

MEXICO – MEASURES AFFECTING TELECOMMUNICATIONS SERVICES

Request for the Establishment of a Panel by the United States

The following communication, dated 10 November 2000, from the Permanent Mission of the United States to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

The United States considers that certain measures of the Government of Mexico are inconsistent with Mexico's commitments and obligations under the General Agreement on Trade in Services (GATS) with respect to trade in basic and value-added telecommunications services. In particular:

- (1) The International Long Distance Rules published by the Secretariat of Communications and Transportation in the *Diario Oficial* on 11 December 1996 (1996 International Long Distance Rules), which require and administer uniform settlement rate and proportionate return systems, prohibit the use of alternative cross-border traffic arrangements and limit the competitive negotiation of cross-border traffic arrangements. These Rules prevent service suppliers from supplying telecommunications services on which Mexico has made commitments under the GATS and therefore appear to be inconsistent with Mexico's commitments under the GATS, including Article VI:1, Article VI:5, Article XVI:1, Article XVI:2, Article XVII:1, Article XVII:2, Article XVII:3, Section 5 of the Reference Paper (which Mexico has inscribed in its Schedule of Commitments as additional commitments pursuant to GATS Article XVIII) and Section 5 of the Annex on Telecommunications. These Rules also prevent service suppliers from obtaining competitive rates and conditions for the termination of international traffic and therefore appear to be inconsistent with Mexico's commitments under Sections 1.1, 1.2, 2.1, 2.2, 2.4, 2.5 and 5 of the Reference Paper, and Section 5 of the GATS Annex on Telecommunications.
- (2) The Government of Mexico appears to have failed to permit the cross-border supply of basic telecommunications services over leased lines as required by Mexico's commitments and obligations under the GATS, including Article VI:1, Article VI:5, Article XVI:1, Article XVI:2, Article XVII:1, Article XVII:2, Article XVII:3, Section 5 of the Reference Paper, and Section 5 of the Annex on Telecommunications.
- (3) The Government of Mexico appears to have failed to permit the supply of basic telecommunications services over leased lines by locally established commercial agencies as required by Mexico's commitments and obligations under the GATS including Article VI:1, Article VI:5, Article XVI:1, Article XVI:2, Article XVII:1, Article XVII:2, Article XVII:3, Section 5 of the Reference Paper, and Section 5 of the Annex on Telecommunications.

- (4) The Agreement of the Secretariat of Communications and Transportation establishing the procedure to obtain concessions for the installation, operation or exploitation of interstate public telecommunications networks, pursuant to the Federal Telecommunications Law, published by the Secretariat of Communications and Transportation in the *Diario Oficial* on 4 September 1995, prevents service suppliers of the United States from exercising effective control over concessionaires authorized to provide telecommunications services in Mexico. This measure appears to be inconsistent with Mexico's commitments and obligations under the GATS, including Article XVI:1, Article XVI:2, Article XVII:1, Article XVII:2 and Article XVII:3.
- (5) The Government of Mexico appears to have failed to ensure and indeed appears to have prevented local, long distance and international interconnection with Mexico's major supplier of telecommunications services (Teléfonos de México S.A. de C.V., or "Telmex" and Teléfonos del Noroeste, S.A. de C.V., or "Telnor") – including for calls terminating in cities in which competitive suppliers lack facilities – as required by Mexico's commitments and obligations under the GATS, including Sections 2.1, 2.2, 2.4, 2.5 and 5 of the Reference Paper, through the following measures:
- (a) the Secretariat of Communications and Transportation Resolution Concerning Interconnection Plans for Public Long Distance Networks, dated 17 June 1994;
 - (b) the 1996 International Long Distance Rules;
 - (c) the Administrative Resolution by which the Secretariat of Communications and Transportation determines the tariff regulations applicable to the interconnection services of public telecommunications networks authorized to provide long distance services, dated 26 April 1996;
 - (d) the Administrative Resolution by which the Secretariat of Communications and Transportation, through the Federal Telecommunications Commission, establishes the costs of the interconnection projects with regard to the signalling, presubscription and numbering that shall be recovered by Teléfonos de México, S.A. de C.V. and Teléfonos del Noroeste, S.A. de C.V. in their local service operations, dated 28 May 1997;
 - (e) Resolution No. P/271198/0281 of the Federal Telecommunications Commission setting forth rates and other conditions applicable to the interconnection between Teléfonos de México, S.A. de C.V., and Teléfonos del Noroeste, S.A. de C.V. with Alestra, S. de R.L. de C.V., dated 27 November 1998; and
 - (f) the August 1990 amendment by the Secretariat of Communications and Transportation to the concession title of Telmex.
- (6) The Government of Mexico appears to have failed to resolve interconnection disputes within a reasonable period of time as required by Mexico's commitments and obligations under the GATS, including under Article VI:1 and Sections 2.2, 2.5 and 5 of the Reference Paper.
- (7) The Government of Mexico appears to have failed to ensure access to and use of public telecommunications transport networks and services, including private lines and circuits, on reasonable and non-discriminatory terms and conditions for the supply of basic and value-added telecommunications services as required by Mexico's commitments and obligations under the GATS, including Article VI:1, Section 5 of the Annex on Telecommunications, and Section 5 of the Reference Paper.

On 17 August 2000, the United States Government requested consultations with the Government of Mexico pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article XXIII of the GATS regarding measures affecting telecommunications services. The United States and Mexico held such consultations on 10 October 2000. These consultations provided some helpful clarifications but unfortunately did not resolve the dispute. Accordingly, the United States respectfully requests the Dispute Settlement Body to establish a panel pursuant to Article 6 of the DSU to examine this matter with the standard terms of reference as set out in Article 7.1 of the DSU.
