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Session III

Telecommunications Chapter

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CITY BUILDING WORKSHOP ON NEGOTIATIONS OF SERVICE CHAPTERS UNDER FTAS WITH A NEGATIVE LIST APPROAC
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TELECOMMUNICATIONS IN FTAS

Options for adressing Telecommunications in a FTA:

- To avoid any specific Annex/Chapter on Telecommunications.
- Annex on Telecommunications: regulatory provisions applicable to the Telecommunications sector.
- Chapter on Telecommunications: regulatory provisions applicable to the Telecommunications sector. The benefits of the provisions may go beyond the "services sectors" (this issue will be addressed later...)

Why including a specific Annex/Chapter on Telecommunications?

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TELECOMMUNICATIONS CHAPTER

Objectives:

- To ensure transparency and competition in the telecommunications sector.
- To ensure that there will be expedite process for the issuance of licenses in the sector.
- To ensure that the liberalization achieved in the CBTS and Investment Chapters, will not be blocked by regulatory provisions in the telecommunications sector.

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TELECOMMUNICATIONS CHAPTER

Objectives:

Example I:

If there are no regulation regarding interconnection rates, it will be too expensive for suscribers of enterprise A to call suscribers of enterprise B (major supplier). Consumers will prefer enterprise B.

Example 2:

If there is no regulation that requires major suppliers to share its infrastructure, new enterprises will need to build their own infrastructure (high costs => expensive service).

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TELECOMMUNICATIONS CHAPTER

Scope:

A Telecommunications Chapter applies to mesaures relating to:

- ▶ Access and use to PTS
 - Access and Use
- **▶ Obligations on PTS suppliers**
 - Interconnection
 - Competitive Safeguard
 - Access to Pole, Ducts, Conduits
 - Number Portability

TELECOMMUNICATIONS CHAPTER

Scope:

A Telecommunications Chapter applies to mesaures relating to:

- → Other measures relating to PTS
 - Transparency
 - Licencing process
 - Universal Service
 - Scarce Resources

A Telecommunications Chapter does not apply to measures relating to broadcast or cable distribution of radio or television programming.

MARKET ACCESS IN THE TELECOMMUNICATIONS CHAPTER?

Normally, Telecommunications Chapters do not include market access provisions (NT, MA, MFN or LP).

These provisions are addressed in the Investment and the CBTS Chapter:

- ▶ Investment allows investments in the telecommunications sector (mode 3).
- CBTS allows the provision of telecommunication services on a cross border basis (modes 1, 2 and 4).

Telecommunications Chapter only focuses in the regulatory provisions.

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DIFFERENCES WITH THE ANNEX ON TELECOMMUNICATIONS (GATS) AND THE REFERENCE PAPER

- Terminology
- Relation with the List of Commitments/Non-Conforming Measures
- Ambition of the provisions

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DIFFERENCES WITH THE ANNEX ON TELECOMMUNICATIONS (GATS) AND THE REFERENCE PAPER: TERMINOLOGY

Text from the Annex on Telecommunications - Paragraph 5 - Access and use of Public Telecommunications Transport Networks and Services

(a) Each Member shall ensure that any <u>service supplier</u> of any other Member is accorded access to and use of public telecommunications transport networks and services on reasonable and nondiscriminatory terms and conditions (...)

Text from the FTA Peru-Canada - Article 1002 - Access and Use

(...) a Party shall ensure that <u>enterprises</u> of the other Party are accorded access to and use of public telecommunications transport networks and services on reasonable and non-discriminatory terms and conditions.



DIFFERENCES WITH THE ANNEX ON TELECOMMUNICATIONS (GATS) AND THE REFERENCE PAPER: TERMINOLOGY

Is it only a drafting issue? What is the purpose?

The use of the term "enterprises" expands the benefits of the provisions.

The commitments will not only benefit "service suppliers", but also non-service suppliers (for example, a manufacturing enterprise).

Scope of GATS: services and service suppliers

Scope of FTAs: trade in goods, services and investments

This is why some FTAs contain a Telecom Chapter insted of an Annex -- > the scope will not be limited to services

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DIFFERENCES WITH THE ANNEX ON TELECOMMUNICATIONS (GATS) AND THE REFERENCE PAPER: Relation with the lists/schedules

Text from Reference Paper - Paragraph 2 - Interconnection

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(...), where specific commitments are undertaken.

Text from the FTA Peru-United States - Article 14.4 - Interconnection

Each Party shall ensure that major suppliers in its territory provide interconnection for the facilities and equipment of suppliers of public telecommunications services of another Party. (No reference to non-conforming measures)



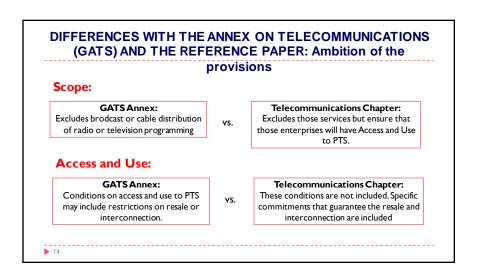
DIFFERENCES WITH THE ANNEX ON TELECOMMUNICATIONS (GATS) AND THE REFERENCE PAPER: Relation with the lists/schedules

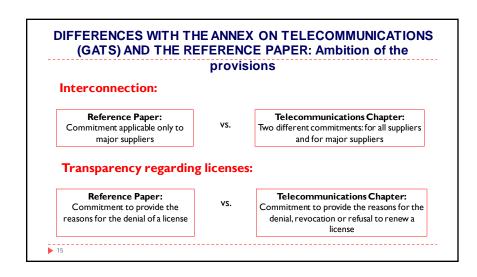
Telecommunications Chapters might not make reference to the Non-Conforming Measures.

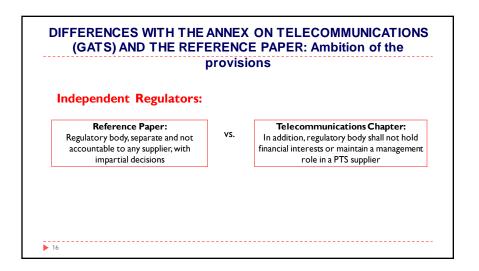
In this case, regulatory provisions, like the interconnection article, will be applicable in any case.

The Telecommunications Chapter seeks to ensure that the regulatory provision will be applicable, even if there are non-conforming measures for the telecommunications sector.

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OTHER ARTICLES INCLUDED IN A TELECOMMUNICATIONS CHAPTER

Number Portability:

It ensures that users will be able to switch between suppliers of public telecommunications services, retaining its pone number.

International Mobile Roaming:

It includes transparency commitments regarding the rates imposed to the endusers.

TPP – establishes a mechanism where an Economy is committed to grant Access to regulated wholesale rates.

Pacific Alliance – commitment to jointly evaluate mechanisms for the regulation of roaming.

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OTHER ARTICLES INCLUDED IN A TELECOMMUNICATIONS CHAPTER

Access to Infrastructure:

It ensures that major suppliers will grant access to its infrastructure (i.e. poles, ducts, conduits) on reasonable and non-discriminatory terms and conditions.

Flexibility in the Choice of Technology:

It ensures that public telecommunication services suppliers will be able to choose any technology for the provision of public telecommunications services.



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