

Dated: December 22, 1999.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning Compliance with Telecommunications Trade Agreements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for public comment.

SUMMARY: Pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) (Section 1377), the Office of the United States Trade Representative (USTR) is reviewing, and requests comments on: the operation and effectiveness of—including implementation of and compliance with—the World Trade Organization (WTO) Basic Telecommunications Agreement; other WTO agreements affecting market opportunities for telecommunications products and services of the United States; the North American Free Trade Agreement (NAFTA); and, other telecommunications trade agreements with the Asia Pacific Economic Cooperation (APEC) members, the European Union (EU), Japan, Korea, Mexico and Taiwan. The USTR will conclude the review on March 31, 2000.

DATES: Comments are due by noon on Tuesday, February 1, 2000.

ADDRESSES: Comments must be submitted to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, ATTN: Section 1377 Comments, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: William Corbett, Office of Industry (202) 395-9586; or Demetrios Marantis, Office of the General Counsel (202) 395-3581.

SUPPLEMENTARY INFORMATION: Section 1377 requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services of the United States that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into a telecommunications trade agreement with the United States is

inconsistent with the terms of such agreement, or otherwise denies to U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities. For the current review, the USTR seeks comments on:

(1) Whether any WTO member is acting in a manner that is inconsistent with its specific commitments under the WTO Basic Telecommunications Agreement or with other WTO obligations, *e.g.*, the WTO General Agreement on Trade in Services (GATS), including the Annex on Telecommunications, that affect market opportunities for U.S. telecommunications products and services;

(2) What steps to take regarding out-of-cycle reviews initiated in 1999 under Section 1377 regarding compliance by Germany and Mexico with telecommunications trade agreements;

(3) Whether Canada or Mexico has failed to comply with their commitments under NAFTA;

(4) Whether APEC members, the EU, Japan, Korea, Mexico or Taiwan have failed to comply with their commitments under bilateral telecommunications agreements with the United States.

See 63 FR 1140 (January 8, 1998) for further information concerning the agreements listed below and USTR Press Release 99-29 (available at www.ustr.gov) for the results of the 1998-99 section 1377 review concerning these agreements.

WTO Agreements

The GATS contains general obligations that apply to all WTO members and services and specific obligations that apply only to services listed in a member's schedule of commitments. As part of the GATS, WTO members have made both basic and value-added telecommunications commitments. Specifically, the Fourth Protocol to the GATS—generally referred to as the WTO Basic Telecommunications Agreement—is the legal instrument embodying seventy WTO members' basic telecommunications services commitments under the GATS. The agreement entered into force on February 6, 1998, and since that time, an additional eight WTO members have made telecommunications services commitments, some upon their accession to the WTO. Many members also took separate commitments in the area of value-added telecommunications services as part of the GATS, which entered into force on January 1, 1995. A description of each member's specific

commitments is available on the Internet at www.wto.org.

Under the WTO Basic Telecommunications Agreement, members have made full or qualified commitments in three specific areas: market access, national treatment (including investment), and pro-competitive regulatory principles. Countries that have made full market access commitments have agreed to local, long-distance and international service through any means of network technology, either on a facilities basis or through resale of existing network capacity. Countries making full national treatment commitments have agreed to ensure treatment no less favorable to U.S. services or service suppliers than to services or service suppliers of the WTO member making the commitment (*e.g.*, U.S. companies can acquire, establish or hold a significant stake in foreign telecommunications companies to the same extent as companies of the WTO member making the commitment). And finally, countries have also adopted pro-competitive regulatory principles—set forth in a Reference Paper and incorporated in the members' schedules—which commit members to establish independent regulatory bodies, guarantee that U.S. companies will be able to interconnect with networks in foreign countries at fair prices, maintain appropriate measures to prevent anti-competitive practices such as cross-subsidization, and mandate transparency of government regulations and licensing.

The USTR seeks comment on whether any WTO member that has undertaken telecommunications services commitments under the GATS has failed to make the necessary legislative or regulatory changes to implement its commitments, or permits acts, policies, or practices in its markets that run counter to that country's commitments. In addition, the USTR seeks comments on whether any WTO member permits acts, policies, or practices that are inconsistent with other WTO obligations and that affect market opportunities for telecommunications products and services of the United States.

Out of Cycle Reviews Regarding Germany and Mexico

The USTR seeks comments on what steps to take regarding out-of-cycle reviews initiated under Section 1377 in 1999 regarding compliance by Germany and Mexico with telecommunications trade.

