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THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS

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GENERAL AGREEMENT ON TRADE IN SERVICES

Members,

Recognizing the growing importance of trade in services for the growth and development of the world economy;

Wishing to establish a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries;

Desiring the early achievement of progressively higher levels of liberalization of trade in services through successive rounds of multilateral negotiations aimed at promoting the interests of all participants on a mutually advantageous basis and at securing an overall balance of rights and obligations, while giving due respect to national policy objectives;

Recognizing the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right;

Desiring to facilitate the increasing participation of developing countries in trade in services and the expansion of their service exports including, *inter alia*, through the strengthening of their domestic services capacity and its efficiency and competitiveness;

Taking particular account of the serious difficulty of the least-developed countries in view of their special economic situation and their development, trade and financial needs;

Hereby *agree* as follows:

PART I

SCOPE AND DEFINITION

*Article I**Scope and Definition*

1. This Agreement applies to measures by Members affecting trade in services.
2. For the purposes of this Agreement, trade in services is defined as the supply of a service:
 - (a) from the territory of one Member into the territory of any other Member;
 - (b) in the territory of one Member to the service consumer of any other Member;
 - (c) by a service supplier of one Member, through commercial presence in the territory of any other Member;

- (d) by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member.
3. For the purposes of this Agreement:
- (a) "measures by Members" means measures taken by:
 - (i) central, regional or local governments and authorities; and
 - (ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

In fulfilling its obligations and commitments under the Agreement, each Member shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory;

- (b) "services" includes any service in any sector except services supplied in the exercise of governmental authority;
- (c) "a service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

PART II

GENERAL OBLIGATIONS AND DISCIPLINES

Article II

Most-Favoured-Nation Treatment

1. With respect to any measure covered by this Agreement, each Member shall accord immediately and unconditionally to services and service suppliers of any other Member treatment no less favourable than that it accords to like services and service suppliers of any other country.
2. A Member may maintain a measure inconsistent with paragraph 1 provided that such a measure is listed in, and meets the conditions of, the Annex on Article II Exemptions.
3. The provisions of this Agreement shall not be so construed as to prevent any Member from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.

Article III

Transparency

1. Each Member shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Agreement. International agreements pertaining to or affecting trade in services to which a Member is a signatory shall also be published.

PART III

SPECIFIC COMMITMENTS

*Article XVI**Market Access*

1. With respect to market access through the modes of supply identified in Article I, each Member shall accord services and service suppliers of any other Member treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule.⁸

2. In sectors where market-access commitments are undertaken, the measures which a Member shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule, are defined as:

- (a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
- (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- (c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;⁹
- (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;
- (e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and
- (f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

⁸If a Member undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph 2(a) of Article I and if the cross-border movement of capital is an essential part of the service itself, that Member is thereby committed to allow such movement of capital. If a Member undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph 2(c) of Article I, it is thereby committed to allow related transfers of capital into its territory.

⁹Subparagraph 2(c) does not cover measures of a Member which limit inputs for the supply of services.

Article XVII

National Treatment

1. In the sectors inscribed in its Schedule, and subject to any conditions and qualifications set out therein, each Member shall accord to services and service suppliers of any other Member, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.¹⁰
2. A Member may meet the requirement of paragraph 1 by according to services and service suppliers of any other Member, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.
3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Member compared to like services or service suppliers of any other Member.

Article XVIII

Additional Commitments

Members may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles XVI or XVII, including those regarding qualifications, standards or licensing matters. Such commitments shall be inscribed in a Member's Schedule.

PART IV

PROGRESSIVE LIBERALIZATION

Article XIX

Negotiation of Specific Commitments

1. In pursuance of the objectives of this Agreement, Members shall enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the WTO Agreement and periodically thereafter, with a view to achieving a progressively higher level of liberalization. Such negotiations shall be directed to the reduction or elimination of the adverse effects on trade in services of measures as a means of providing effective market access. This process shall take place with a view to promoting the interests of all participants on a mutually advantageous basis and to securing an overall balance of rights and obligations.
2. The process of liberalization shall take place with due respect for national policy objectives and the level of development of individual Members, both overall and in individual sectors. There shall be appropriate flexibility for individual developing country Members for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV.

¹⁰Specific commitments assumed under this Article shall not be construed to require any Member to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

3. For each round, negotiating guidelines and procedures shall be established. For the purposes of establishing such guidelines, the Council for Trade in Services shall carry out an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of this Agreement, including those set out in paragraph 1 of Article IV. Negotiating guidelines shall establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations, as well as for the special treatment for least-developed country Members under the provisions of paragraph 3 of Article IV.

4. The process of progressive liberalization shall be advanced in each such round through bilateral, plurilateral or multilateral negotiations directed towards increasing the general level of specific commitments undertaken by Members under this Agreement.

Article XX

Schedules of Specific Commitments

1. Each Member shall set out in a schedule the specific commitments it undertakes under Part III of this Agreement. With respect to sectors where such commitments are undertaken, each Schedule shall specify:

- (a) terms, limitations and conditions on market access;
- (b) conditions and qualifications on national treatment;
- (c) undertakings relating to additional commitments;
- (d) where appropriate the time-frame for implementation of such commitments; and
- (e) the date of entry into force of such commitments.

