Telecommunications Annex and the Reference Paper on regulatory principles (Annex A). They concern obligations:
  - not to discriminate against any WTO Member (MFN obligation);
  - to make available information on the country's laws, regulations, administrative procedures, licensing requirements and procedures, etc. pertaining to the sector;
  - to establish an independent regulatory structure;
  - to ensure that licensing and technical requirements do not constitute barriers to entry, that the former monopolies or dominant service providers do not stifle competition and that the terms and conditions of interconnection are such that newcomers have a chance to establish themselves and compete; and
  - to ensure that universal service obligations and the allocation of scarce resources, such as frequencies, is done in a manner which is fair and equitable to all market entrants.
20. The principles of the Telecommunications Annex, which supplements the GATS, require the country to allow access to and use of its public telecommunication transport network and services (PTTNS) on reasonable and non-discriminatory terms for the supply of any service in respect of which the country has made a commitment. Therefore, if the country has undertaken a commitment to allow entry into its financial services, insurance and tourism markets, suppliers of these services must be given access to and use of the PTTNS on reasonable and non-discriminatory terms and conditions in order to supply these services.
21. Annex II to the Marrakesh Agreement contains a disputes settlement body and enforcement provision whereby a WTO Member which considers that another Member has failed to carry out its obligations or specific commitments can bring the matter before a special WTO body established to settle the dispute according to detailed procedures and well-defined timetables.

### **Indirect implications**

22. Implementation of the WTO telecommunications agreement implies liberalization of the telecommunication sectors in countries which have made commitments. However, because countries' plans and timetables differ (in some cases significantly - for example, Article VI of the GATS takes into account the specific situation of developing countries), the pace of market liberalization will be different. Some countries have already largely completed their planned market opening. Others plan to start in 1998 or shortly thereafter. Still other countries have made no definite commitments to market opening. However, all countries will be affected by the agreement, to a greater or lesser degree.

23. There are likely to be three different types of relation between countries, albeit with many different shades of degree of market openness:
- **Monopoly-to-monopoly:** Relations between monopoly environments are not expected to change significantly, but they will become increasingly few in number.
  - **Competitive-to-competitive:** Between competitive markets, which will account for the major bulk of international traffic, it is likely that new arrangements will quickly emerge which will supersede the traditional correspondent relations. With liberalized market entry, individual carriers, or alliances of carriers, will be able to establish their own switch in foreign countries and to carry international traffic direct to that switch, obviating the need for settlement payments. Thereafter, they could interconnect with the network of one of the domestic carriers on the territory of the foreign country. Thus the settlement rate would be replaced by a market-based interconnection payment or call termination charge. It is expected that the national regulations of each country would govern conditions for call origination and termination and that there would be little, if any, need for new internationally-agreed rules, such as those discussed within ITU.
  - **Competitive-to-monopoly/Monopoly-to-competitive:** In the short term, the number of asymmetric market relations will rise sharply. Carriers operating in a competitive market environment wishing to terminate traffic in a monopoly environment will be obliged to work with the incumbent monopoly carrier to deliver calls. These arrangements may be based on bilaterally-negotiated settlement rates, as now, or may take the form of half-circuit based termination charges. Carriers operating in a monopoly market environment wishing to terminate traffic in a competitive environment may be able to negotiate interconnection agreements at rates which are significantly below those which they themselves charge. They may also be entitled to establish their own infrastructures on the territory of the competitive market. There may be a need for new arrangements to ensure that monopoly carriers do not abuse their dominant market position in order to gain advantage over carriers in competitive markets.
24. In summary, the WTO agreement will mean the introduction of competition into a sector which has traditionally not been subject to multiple suppliers. It will also mean private-sector entry (both domestic and foreign). What is certain is that this liberalization process will grow as more and more countries are encouraged to participate in the WTO agreement and as they improve their market opening commitments. It is significant that the number of countries making such commitments in the area of basic telecommunications increased from eight at the end of the Uruguay Round in 1994 to 48 in 1996, and 69 in 1997. One of the main principles of the GATS is progressive liberalization, which ensures that countries can and, indeed, must improve their commitments in the direction of greater liberalization. Once a market-opening commitment is made, there can be no return to more restrictive practices.
25. ***WTPF-98 may wish to consider Opinions:***
- *recalling the sovereign right of each Member State to regulate its own telecommunication sector and set its own timetable for market liberalization;*
  - *recognizing the benefits of increased trade in telecommunications and urging countries to implement their existing and planned commitments under the WTO basic telecommunications agreement;*

