

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

To be held in Geneva, 16-18 March 1998

15 December 1997

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"*. This document does not include draft opinions, but it is anticipated that they will be distributed early in 1998 on the basis of work carried out by rapporteur drafting groups. 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 further revision of this document to incorporate contributions from ITU Member States and Sector Members:

- Circulation of this second draft report in December 1997, revised to incorporate comments from the membership, with an invitation to provide further comments by 31 January 1998
- Circulation of a third draft report, including draft opinions, by early February 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. 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*". This group should meet twice during the consultation process. The first meeting took place on 2 December 1997 and a second meeting is proposed for 5-6 February 1998. Invitations to participate in the informal group of experts were sent out by the Secretary-General to those who contributed to the initial consultation process plus others who he feels can make significant contributions and can assist in achieving the desired balance.
6. This second draft of the report has been structured to address the agenda set in Council Decision 475. In addition, Annex A to this report contains a copy of the WTO reference paper to which some 63 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 and in ITU-T Recommendations. 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 views and contributions of the ITU membership as a whole. For that reason, you are encouraged to submit your comments and contributions on this second draft by **31 January 1998**, 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 and associated comments from ITU Members, 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, are 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 transferred over the SWIFT international telecommunication network exceeds \$US 1 trillion *each day*.¹ The WTPF theme - trade in telecommunications - involves applying, to the telecommunication sector, trade principles including non-discriminatory market access, fair and effective competition, and transparency in establishing rates and regulations. These principles apply to both international and domestic telecommunication services realized with or without local facilities.
10. The level of telecommunication services which are currently 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 by value.
11. The two main, interrelated 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 is changing. 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. Trade in telecommunication services is conducted via four main modes of delivery:
 - Cross-border supply: the delivery of a service, such as an international telephone call, from the territory of one country into that of another
 - Commercial presence: the ability to establish a point of presence on foreign territory, for instance by locating a switch, setting up a representative office, acquiring full or partial ownership of a foreign service provider, or participating in joint ventures and alliances
 - Movement of staff: the possibility for entry and temporary stay of employees in a foreign country
 - Consumption abroad: the possibility for customers of a company to purchase its services when travelling in a foreign territory.

¹ 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.

13. It is expected that competition in the provision of international and domestic telecommunication services will bring about a significant reduction in the level of prices as well as in the price differential between domestic long-distance and international telephone services. 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.
14. The dual role of telecommunications as both a traded service and a vehicle for trade in other service sectors means that price reductions, improvements in the level of investment and the development of infrastructure and services brought about by liberalization should also have an impact on other sectors of the economy. Telecommunication services are essential to many businesses, and will become more critical as trading partners - such as suppliers, banks, insurance companies, financial institutions, government agencies, consumers, and the like - become increasingly dependent on telecommunication networks for commercial transactions. In addition, efficient, low-cost telecommunication networks will provide the necessary platform for the growth of electronic commerce, which many see as holding a high potential for growth. Thus, the implementation of liberalized telecommunication principles should produce significant benefits not only within the country's telecommunication sector but for the national economy as a whole.

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

15. The 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 April 1994, 125 countries signed the Marrakesh Agreement establishing the World Trade Organization, to which the General Agreement on Trade in Services (GATS) is annexed. There are now 132 WTO Members. The GATS covers trade in all commercial services and applies to all measures taken by a WTO Member including laws, rules, procedures, regulations, decisions and administrative actions at all levels in a country's administrative structure. It consists of the framework agreement (a basic set of articles to which all signatories adhere), its annexes (including the Annex on Telecommunications), the schedules of specific commitments and exemptions submitted by Members, and the reference paper on regulatory principles (see Annex A). General obligations of the framework agreement include the following:
 - Most favoured nation (MFN), which requires that WTO Members treat all services and service suppliers in a way which is "no less favourable" than the way they treat "like" services and service suppliers of any other WTO Member. Specific exemptions to the MFN principle must be listed in the country's schedule of exemptions.
 - Transparency, which requires that WTO Members publish all measures, such as laws, tariffs, regulations or procedures, which can affect the trade in services covered by a WTO Member's commitments.
 - Domestic regulation, which ensures that WTO Members which have made market opening commitments do not nullify or impair those commitments by imposing licensing, technical standards or other requirements, and that any such requirements are transparent and objective.
 - Provisions relating to monopolies and exclusive service providers, which require that WTO Members maintaining monopolies ensure that they do not act in a manner inconsistent with the WTO Member's commitments, or abuse their monopoly position.

