Chapter 8
Telecommunications Services

Article 116
Scope of Application

1. This Chapter shall apply to:

(a) measures adopted or maintained by a Party relating to access to and use of public telecommunications transport networks and services;

(b) measures adopted or maintained by a Party relating to obligations of suppliers of public telecommunications transport networks and services; and

(c) other measures adopted or maintained by a Party relating to public telecommunications transport networks and services.

2. Articles 125 and 131 shall also apply to telecommunications services.

3. This Chapter shall not apply to measures by a Party affecting broadcasting services, including cable distribution of radio and television programming, as defined in its laws and regulations.

4. Nothing in this Chapter shall be construed to:

(a) require a Party to authorize a service supplier of the other Party to establish, construct, acquire, lease, operate or supply telecommunications transport networks or services other than specifically provided in this Agreement;

(b) require a Party (or require a Party to oblige service suppliers under its jurisdiction) to establish, construct, acquire, lease, operate or supply telecommunications transport networks or services not offered to the public generally; or

(c) prevent a Party from prohibiting persons operating private networks from using their networks to supply public telecommunications transport networks or services to third persons.

Article 117
Definitions

For the purposes of this Chapter:

(a) the term "cost-oriented" means based on cost, and may include a reasonable profit, and may involve different cost methodologies for different facilities or services;

(b) the term "end user" means a final consumer of or subscriber to a public telecommunications transport network or service, including a service supplier other than a supplier of public telecommunications transport networks or services;

(c) the term "essential facilities" means facilities of a public telecommunications transport network or service that:

(i) are exclusively or predominantly provided by a single or limited number of suppliers; and

(ii) cannot feasibly be economically or technically substituted in order to provide a service;

(d) the term "leased circuits" means telecommunications facilities between two or more designated points that are set aside for the dedicated use of, or availability to, particular users;

(e) the term "major supplier" means 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: