

CHAPTER 13

TELECOMMUNICATIONS

Article 13.1: Definitions

For the purposes of this Chapter:

commercial mobile services means public telecommunications services supplied through mobile wireless means;

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

end-user means a final consumer of or subscriber to a public telecommunications service, including a service supplier other than a supplier of public telecommunications services;

enterprise means an enterprise as defined in Article 1.3 (General Definitions) and a branch of an enterprise;

essential facilities means facilities of a public telecommunications 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 supply a service;

interconnection means linking with suppliers providing public telecommunications 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;

international mobile roaming service means a commercial mobile service provided pursuant to a commercial agreement between suppliers of public telecommunications services that enables end-users to use their home mobile handset or other device for voice, data or messaging services while outside the territory in which the end-user's home public telecommunications network is located;

leased circuit means a telecommunications facility between two or more designated points that is set aside for the dedicated use of, or availability to, a user

第 13 章

电信

第 13.1 条 定义

就本章而言：

商用移动服务指通过无线移动方式提供的公共电信服务；

成本导向指基于成本，且可包括合理利润，并可涉及用于不同设施或服务的不同成本核算方法；

终端用户指公共电信服务的最终消费者或用户，包括除公共电信服务供应商外的服务供应商；

企业指按第 1.3 条(一般定义)中所定义的一企业和一企业的分支机构；

基本设施指下列公共电信网络或服务的设施：

- (a) 专门或主要由一单一或有限数量的供应商提供；及
- (b) 从经济上或技术上替代该设施而提供服务不可行；

互联互通指与提供公共电信服务的供应商连接，以允许一供应商的用户与另一供应商的用户进行通信并接入另一供应商提供的服务；

国际移动漫游服务指根据公共电信服务供应商之间的商业协议提供的商用移动服务，使终端用户身处母国公共电信网络所在领土之外而仍能使用母国移动手机或其他设备获得语音、数据或短信服务；

专用线路指由固定电信服务供应商提供的供一用户专用或可用的

and supplied by a supplier of a fixed telecommunications service;

licence means any authorisation that a Party may require of a person, in accordance with its laws and regulations, in order for that person to offer a telecommunications service, including concessions, permits or registrations;

major supplier means a supplier of public telecommunications services that has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for public telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market;

network element means a facility or equipment used in supplying a fixed public telecommunications service, including features, functions and capabilities provided by means of that facility or equipment;

non-discriminatory means treatment no less favourable than that accorded to any other user of like public telecommunications services in like circumstances, including with respect to timeliness;

number portability means the ability of end-users of public telecommunications services to retain, at the same location, the same telephone numbers when switching between the same category of suppliers of public telecommunications services;

physical co-location means physical access to and control over space in order to install, maintain or repair equipment, at premises owned or controlled and used by a major supplier to provide public telecommunications services;

public telecommunications network means telecommunications infrastructure used to provide public telecommunications services between defined network termination points;

public telecommunications service means any telecommunications service that a Party requires, explicitly or in effect, to be offered to the public generally. These services may include telephone and data transmission typically involving transmission of customer-supplied information between two or more defined points without any end-to-end change in the form or content of the customer's information;

reference interconnection offer means an interconnection offer extended by a major supplier and filed with, approved by or determined by a telecommunications regulatory body that sufficiently details the terms, rates and conditions for interconnection so that a supplier of public telecommunications