- Fair business practices, which ensures that all competitors for services or service provision are treated in a "like" fashion.
- National treatment, which provides that all WTO Members subject foreign service providers to conditions no more onerous than the conditions imposed on domestic providers. This rule only applies in certain service sectors, where individual Members have made a commitment to it in their schedules.

Telecommunications plays a significant role in the GATS, 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.

16. Of the 125 countries which signed the GATS in 1994, about half made specific commitments to open their enhanced telecommunication service markets, but only a handful were prepared to allow entry into their basic telecommunication service 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 have made, or are planning to make, basic telecommunication commitments before the implementation of the agreement.
17. In addition to commitments made in individual country schedules regarding application of general GATT obligations to the telecommunication services sector, 63 of the WTO Members participating in the negotiations made at least a partial commitment to the reference paper (Annex A of this report) on regulatory principles (57 made full commitment). The reference paper commits those Members which signed on to a) establish competitive safeguards to prevent anti-competitive practices, b) provide for interconnection, c) apply universal service obligations in a neutral and transparent way, d) make licensing criteria publicly available, e) establish an independent regulator, and f) allocate scarce resources fairly.

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

18. WTO Members which have signed the WTO telecommunications agreement must now put in place the regulatory structures and procedures to meet their obligations and specific commitments, according to the negotiated deadlines (which differ in some cases). They may need to modify existing laws, regulations and administrative guidelines to bring them into line with these obligations and commitments and to benefit from the new environment that this agreement 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.

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, depending on its level of commitment:
- **All WTO Members**, regardless of whether they made commitments in basic telecommunications, are bound under their general GATT commitment not to discriminate against any WTO Member (MFN obligation) in providing access to telecommunication services and must make available information on the country's laws, regulations, administrative procedures and the like pertaining to the basic telecommunication sector.
 - **WTO Members which made commitments in basic telecommunications** 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 are committed to open on the date indicated in their commitments and under the conditions indicated. In the specific field of international telecommunications, this may involve permitting foreign-owned telecommunication service providers to establish a point of presence for purposes of direct interconnection with the network of the incumbent major supplier.
 - **WTO Members which also committed themselves to abide by the reference paper** need to establish regulatory agencies that are independent of operating companies and service providers (if not already in place), and establish a dispute settlement mechanism to resolve interconnection disputes between the incumbent operator and new entrants. One of the most immediate tasks to be fulfilled 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.
20. The principles of the Annex on Telecommunications, 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 is the Understanding on Rules and Procedures governing the Settlement of Disputes. The understanding creates a dispute settlement body and sets out enforcement provisions whereby a WTO Member which considers that another Member has failed to fulfil its general obligations or specific commitments can bring the matter before the dispute settlement 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 IV of the GATS takes into account the specific situation of developing countries), the pace of market liberalization will be different.

23. The changing international telecommunication environment will encourage many different types of relationships between service providers and countries. In general, there are likely to be three different types of relation between countries, albeit with many different shades or degrees of market openness:
- **Monopoly-to-monopoly:** Relations between monopoly environments will become increasingly few in number. Countries which choose to retain monopoly suppliers will be affected to some degree by the changing telecommunication environment even if they are not parties to the GATS or the basic telecommunications agreement.
 - **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 point of presence in foreign countries, obviating the need for settlement payments. Thereafter, they could interconnect with the network of one of the domestic carriers in the foreign country. Thus the settlement rate would be replaced by a market-based interconnection payment, call termination charge, or other arrangement. 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 other options. 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.