- *endorsing the regulatory principles set out in the WTO Reference Paper (see Annex A);*
- *urging regulators to apply arrangements for interconnection that are cost-oriented, transparent and non-discriminatory;*
- *defining anti-competitive safeguards to prevent operators from exploiting differences in the degree of market openness between economies to gain unfair advantage;*
- *encouraging Member States to apply trade principles, such as Most Favoured Nation or National Treatment, when licensing new operators.*

### **3. IMPLICATIONS OF THE WTO AGREEMENT FOR DEVELOPING COUNTRIES, PARTICULARLY WITH RESPECT TO POLICIES, REGULATIONS AND FINANCIAL STRATEGIES TO PROMOTE THE DEVELOPMENT OF TELECOMMUNICATION NETWORKS AND SERVICES, AS WELL AS FOR THEIR NATIONAL ECONOMY**

#### **The experience of market liberalization**

26. Countries with underdeveloped telecommunication networks have initially been reluctant to adopt more liberal sector structures for fear that this might compromise their long-term development plans. The government, it has been thought, can exercise greater control and ensure that the network is built out to satisfy the needs of the country when there is a single - generally government-owned - operator. Experience, however, has shown this not to be the case.
27. Research presented in ITU's 1996/97 World Telecommunication Development Report shows that those emerging economies which have introduced some measure of competition at the national level are now reaping the benefits in terms of higher rates of growth in international traffic per subscriber line. Furthermore, where private sector participation has been introduced and markets liberalized, the experience has been one of accelerated network roll-out programmes, greater consumer choice and higher quality of service. In many cases, governments have neither the expertise nor the resources to develop the extensive array of telecommunication infrastructure and services the country requires if it is to participate in today's global economic activities. In the most highly-developed telecommunication markets, there are many operators and service providers, each specializing in certain areas.
28. Governments have found that a planned process of liberalization can work well in achieving their development objectives, and can do so faster than if monopoly provision had been maintained. The opening of telecommunication markets has facilitated the entry of domestic and foreign private capital, technology and skills, which has in turn accelerated network build-out, the provision of new services and improvements in quality of service. It has also had a profound effect on other sectors such as financial services, information technology and computing, tourism and air transport, which depend heavily on good, reliable telecommunications. Indeed, many countries have been constrained from developing these sectors because of the lack of an adequate telecommunication infrastructure to service them.
29. Liberalization is, of course, no magic formula for developing the sector. It must be well planned, and the government needs to put into place the necessary structure so that its long-term goals can be achieved. It needs to build a regulatory framework that will allow competition to work. It will need to establish an independent regulatory authority along

with non-discriminatory and transparent licensing procedures. It will need to implement effective interconnection arrangements and ensure that the former monopoly does not stifle the nascent competition.