Germany—1999 out-of-cycle review: On August 11, 1999, USTR announced the extension of an out-of-cycle review

under Section 1377 of Germany's compliance with its WTO telecommunications commitments. The review, initiated on March 30, 1999, found that recent German regulatory decisions did not endorse restrictive and potentially WTO-inconsistent proposals made by Deutsche Telekom, the dominant German telecommunications carrier and former German monopoly operator. However, the review also concluded that those decisions might not be sufficient to prevent anti-competitive behavior by Deutsche Telekom as new interconnection arrangements applicable from March 1, 2000 are yet to be finalized. U.S. carriers have asserted to the U.S. Government that Deutsche Telekom's anti-competitive behavior continues to impede their efforts to provide service in Germany. Under the WTO Basic Telecom Agreement, Germany committed to maintain appropriate measures to prevent anti-competitive behavior. The German regulatory authority announced on December 23, 1999, new arrangements for interconnection prices and peak and off-peaks timing that will apply for the next thirteen months (for additional information concerning this decision, see www.regtp.de). The USTR seeks comments on whether the latest regulatory decision and other recent steps by the German regulatory authority are sufficient to meet Germany's WTO telecommunications commitments.

Mexico—1999 out-of-cycle review: On July 29, 1999, USTR announced the extension of an out-of-cycle review under Section 1377 of Mexico's compliance with its WTO telecommunications commitments. The review, initiated on March 30, 1999, found that Mexico is undertaking a consultative policy review and meeting regularly with U.S.-affiliated and all other Mexican carriers on international service and domestic regulatory issues under study. Interconnection and dominant carrier regulations in Mexico have yet to produce lower net domestic interconnection costs for new entrants; the Mexican regulatory authority has not created confidence that Telmex (the former state-owned monopolist) is not engaging in anti-competitive cross-subsidization of different telecom services; and, the Mexican regulatory authority has yet to identify a universal service program under which Telmex would be required to fund universal service on the same basis as its competitors. The results of the 1999 policy review are not apparent. The USTR seeks comments on whether

Mexico is likely to address outstanding international service and domestic regulatory issues in a manner consistent with Mexico's WTO telecommunications commitments.

NAFTA and Bilateral Trade Agreements

The USTR seeks comments on the operation and effectiveness of certain bilateral trade agreements regarding telecommunications products and services, including the NAFTA. The NAFTA includes market access and national treatment commitments for value-added telecommunications services; and, it includes a national treatment commitment for conformity assessment in relation to telecommunications equipment standards.

Bilateral agreements include, on a country-by-country basis:

Canada: NAFTA Chapter 13 and other telecommunications-related provisions.

Japan: The 1999 Nippon Telegraph and Telephone (NTT) agreement; the 1994 U.S.-Japan Public Sector Procurement Agreement on Telecommunications Products and Services; and, additional telecommunications trade agreements with Japan, including a series of agreements on: international value-added network services (IVANS) (1990–91); open government procurement of all satellites, except for government research and development satellites (1990); network channel terminating equipment (NCTE) (1990); and cellular and third-party radio systems (1989) and cellular radio systems (1994).

Korea: Agreements in the areas of protection of intellectual property rights (IPR), type approval of telecommunications equipment, transparent standard-setting processes and non-discriminatory access to Korea Telecommunications' procurement of telecommunications products.

Mexico: NAFTA Chapter 13 and other telecommunications-related provisions; and, the 1997 understanding regarding test data acceptance agreements between product safety testing laboratories.

Mutual Recognition Agreements For Conformity Assessment of Telecommunications Equipment: Agreement on mutual recognition for conformity assessment of telecommunications equipment with the EU; and, an agreement among certain members of APEC.

Taiwan: The October 1999 and February 1998 agreements on WTO accession commitments in telecommunications services; the February 1998 agreement on interconnection pricing for provision of

wireless services in Taiwan; and, the July 1996 agreement on the licensing and provision of wireless services through the establishment of a competitive, transparent and fair wireless market in Taiwan.

Public Comment: Requirements for Submissions

USTR requests comments on: the operation and effectiveness of—including implementation of and compliance with—the WTO Basic Telecommunications Agreement; other WTO agreements affecting market opportunities for telecommunications products and services of the United States; the NAFTA; and other telecommunications trade agreements with APEC members, the EU, Japan, Korea, Mexico and Taiwan. All comments must be in English, identify on the first page of the comments the telecommunications trade agreement(s) discussed therein, be addressed to Gloria Blue, Executive Secretary, TPSC, ATTN: Section 1377 Comments, Office of the U.S. Trade Representative, and be submitted in 15 copies by noon on Tuesday, February 1, 2000.

All comments will be placed in the USTR Reading Room for inspection shortly after the filing deadline, except business confidential information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential information submitted in accordance with 15 CFR 2003.6, must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 15 copies, and must be accompanied by 15 copies of a nonconfidential summary of the confidential information. The nonconfidential summary will be placed in the USTR Public Reading Room.

An appointment to review the comments may be made by calling Brenda Webb at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Frederick L. Montgomery,
Chairman, Trade Policy Staff Committee.
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.