As liberalization spreads globally, monopoly carriers will not be able to avoid pressure from competitive markets as they seek to negotiate bilateral correspondent relations. Carriers operating in a liberal environment, with strong domestic and international pressure on tariffs, will become increasingly less willing to pay settlements arising from non-cost-orientated accounting rate levels.

24. In summary, the WTO agreement will mean, for countries representing 94 per cent of global telecommunication revenues, 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 commit to opening their telecommunication service markets and as WTO Members 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 WTO Members 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 a draft opinion relating to implementation of the WTO basic telecommunications agreement:*
[Draft Opinion A to be inserted here]

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. For developing countries, adopting WTO rules provides an opportunity to be a part of, and benefit from, an emerging "single market" for telecommunication services. Countries not making commitments under the agreement may find difficulty in attracting foreign capital for infrastructure investment. Countries with underdeveloped telecommunication networks were initially reluctant to adopt more liberal sector structures for fear that this might compromise their long-term development plans. The government, it was thought, could exercise greater control and ensure that the network was built out to satisfy the needs of the country when there was a single—generally government-owned—operator. Experience, however, has shown this not to be the case. Where markets have been liberalized, the level of investment, particularly foreign investment, has generally increased and network development has proceeded more rapidly.
27. Research presented in ITU's 1996/97 World Telecommunication Development Report shows that those emerging economies which have introduced some measure of competition in domestic and international markets, such as Chile, Malaysia and the Philippines, 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.
28. Technological advance is driving changes in the telecommunication environment as well, with rapid technological evolution bringing new opportunities to expand services and reduce costs. Technological advances give developing countries an opportunity to "leapfrog" to more advanced stages of network development, but they also alter the organizational dynamics and traditional conditions for entry into the telecommunication sector. 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.
29. Governments have found that a planned process of telecommunication market liberalization can work well in achieving their objectives for the telecommunication sector and overall economic development, 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. Market liberalization has also had a profound effect on promoting development in other sectors—such as financial services, information technology and computing, tourism, and transport—which depend heavily on good, reliable and low-cost telecommunications. Indeed, economic development in these sectors has been constrained in many countries because of the lack of an adequate telecommunication infrastructure to service them.

30. 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 incumbents do not stifle the nascent competition.
31. The typical strategy for restructuring a country's telecommunication sector, the timing and manner of which can vary, may include some or all of the following steps:
 - high-level government commitment to commercialization and liberalization of the telecommunication sector, as exemplified by a policy declaration or strategic plan;
 - development and management of appropriate human resources;
 - separation of postal and telecommunication operations, as well as of operational, regulatory, and ownership functions;
 - granting of a higher degree of financial and management autonomy for the incumbent operator;
 - consideration of sale of shares in, or privatization of, the incumbent operator, if state-owned;
 - establishment of measures to attract new investment, including investment from foreign sources;
 - licensing of new entrants in some or all segments of the market.

The impact of new international arrangements

32. 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 some developing countries have not signed the WTO agreement, or have committed themselves to a less specific timetable for market liberalization, many of their major trading partners have made commitments and plan to operate in an increasingly competitive global environment. Developing countries, therefore, are likely to find bilateral pressure to reach cost-orientated tariff levels and settlement rates intensifying as their trading partners seek to negotiate lower rates.
33. The majority of developing countries are net recipients of settlement payments which some fear may be reduced as a result of these changes. In 1996, estimated net settlement payments to developing countries amounted to some \$US 10 billion. More than half of this came from the United States, which has moved faster than other developed countries toward liberalizing its international telecommunication sector and permitting new modes of operation.