### **The impact of new international arrangements**

30. The liberalization of trade in telecommunications and the reform of the international accounting rate and settlement system are likely to have a markedly greater impact on developing countries than on developed ones because developing countries gain a proportionately greater share of revenue from international traffic. Even though many developing countries have not signed the WTO agreement, or have not committed themselves to a specific timetable for market liberalization, many of their major trading partners have done so.
31. Developing countries are net recipients of settlement payments which some fear may be reduced as a result of these changes. In 1996, net settlement payments to developing countries amounted to some \$US 10 billion, of which more than half came from the United States. For some developing countries, inward settlement payments provide more than half their total telecommunication revenue. In a few developing countries, settlement payments are the major source of foreign exchange and call termination is their biggest "export".
32. The developing countries likely to be hardest hit by any reduction in settlement payments are the least developed countries and other low-income countries with small populations, notably island economies. ITU has commissioned a series of case studies, in coordination with other multilateral organizations, in order to study the likely impact of the changing international telecommunication environment. These case studies will be presented at an information session during WTPF-98.
33. Some developing countries have higher costs for terminating international telephone calls. In particular, those countries which are not able to achieve economies of scale in their equipment purchases, or which have high maintenance costs and high levels of indebtedness, may be expected to have unit costs for call termination which are higher than the average for developed countries. Where it is possible to demonstrate genuine cost differences, it may be that a move towards cost-oriented rates with result in termination charges that are asymmetric.
34. A move towards cost-oriented settlement rates is likely to result in significant reductions in the rates currently in force. In the past, lower settlement rates have coincided with higher net settlement payments due to the increase in traffic volumes and because of the incentives that are created to reverse the direction of a call in order to offer lower prices to end users. Some fear that further reductions in settlement rates might also lead to a reduction in settlement payments. This may reduce the ability of developing countries to sustain their network development programmes and universal service obligations. In consequence, some developing countries would like to see a longer period of transition towards cost-oriented settlement rates and/or settlement rate reductions that are triggered by increased traffic volumes.
35. ***WTPF-98 may wish to consider an Opinion which:***
  - ***stresses the importance of achieving universal service in the provision of telecommunications;***
  - ***defines those developing countries likely to be the most vulnerable to reductions in net settlement payments;***



- *calls for a longer period of transition to cost-oriented settlement rates for those developing countries likely to be the most vulnerable.*

#### **4. THE EVOLUTION OF THE INTERNATIONAL TELECOMMUNICATION ENVIRONMENT, PARTICULARLY THE ACCOUNTING AND SETTLEMENT SYSTEM, HAVING TAKEN INTO ACCOUNT ACTIVITIES BEING UNDERTAKEN BY ITU-T STUDY GROUPS**

##### **Introduction**

36. The system of international accounting rates and settlements, as defined in the *International Telecommunication Regulations* and expanded upon in the ITU-T D-Series Recommendations, was specifically excluded from the WTO basic telecommunications agreement, although it may be included in the agendas of future GATS negotiations, the next of which is due to begin in the year 2000. It is nevertheless clear that the provisions in the schedule of each country's existing commitments will have a profound influence on the way in which the accounting rate system works.
37. Increased competition in the provision of international as well as domestic telecommunications creates alternatives to the current arrangements for settling international telecommunication accounts. This is already having a profound impact on the accounting rate system. In particular, the fact that operators can establish switches in other countries enables them to bypass the traditional correspondent relationship arrangements and deliver their originating traffic right to the country of destination.
38. The result of these competitive alternatives will be to drive down the price of terminating international calls closer to the cost of providing this service. The impact on the many countries which have used this hard-currency income to invest in their networks may be harsh. As a result, it may be necessary to increase the price of domestic access and services which can no longer be subsidized by above-cost international service prices. These countries may, however, find that the WTO agreement produces other benefits, for example by attracting private sector investment from both home and abroad.

##### **The Secretary-General's initiatives**

39. The ITU Secretary-General has made accounting rate reform a priority issue. In a consultation paper presented to ITU Study Group 3 in November 1996, seven principles were proposed to guide the process of reform of the international settlements arrangements. These are:
  - Continuity and viability of international telecommunication service
  - Transparency
  - Non-discrimination
  - Cost-oriented tariffing
  - The value of market competition
  - The benefits of accounting rate reductions should be passed on to end-users
  - Ease of transition for developing countries

### **The Secretary General's Informal Group of Experts**

40. On the recommendation of the World Telecommunication Advisory Council (WTAC), the Secretary-General established an Informal Expert Group to advise him on reform of the international accounting and settlement system. The Group, which was chaired by Mr. Robert Bruce, met from 24 to 26 March 1997 and prepared a report which was published in April 1997. The Group also considered the possibility of a multilateral reduction in accounting rates, to be achieved through mutually-agreed, staged reductions of 5 to 10 per cent. The Group suggested that few settlement rates should be priced above \$US 0.25 per minute. The recommendations of the report are discussed in Section 5 below.