2. Measures inconsistent with both Articles XVI and XVII shall be inscribed in the column relating to Article XVI. In this case the inscription will be considered to provide a condition or qualification to Article XVII as well.

3. Schedules of specific commitments shall be annexed to this Agreement and shall form an integral part thereof.

Article XXI

Modification of Schedules

1. (a) A Member (referred to in this Article as the "modifying Member") may modify or withdraw any commitment in its Schedule, at any time after three years have elapsed from the date on which that commitment entered into force, in accordance with the provisions of this Article.

(b) A modifying Member shall notify its intent to modify or withdraw a commitment pursuant to this Article to the Council for Trade in Services no later than three months before the intended date of implementation of the modification or withdrawal.

2. (a) At the request of any Member the benefits of which under this Agreement may be affected (referred to in this Article as an "affected Member") by a proposed modification or withdrawal notified under subparagraph 1(b), the modifying Member shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment. In such negotiations and agreement, the Members

concerned shall endeavour to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in Schedules of specific commitments prior to such negotiations.

(b) Compensatory adjustments shall be made on a most-favoured-nation basis.

3. (a) If agreement is not reached between the modifying Member and any affected Member before the end of the period provided for negotiations, such affected Member may refer the matter to arbitration. Any affected Member that wishes to enforce a right that it may have to compensation must participate in the arbitration.

(b) If no affected Member has requested arbitration, the modifying Member shall be free to implement the proposed modification or withdrawal.

4. (a) The modifying Member may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the arbitration.

(b) If the modifying Member implements its proposed modification or withdrawal and does not comply with the findings of the arbitration, any affected Member that participated in the arbitration may modify or withdraw substantially equivalent benefits in conformity with those findings. Notwithstanding Article II, such a modification or withdrawal may be implemented solely with respect to the modifying Member.

5. The Council for Trade in Services shall establish procedures for rectification or modification of Schedules. Any Member which has modified or withdrawn scheduled commitments under this Article shall modify its Schedule according to such procedures.

PART V

INSTITUTIONAL PROVISIONS

Article XXII

Consultation

1. Each Member shall accord sympathetic consideration to, and shall afford adequate opportunity for, consultation regarding such representations as may be made by any other Member with respect to any matter affecting the operation of this Agreement. The Dispute Settlement Understanding (DSU) shall apply to such consultations.

2. The Council for Trade in Services or the Dispute Settlement Body (DSB) may, at the request of a Member, consult with any Member or Members in respect of any matter for which it has not been possible to find a satisfactory solution through consultation under paragraph 1.

3. A Member may not invoke Article XVII, either under this Article or Article XXIII, with respect to a measure of another Member that falls within the scope of an international agreement between them relating to the avoidance of double taxation. In case of disagreement between Members as to whether a measure falls within the scope of such an agreement between them, it shall be open to either Member to bring this matter before the Council for Trade in Services.¹¹ The Council shall refer the matter to arbitration. The decision of the arbitrator shall be final and binding on the Members.

¹¹With respect to agreements on the avoidance of double taxation which exist on the date of entry into force of the WTO Agreement, such a matter may be brought before the Council for Trade in Services only with the consent of both parties to such an agreement.

**FOURTH PROTOCOL TO THE
GENERAL AGREEMENT ON TRADE IN SERVICES**

**QUATRIÈME PROTOCOLE ANNEXÉ À
L'ACCORD GÉNÉRAL SUR LE COMMERCE DES SERVICES**

**CUARTO PROTOCOLO ANEXO AL
ACUERDO GENERAL SOBRE EL COMERCIO DE SERVICIOS**

WORLD TRADE ORGANIZATION
ORGANISATION MONDIALE DU COMMERCE
ORGANIZACIÓN MUNDIAL DEL COMERCIO

15 April 1997
Geneva

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FOURTH PROTOCOL TO THE
GENERAL AGREEMENT ON TRADE IN SERVICES

Members of the World Trade Organization (hereinafter referred to as the "WTO") whose Schedules of Specific Commitments and Lists of Exemptions from Article II of the General Agreement on Trade in Services concerning basic telecommunications are annexed to this Protocol (hereinafter referred to as "Members concerned"),

Having carried out negotiations under the terms of the Ministerial Decision on Negotiations on Basic Telecommunications adopted at Marrakesh on 15 April 1994,

Having regard to the Annex on Negotiations on Basic Telecommunications,

Agree as follows:

1. Upon the entry into force of this Protocol, a Schedule of Specific Commitments and a List of Exemptions from Article II concerning basic telecommunications annexed to this Protocol relating to a Member shall, in accordance with the terms specified therein, supplement or modify the Schedule of Specific Commitments and the List of Article II Exemptions of that Member.
2. This Protocol shall be open for acceptance, by signature or otherwise, by the Members concerned until 30 November 1997.
3. The Protocol shall enter into force on 1 January 1998 provided it has been accepted by all Members concerned. If by 1 December 1997 the Protocol has not been accepted by all Members concerned, those Members which have accepted it by that date may decide, prior to 1 January 1998, on its entry into force.
4. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish to each Member of the WTO a certified copy of this Protocol and notifications of acceptances thereof.
5. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this fifteenth day of April one thousand nine hundred and ninety-seven, in a single copy in the English, French and Spanish languages, each text being authentic, except as otherwise provided for in respect of the Schedules annexed hereto.