34. 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". The least developed countries receive less than four per cent of total net settlement payments. Nevertheless, it is these countries that are the most susceptible to a growing proportion of international traffic bypassing the accounting-rate system due to new modes of operation. As international traffic moves to least-cost routes, developing countries that rely on high settlement rates must assess their situations and identify new ways to benefit from the changes in the international telecommunication marketplace. Such approaches will likely require restructuring and rebalancing of national tariff structures.
35. Some developing countries state that they 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-orientated rates would result in termination charges that are asymmetric.
36. A move towards cost-orientated 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 developing countries have stated concerns that further reductions in settlement rates might 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, thereby limiting the positive impact telecommunication access can have on national health, education and good governance. For many developing countries, the inflow of revenue from accounting rates also provides for a portion of other national fiscal needs. In consequence, some developing countries would like to see a longer period of transition towards cost-orientated settlement rates and/or settlement-rate reductions that are triggered by increased traffic volumes.
37. 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 the Commonwealth Telecommunications Organisation, 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.
38. ***WTPF-98 may wish to consider a draft Opinion which discusses the implications of the WTO agreement for the policies, regulations and financial strategies of developing countries:***
[Draft Opinion B to be inserted here]

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

Introduction

39. 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 not a topic of negotiation in the WTO proceedings on basic telecommunications. International accounting and settlement rates 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.
40. 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 points of presence in other countries enables them to bypass the traditional correspondent relationship arrangements and deliver their originating calls directly to the country of destination.
41. 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. Competition should also drive down tariffs and these in turn will not sustain high settlement rates. The impact on the 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 other services which can no longer be subsidized by above-cost international settlement rates. These countries should, however, consider that the WTO agreement produces other benefits. Opening and liberalizing markets, including inviting participation by foreign investors and strategic partners, is an effective way to mobilize more private capital and to provide far greater resources than settlement payments do now. There will also be increased revenues if operators deploy their resources more efficiently.

The Secretary-General's initiatives

42. The ITU Secretary-General has made accounting-rate reform a priority issue. In a consultation paper² presented to ITU-T Study Group 3 in November 1996, seven principles were proposed to guide the process of reform of the international settlement arrangements. These are:
 - Continuity and viability of international telecommunication service
 - Transparency
 - Non-discrimination
 - Cost-orientated tariffing
 - The value of market competition

² A copy of the consultation paper can be found on the ITU website at <http://www.itu.int/intset/ITUpap/index.html>

- The benefits of accounting rate reductions should be passed on to end-users
- Ease of transition for developing countries, especially the least developed countries

These principles were endorsed by ITU-T Study Group 3, which subsequently proposed two additional principles, namely that any new regime should:

- Require a minimum amount of regulation
- Be conducive to overall reduction of costs and improvement of efficiency.

The Secretary-General's informal group of experts

43. On the recommendation of the World Telecommunications 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 recommendations of the report are discussed in section 5 below.

ITU-T Study Group 3

44. 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 meeting in May 1997, there was general agreement that the move toward cost-orientated 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 ITU-T Recommendation D.140, i.e. that settlement rates should be cost-orientated, transparent and non-discriminatory
45. At its most recent meeting in December 1997, the Study Group focused its efforts on a revision of ITU-T Recommendation D.150 to incorporate new methods for setting cost-orientated rates for the termination of international telephone calls. This new regime, which would coexist with existing revenue-division methods, could include the following:
- A settlement rate procedure, which would be reached by bilateral negotiation between operators in originating and terminating countries. The settlement rates agreed will be cost-orientated and therefore, in principle, asymmetric, between the operators of the country of origin and the country of destination.
 - A termination charge procedure by which a transparent, cost-orientated call termination charge would be set by the regulator or operator of the destination country according to an agreed cost methodology and would be applied, in a non-discriminatory manner, to all incoming traffic. It is proposed that the termination rate should be set no higher than the existing lowest settlement rate (best practice rate), excluding sender keeps all relations.
 - Operators may, by bilateral agreement, agree to use any other commercial arrangement more suited to the nature of their relationship.

Study Group 3 agreed to include these three new methods in Recommendation D.150, but they will need to be developed in more detail at the next meeting of the Study Group in June 1998.