### **ITU-T Study Group 3**

41. For its part, ITU-T Study Group 3 has focused its work on the future of the international telecommunication settlement systems and accounting rates in a competitive market environment. At its most recent meeting, in May 1997, there was general agreement that:
- the move toward cost-oriented accounting rates is inevitable and, indeed, desirable as a means for network operators to cope with the growing number of alternatives. Most countries attending the meeting endorsed the principles of Recommendation D.140, i.e. that settlement rates should be cost-oriented, transparent and non-discriminatory; however, countries that depend on accounting rate revenues to invest in their network want the maximum time to bring their networks up to an acceptable level of development and, at the same time, find alternative sources of finance;
  - in the future, because of the asymmetrical situation, different remuneration methods will very likely exist side by side;
  - it would be preferable to proceed on a multilateral rather than a bilateral - or indeed unilateral - basis in order to establish acceptable principles to be used for agreeing the settlement rate;
  - the approach to the cost-oriented rate and, therefore, the transition to a new remuneration system would be facilitated by unbundling accounting rates into different components;
  - in the absence of universally-acceptable costing methodologies, various proxies including multilaterally-agreed benchmark methodology, should be studied as a first approximation to cost-oriented prices.
42. The majority of the delegations at the meeting supported arrangements which would include some forms of call termination charging. A rapporteur group was established which will report to the next Study Group 3 meeting in December 1997.

### **Other ITU initiatives**

43. During 1997, ITU has also engaged in a number of other actions to assist countries in reforming the accounting rate system:
- Two major analytical and statistical reports were published dealing respectively with "Trade in telecommunications" (World Telecommunication Development Report 1996/97) and "Trends in international telephone tariffs" (Direction of Traffic, 1996, published in association with TeleGeography Inc.)
  - The World Telecommunication Advisory Council (WTAC) debated the topic at its meetings on 15-16 April and 22 October 1997

- ITU is hosting the seventh meeting of the Regulatory Colloquium, to be held from 3 to 5 December 1997, on the topic of accounting rate reform.

#### **Other initiatives**

44. Others have proposed alternative methodologies for achieving cost-oriented settlement rates. The United States regulator, the FCC, has proposed a series of "benchmarks" for different countries which would cap settlement rates at between \$US 0.15 and 0.23 per minute, depending on the level of economic development of the country concerned, with a transition period of between one and five years.
45. A second option, favoured particularly by Asia-Pacific operators, is to move toward uniform call termination charges.
46. A third proposal is based on "best practice" rates currently applied. In the absence of accurate cost data, the lowest settlement rates currently charged would be taken as approximating to cost, and could be applied by operators with dominant market positions in a non-discriminatory way. This would be consistent with most-favoured-nation obligations.
47. ***WTPF-98 may wish to consider an Opinion which:***
  - *endorses and expands upon the principles for accounting rate reform set out in the ITU Secretary-General's consultation paper;*
  - *endorses voluntary "price caps", "benchmarks" or "best practice" criteria with respect to settlement rates in a multilateral context, which could then provide guidance for operators when setting rates;*
  - *establishes a timetable for achieving settlement rates which are cost-oriented, transparent and non-discriminatory.*

### **5. ACTIONS TO ASSIST MEMBER STATES AND SECTOR MEMBERS IN ADAPTING TO THE CHANGES IN THE TELECOMMUNICATION ENVIRONMENT INCLUDING ANALYSING THE CURRENT SITUATION AND FORMULATING POSSIBLE COOPERATIVE ACTIONS INVOLVING ITU MEMBER STATES AND SECTOR MEMBERS TO FACILITATE ADAPTATION TO THE NEW ENVIRONMENT**

#### **Possible cooperative actions among the ITU membership**

48. ITU has traditionally provided a forum in which its membership can work together on achieving the goals set out in the Constitution and Convention. One of these goals is "*to promote the extension of the benefits of the new telecommunication technologies to all the world's inhabitants*". Given that ITU's membership is much broader than that of WTO and that its mission is focused on the needs of the telecommunication community, it is logical that ITU's membership should play the leading role in defining and adapting to, the new telecommunication environment.
49. The WTO basic telecommunications agreement provides an excellent starting point for market liberalization. But the work of implementing the agreement has to take place within national governments, as its provisions are enacted in the form of national regulations. Countries with experience and expertise in drafting regulatory texts can provide assistance to others who are starting out on this process, possibly through the intermediary of ITU.