ISRAEL

Schedule of Specific Commitments

(This is authentic in English only)

ISRAEL - SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons			
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
2. COMMUNICATION SERVICES			
C. <u>Telecommunications services</u>	<p>(1) The existing monopoly's exclusive rights in domestic Telecommunication services and infrastructure mentioned in paragraphs: a(I), a(III), b, c, f, g, will terminate not later than the year 2001. The government will publish the rules and regulatory policy regarding the way of opening the above mentioned to competition in the future.</p> <p>(2) The government issued two licenses to two operators that won a tender issued by the government for the operation of international services in addition to those offered by the present operator (BEZEQ International, which is a fully (100%) subsidiary of BEZEQ - the local PTT). The companies have exclusivity until 1.1.2002 and the government will reexamine its policy regarding further competition in the field of international services towards the year 2001.</p> <p><u>Foreign investment</u></p> <p>(a) No limitation on foreign ownership for value-added service providers.</p> <p>(b) 74 % foreign ownership permitted in international service providers.</p> <p>(c) 80 % foreign ownership permitted in wireless service providers.</p>		

Modes of supply:			
1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
a. <u>Voice telephone services</u> (CPC 7521)	(1) Only through network of Bezeq, the Israel Telecommunications Corp. Ltd.	(1) None	See annexed, as well as the following (in case of inconsistency between the Annex and the following text, the Annex will prevail): <u>Independence of regulator</u> Regulatory functions are the exclusive purview of the Ministry of Communications.
(i) Public voice telephone:	(2) None	(2) None	
- wire-based facilities based local/long distance ¹	(3) Reserved to Bezeq, the monopoly supplier: foreign equity participation in Bezeq is permitted.	(3) None	
	(4) Unbound except as indicated in horizontal section.	(4) Unbound except as indicated in horizontal section.	
(ii) Public voice telephone:	(1) Only through network of three operators	(1) None	<u>Interconnection</u> The Telecommunications Law (5742-1982) authorizes the Minister of Communications, inter alia to order an operator to allow interconnection of its network to the facilities of another operator; both operators are to negotiate the proper system of reimbursement. Should they not reach an agreement, the Minister may decide on the proper price for the interconnection, based on increment costs which include operating expenses, and proper return of equity.
- wire-based facilities based International	(2) None	(2) None	
	(3) Reserved to three operators. 74 % foreign ownership permitted in international service providers	(3) None	
	(4) Unbound except as indicated in horizontal section	(4) Unbound except as indicated in horizontal section	
(iii) Public voice telephone:	(1) None, but by using Bezeq's network, or by using licensees own network.	(1) None	
- local/long distance	(2) None	(2) None	
- radio-based	(3) Local partner required; no more than 80 % of shares may be owned by a foreign entity.	(3) None	
	(4) Unbound except as indicated in horizontal section	(4) Unbound except as indicated in horizontal section	

¹International simple resale is not permitted.

Modes of supply:				
Sector or Sub-sector	1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons
			Limitations on National Treatment	Additional Commitments
g. <u>Private-leased circuit services</u> (CPC 7522 + 7523) - Non-voice - for public or non-public use - International	(1)	Only by using three operators' and IBS licensees' network.	(1) None	
	(2)	None	(2) None	
	(3)	Only by using three operators' and IBS licensees' network. 74% foreign ownership permitted in international service providers	(3) None	
	(4)	Unbound except as indicated in horizontal section.	(4) Unbound except as indicated in horizontal section.	
o. <u>Other</u>	(1)	None	(1) None	
	(2)	None	(2) None	
	(3)	None	(3) None	
	(4)	Unbound except as indicated in horizontal section.	(4) Unbound except as indicated in horizontal section.	
(i) <u>Paging services</u>	(1)	None	(1) None	
	(2)	None	(2) None	
	(3)	None	(3) None	
	(4)	Unbound except as indicated in horizontal section.	(4) Unbound except as indicated in horizontal section.	
(ii) <u>Satellite services: voice and data</u>	(1)	None	(1) None	
	(2)	None	(2) None	
	(3)	None	(3) None	
	(4)	Unbound except as indicated in horizontal section.	(4) Unbound except as indicated in horizontal section.	

ANNEX
ADDITIONAL COMMITMENTS ON BASIC TELECOMMUNICATION SERVICES

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.

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 are 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 of 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 obligations 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 not more burdensome than necessary for the kind of universal service defined by the member.

4. Public availability of licensing criteria

Where a license 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 license; and
- (b) the terms and conditions of individual license.

The reasons for the denial of license 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.