46. Study Group 3 also discussed transitional arrangements to the new regimes. Some 80 countries attended the meeting and they agreed (except China and India, which entered reservations) to the following text, which will be submitted to Members for approval as part of a revised Recommendation D.140:

"Recognizing the change in the international telecommunication environment and the agreement to expand the menu of the remuneration arrangements to be incorporated into D.150, it is recommended that transitional arrangements to cost-orientated mechanisms be adopted as follows:

- *As an initial step, agreement to a target for administrations/ROAs, through bilateral agreement, to reduce total accounting rates to a level such that after deducting transit traffic, where appropriate, the balance is less than 1 SDR per minute by the end of 1998. In so doing, special provisions should be given to facilitate the transition by developing countries, in particular least developed countries. In this regard, where circumstances are identified, through a transparent process, of the significant difficulties these administrations/ROAs may have in coping with the reduction, the target date may be deferred to a mutually agreed date. These provisions may include, as necessary, alterations of the 50/50 arrangement to cushion revenue reductions, provided that such alterations are made within the context of an agreement to achieve cost-orientated rates.*
- *Administrations/ROAs whose accounting rates are below 1 SDR per minute should continue to take positive steps to reduce their accounting rates to cost-orientated levels.*
- *Administrations/ROAs should seek to implement this proposal in an expeditious manner, recognizing that this may need to be done on a scheduled basis where the levels of reductions are significant. Accordingly, administrations/ROAs should submit to ITU by March 2nd 1998 a schedule of reductions pursuant to (i) above.*
- *Administrations/ROAs should utilize an appropriate costing methodology as soon as possible, but not later than the end of 1999, to determine their relevant costs.*
- *ITU-T should collect data from administrations/ROAs to enable the measurement of progress in following these arrangements.*
- *ITU should continue work to define cost models and methodologies for achieving cost orientation of the current and new remuneration arrangements on an ongoing basis in order to achieve timely implementation of D.140."*

Other initiatives

47. It is generally recognized that a shift to a new regime based on call termination or interconnect arrangements can only take place in the context of a multilateral agreement on costing methodologies and on which cost elements can be legitimately included in the calculation of the charges. In the absence of competition, it may be necessary to set an upper ceiling on the level at which termination charges can be levied. The Informal Expert Group noted that, on the basis of work carried out by the ITU secretariat, few settlement rates should exceed 25 US cents per minute. The US regulator, FCC, has proposed benchmarks of between 15 and 23 cents per minute. It would be better if rate reductions could be agreed upon in the framework of a voluntary multilateral agreement, rather than being imposed by operators from one or more countries.

ITU-D initiatives

48. For its part, ITU-D has initiated an *Action Plan* to assist countries and regions in managing cost-orientated tariffs, reforming accounting rates and addressing WTO issues and negotiations:
- Colloquia have been held in five regions (Africa, Arab States, Asia-Pacific, Latin America, Caribbean and Europe) which debated the topics and formulated conclusions and recommendations
 - Four seminars on costs, tariffs and accounting rates have been already held and three are scheduled for 1998
 - Direct assistance has been provided to respond to the countries' needs covering sector governance, accounting-rate issues and tariff issues and policies
 - A synthesized report has been prepared for submission to WTDC-98, for the adoption of operational follow-up/a plan of action.

Other ITU initiatives

49. 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 Telecommunications Advisory Council (WTAC) debated the topic at its meetings on 15-16 April and 22 October 1997
 - ITU hosted a seventh meeting of the Regulatory Colloquium, from 3 to 5 December 1997, on transforming economic relationships in international telecommunications.
50. *WTPF-98 may wish to consider a draft Opinion on the evolution of the international telecommunication environment, particularly the accounting and settlement system:
[Draft Opinion C to be inserted here]*

5. ACTIONS TO ASSIST MEMBER STATES AND SECTOR MEMBERS IN ADAPTING TO THE CHANGES IN THE TELECOMMUNICATION ENVIRONMENT, INCLUDING ANALYSIS OF THE CURRENT SITUATION AND FORMULATION OF POSSIBLE COOPERATIVE ACTIONS INVOLVING ITU MEMBER STATES AND SECTOR MEMBERS TO FACILITATE ADAPTATION TO THE NEW ENVIRONMENT

Possible cooperative actions among the ITU membership

51. 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 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 a major role in defining and adapting to the new telecommunication environment consistent with the WTO basic telecommunications agreement.