50. ITU can assist developing countries faced with the daunting task of establishing new regulatory structures and initiating the process of reform in a very short space of time by providing independent advice on the best policy to pursue for each country's particular needs, the drafting of new laws and regulations and the setting up of an independent regulatory body. Although ITU will, of course, not have the internal resources to provide such advice to all countries, it can, however, assist in ensuring that the best advice is made available to each country from outside resources and help to identify those resources. Similarly, ITU can help in obtaining training and human resource development to best meet the needs of countries undergoing the difficult adjustment process. ITU can further help by gathering, analysing, and disseminating the kind of information that will help policy-makers and regulators in their task, as well as by constructing databases and websites to provide regulators with easier access to each other's regulatory procedures, decisions and information and by facilitating cooperative relationships between new and well-established regulators.

### **Cooperation in implementing the WTO agreement**

51. ITU has a very important role to play in the liberalization process. WTO is a trade organization and does not have technical expertise in the telecommunication sector, which is ITU's domain. Dispute resolution in telecommunications, for instance, may require the sort of technical expertise that ITU can and should provide.
52. As countries begin to implement their commitments, they will increasingly be seeking the advice of other ITU Member States. Previously, when the first industrialized countries, such as the United States, the United Kingdom, Canada, the Scandinavian countries, Australia, New Zealand and Japan, were beginning their reforms, they had to rely on their own resources to implement and manage the process. They could compare among themselves within the framework of OECD, and had the necessary resources. This is not the case with some of the smaller, emerging economies that are now embarking on reform, which will in large part have to rely on the resources of others. ITU has a very important role to play in providing impartial advice through its own resources or those of its membership.
53. ITU will need to develop the expertise, and also a knowledge base that is easily accessible to its Members, in order to provide those countries with the elements they need for decision-making. The regulatory, tariff, traffic, statistical and related databases which ITU is developing could become a very important tool to assist their decision-makers. In addition, because ITU's membership of 188 Member States, as well as more than 400 Sector Members, mainly from the private sector, is much wider than that of WTO, it can play an important role in broadening and publicizing the WTO agreement, especially within the private sector.
54. While the WTO commitments are clearly categorized into sectors and subsectors, in most cases there is a lack of clear definition as to those telecommunication services which are to be opened and those which are not. Here again, it would seem that ITU, of all entities and organizations dealing with telecommunications, is ideally placed to provide expert advice on defining the rapidly-evolving field of telecommunication services.
55. The ITU Constitution and the *International Telecommunication Regulations* (ITR) emphasize the sovereignty of ITU Member States in organizing their telecommunication sectors. While the GATS "recognizes the right of (WTO) members to regulate and to introduce new regulations on the supply of services within their territories in order to meet

national policy objectives"; it also requires that technical standards and licensing requirements "do not constitute unnecessary barriers to trade in services". In the future, therefore, the development and application of standards, within ITU and elsewhere, will need to take into account this important provision of the GATS. The same will be true of orbital slot and frequency assignment and coordination. ITU will need to review its process in this area to ensure that it is not in conflict with WTO rules and that the Radio Regulations and associated procedures cannot be interpreted by some as a means to limit market access.

56. The impact of the GATS telecommunication agreement will be felt acutely in the area of international telecommunication accounting and settlements. The introduction of competition in many countries has put tremendous pressure on the existing bilateral correspondent relationship arrangements, which are dominated by accounting rates. The result is that many countries will be faced with tough decisions on what adjustments need to be made to adapt to a more competitive market environment. ITU has an important role to play in raising awareness about these changes and in helping developing countries make the necessary adjustments.

#### **Cooperation in reform of the international accounting and settlement system - easing the transition for developing countries**

57. The report of the Informal Expert Group on Reform of the International Settlement System<sup>2</sup>, published in April 1997, made recommendations in four specific areas to assist countries which would be hardest hit by reform of the accounting rate arrangements:
- Countries should be assisted in making the adjustments needed to offset a reduction in international payments. This would include help in restructuring prices of telecommunication services, developing costing models and methodologies, expanding and increasing the efficiency of their telecommunication networks, developing new services, implementing the WTO agreement and dealing with universal services issues. Specifically, the Group argued the need to provide a "soft landing" for the countries likely to be hardest hit by potential settlement reductions, proposing to that end that international carriers could guarantee certainty over a time-bound transition period for those countries. For instance, total settlement payments could be maintained at some predetermined level in exchange for shared risk and staged reductions of the unit settlement rate from current levels to those consistent with effective competition.
  - ITU-T Study Group 3 should help countries in making the transition to new arrangements. In this respect, the Study Group should establish the effects of liberalization and determine the impact of the new arrangements on the settlement system in general, as well as on individual countries.
  - ITU should initiate and coordinate a series of independent case studies of network operators, primarily in low-income countries, to obtain a more realistic picture of the effect of a reduction in international settlement payments.
  - ITU should gather, organize and make widely available by electronic and other means timely information to assist policy-makers, regulators and operators involved in the transition process.

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<sup>2</sup> A copy of the report is available from the ITU website at:  
<http://web.itu.int/intset/issues/issuesp2.htm>

58. The Group recommended that in order to achieve these objectives ITU take the initiative to structure a new cooperative relationship among national regulatory bodies, telecommunication operators and multilateral institutions, including the World Bank and WTO, with the aim of giving countries the multilateral support they need to make the necessary adjustments. The new cooperative relationship should include reciprocal commitments by national regulators to respect the multilateral dimension of the regulatory initiatives that will be taken.
59. ITU and the European Commission have launched a series of case studies to determine the impact on a cross-section of countries of reduced income from international telecommunication services. ITU has also developed a comprehensive website consistent with the recommendations of the Informal Expert Group.
60. Others have proposed the creation of an infrastructure development fund whereby part of the money currently paid in net settlement payments to developing countries could be diverted into a revolving fund earmarked for equipment purchases and network roll-out in those countries. In particular, the costs of meeting universal service obligations might be shared between all the carriers active in a particular market.
61. Developing countries will also need assistance with technology transfer, training, tariff rebalancing, revenue diversification, service introduction and the establishment of a neutral and independent regulatory process. These actions may be better provided through a multilateral framework than through bilateral relations.
62. ***WTPF-98 may wish to consider Opinions on cooperative actions between ITU Member States and Sector Members to facilitate adaptation to the new environment, including:***
  - *assisting ITU Member States with regulatory reform;*
  - *assisting ITU Member States in implementing their WTO commitments;*
  - *assisting ITU Member States with accounting and settlement reform;*
  - *spelling out how a "soft landing" for the countries likely to be hardest hit might work in a competitive, multi-carrier environment;*
  - *calling for the establishment of an infrastructure development fund.*

## ANNEX A

### WTO reference paper on basic telecommunications<sup>1</sup>

#### Scope

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

#### Definitions

**Users** mean service consumers and service suppliers.

**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.

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<sup>1</sup> For more information about the WTO Basic Telecommunications Agreement, please see the WTO website at: <http://www.wto.org>

## **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, where specific commitments undertaken.

### **2.2 Interconnection to be ensured**

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.

### **2.5 Interconnection: dispute settlement**

A service supplier requesting interconnection with a major supplier will have recourse, either:

(a) at any time or

(b) after a reasonable period of time which has been made publicly known to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

## **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 licensing criteria**

Where a licence is required, the following will be made publicly available:

(a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence and

(b) the terms and conditions of individual licences.

The reasons for the denial of a licence 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.