52. ITU can and should facilitate the transition of telecommunications to a market-based model, and can best serve this objective by:
- coordinating its Members' access to existing international and regional resources (e.g., the World Bank, ITU-D, ITU Sector Members) that already provide needed expertise, consultation and support;
 - developing approaches and programmes to use its own and other available resources to mobilize provision of technical and regulatory consultation and support.
53. 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 which are starting out on this process, or which are thinking of acceding to the agreements.
54. Developing countries face the daunting task of establishing new regulatory structures and initiating the process of reform in a very short space of time. They will need 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. ITU will, of course, not have the internal resources to provide such advice to all countries. It can, however, help to identify outside resources and 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

55. ITU has an important role to play in the liberalization process. 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 role to play in providing impartial information and advice through its membership. In this context, ITU's Regional Offices and its support for Centres of Excellence in human resources development can help.
56. ITU, in keeping with its strategic plan, will need to take advantage of its expertise and knowledge base in order to provide its membership 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, ITU can play an important role in broadening and publicizing the WTO

Agreement, especially among its private sector membership. ITU can also encourage its Member States to study the WTO Agreement and make commitments under it in order to benefit from its provisions and implementation.

57. The ITU Constitution and the *International Telecommunication Regulations* (ITR) emphasize the sovereignty of ITU Member States in organizing their telecommunication sectors. 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". The development and application of standards in ITU and elsewhere will have to take account of the GATS requirement that technical standards and licensing agreements should not constitute unnecessary barriers to trade in services. The same will be true of orbital slot and frequency assignment and coordination of systems. ITU Members may wish to review the Union's process in this area to consider any possible conflicts with WTO rules.
58. 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 as well as in providing hard data and sound advice that will be useful to developing countries in making the necessary adjustments.

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

59. The report of the Informal Expert Group on reform of the international settlement system², published in April 1997, made recommendations in four specific areas to assist countries which would be most likely to need assistance in responding to 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.
 - ITU-T Study Group 3 should accelerate its efforts to reform the present international settlement arrangements by focusing its work on facilitating the transition to arrangements which are more compatible with a competitive and liberalized marketplace.
 - 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.

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

- 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.
60. In order to achieve these objectives, the Group recommended that 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 with respect to the multilateral dimension of regulatory initiatives.
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 a draft Opinion on cooperative actions between ITU Member States and Sector Members to facilitate adaptation to the new environment:
[Draft Opinion D to be inserted here]***

ANNEX A

WTO reference paper on basic telecommunications¹

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.

¹ 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

Accounting rate:	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".
Call origination:	The service of originating a telephone, fax or other telecommunication call from the calling party.
Call termination:	The service of terminating a telephone, fax or other telecommunication call to the called party.
Call termination charge:	A charge applied by a carrier for terminating a call which might be either: <ul style="list-style-type: none">• a single charge applied to all incoming traffic under a traditional half-circuit regime, applied in a cost-orientated, non-discriminatory and transparent manner; or• 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.
Full-circuit regime:	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.
Half-circuit regime:	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.
Least developed country (LDC):	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.
Settlement payment:	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.
Settlement rate:	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 "*Sales of telecommunication equipment or services that cross national borders*". 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. Trade in telecommunication services also covers "transactions" that cross national borders which would cover foreign investment, such as the acquisition of shares in telephone companies by foreign investors, or joint ventures between local and foreign partners to establish new telecommunication service companies.



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 telecommunication 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 telecommunication environment including analysing the current situation (e.g. by case studies) and formulating possible cooperative actions involving ITU Member States and Sector Members to facilitate adaptation to the new environment;

c) 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;

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.