## ANNEX B

### Glossary of terms

<b>Accounting rate:</b>	Defined in the <i>International Telecommunication Regulations</i> as "The rate agreed between administrations (or recognized private operating agencies) in a given relation that is used for the establishment of international accounts".
<b>Call origination:</b>	The service of originating a telephone, fax or other telecommunication call from the calling party.
<b>Call termination:</b>	The service of terminating a telephone, fax or other telecommunication call to the called party.
<b>Call termination charge:</b>	<p>A charge applied by a carrier for terminating a call which might be either:</p> <ul style="list-style-type: none"><li>• a single charge applied to all incoming traffic under a traditional half-circuit regime, applied in a cost-oriented, non-discriminatory and transparent manner; or</li><li>• an unbundled termination charge broken down into the basic cost elements of international transmission, international gateway and national extension, and possibly an element of subsidy.</li></ul>
<b>Full-circuit regime:</b>	A term used to describe a system in which a carrier, or an alliance of carriers, pays the full cost of an international circuit up to the point of interconnection to the network of a foreign operator, on the territory of that operator.
<b>Half-circuit regime:</b>	A term used to describe a system in which two or more carriers jointly share the cost of an international circuit between origination and termination.
<b>Least developed country (LDC):</b>	A term which refers to the 48 countries and territories which are recognized by the United Nations General Assembly as being among the least developed countries and which are accorded special priority for the purpose of granting assistance.
<b>Settlement payment:</b>	The net payment made in settlement of international telecommunication accounts between two carriers where traffic in one direction exceeds that flowing in the other direction.
<b>Settlement rate:</b>	The rate at which the balance of international telecommunication accounts is payable; normally half the accounting rate.

**Trade in telecommunications:**

A term defined in ITU's 1997 "World Telecommunication Development Report: Trade in Telecommunications" as *"any sale of telecommunication equipment or services that crosses a national border"*. In the context of trade in telecommunication services, a country which terminates a call may be considered as "exporting" a call termination service. Similarly, a country which originates a call may be considered as "importing" a call termination service.



DECISION 475

(approved at the tenth Plenary Meeting)

**SECOND WORLD TELECOMMUNICATION POLICY FORUM**

The Council,

*decides*

**1** to convene the second World Telecommunication Policy Forum in Geneva, from 16-18 March 1998 in order to discuss and exchange views on the theme of trade in telecommunication services, with the following agenda:

a) the general implications of the World Trade Organization (WTO) agreement on trade in basic telecommunication services for the ITU membership with respect to:

- the telecommunications policies, regulations and regulatory structures of ITU Member States;
- the implications of the WTO agreement for developing countries, particularly with respect to policies, regulations and financial strategies to promote the development of telecommunication networks and services, as well as on their national economy;

b) actions to assist Member States and Sector Members in adapting to the changes in the telecommunications environment including analysing the current situation (e.g. by case studies) and formulating possible co-operative actions involving ITU Member States and Sector Members to facilitate adaptation to the new environment;

c) the evolution of the international telecommunications environment, particularly the accounting and settlement system, having taken into account activities being undertaken by ITU-T Study Groups;

**2** that the Forum shall draw up a report and, if possible, opinions for consideration by ITU Members and relevant ITU meetings;

**3** that arrangements for the second WTPF shall be similar to those of the first. In particular:

- a) discussions shall be based on a report from the Secretary-General, incorporating the contributions of ITU Member States and Sector Members, which will serve as the sole working document of the Forum, and shall focus on key issues on which it would be desirable to reach conclusions;
- b) the report of the Secretary-General shall be prepared following the process set out in Section E of Document C97/44;

- c) the Secretary-General shall convene a balanced, informal group of experts, each of whom is active in preparing for the Policy Forum in his/her own country, to assist in this process;
- d) to assist participants in preparing for the Forum, a working group composed of representatives of the ITU-T and ITU-D Sectors and the ITU Secretariat, in collaboration with the other organizations should conduct case studies particularly in developing countries, the result of which should be made available to the participants with other relevant reports. The case studies should be conducted on the basis of agreed models and specifications with the necessary guidelines from ITU-T and ITU-D;
- e) participation shall be open to Member States and Sector Members and to attendance, but not direct participation, by the public;
- f) the Secretary-General shall encourage ITU Member States and Sector Members, and other interested parties, to make voluntary contributions to help defray the costs of the Forum and facilitate the attendance of the LDCs.

**Ref.:** Documents C97/101(Rev.1) and 124.

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