在两个或多个指定点之间的电信设施；

许可指一缔约方依照其法律法规可要求一人为提供电信服务而获得的授权，包括特许、批准或注册；

主要供应商指由于下列原因而有能力实质影响公共电信服务相关市场的参与条件(考虑到价格和供应)的公共电信服务供应商：

(a) 控制基本设施；或

(b) 使用其市场地位；

网络元素指用于提供固定公共电信服务的设施或设备，包括通过该设施或设备提供的特性、功能和能力；

非歧视指待遇不低于在相同情况下给予同类公共电信服务的任何其他用户的待遇，包括在及时性方面；

携号转网指公共电信服务的终端用户在同类公共电信服务供应商之间转换时，在同一地点保留同一电话号码的能力；

物理共址指在主要供应商拥有或控制的用以提供公共电信服务的场所，为安装、维护或维修设备而实现物理接入和空间控制；

公共电信网络指用于在规定的网络终端点之间提供公共电信服务的电信基础设施；

公共电信服务指一缔约方明确要求或事实上要求向公众普遍提供的任何电信服务。这些服务可包括电话和数据传输，通常包含在两个或多个规定点之间传输客户提供信息，而客户信息的形式或内容无任何端到端的变化；

互联互通参考报价指一主要供应商发出并提交至一电信监管机构并经该机构批准或确定的互联互通报价，该报价充分详细列出互联互通的条款、费率和条件，使愿意接受该报价的一公共电信服

services that is willing to accept it may obtain interconnection with the major supplier on that basis, without having to engage in negotiations with the major supplier concerned;

telecommunications means the transmission and reception of signals by any electromagnetic means, including by photonic means;

telecommunications regulatory body means a body or bodies responsible for the regulation of telecommunications;

user means a service consumer or a service supplier; and

virtual co-location means an arrangement whereby a requesting supplier that seeks co-location may specify equipment to be used in the premises of a major supplier but does not obtain physical access to those premises and allows the major supplier to install, maintain and repair that equipment.

Article 13.2: Scope

1. This Chapter shall apply to:
 - (a) any measure relating to access to and use of public telecommunications services;
 - (b) any measure relating to obligations regarding suppliers of public telecommunications services; and
 - (c) any other measure relating to telecommunications services.
2. This Chapter shall not apply to any measure relating to broadcast or cable distribution of radio or television programming, except that:
 - (a) Article 13.4.1 (Access to and Use of Public Telecommunications Services) shall apply with respect to a cable or broadcast service supplier's access to and use of public telecommunications services; and
 - (b) Article 13.22 (Transparency) shall apply to any technical measure to the extent that the measure also affects public telecommunications services.
3. Nothing in this Chapter shall be construed to:
 - (a) require a Party, or require a Party to compel any enterprise, to establish, construct, acquire, lease, operate or provide a telecommunications network or service not offered to the public

务供应商可在此基础上获得与该主要供应商的互联互通，而无需与有关主要供应商开展谈判；

电信指以任何电磁形式传输和接收信号，包括通过光子形式；

电信监管机构指一个或多个负责电信监管的机构；

用户指一服务消费者或一服务供应商；以及

虚拟共址指为寻求共址而提出请求的一供应商据以规定用于一主要供应商场所的设备但不获取对这些场所的物理接入，且允许该主要供应商安装、维护和维修该设备的一项安排。

第 13.2 条 范围

1. 本章应适用于：
 - (a) 与接入和使用公共电信服务相关的任何措施；
 - (b) 与公共电信服务供应商的义务相关的任何措施；以及
 - (c) 与电信服务相关的任何其他措施。
2. 本章不得适用于与广播或有线传送电台或电视节目相关的任何措施，下列情况除外：
 - (a) 第 13.4.1 条(公共电信服务的接入和使用)应适用于有线或广播服务供应商接入和使用公共电信服务；及
 - (b) 第 13.22 条(透明度)应适用于任何技术措施，只要此类措施也影响公共电信服务。
3. 本章中任何内容不得解释为：
 - (a) 要求一缔约方，或要求一缔约方强制任何企业建立、建设、获得、租赁、经营或提供未对公众普遍

generally;¹

- (b) require a Party to compel any enterprise exclusively engaged in the broadcast or cable distribution of radio or television programming to make available its broadcast or cable facilities as a public telecommunications network; or
- (c) prevent a Party from prohibiting a person who operates a private network from using its private network to supply a public telecommunications network or service to third persons.

4. Annex 13-A (Rural Telephone Suppliers – United States) and Annex 13-B (Rural Telephone Suppliers – Peru) include additional provisions relating to the scope of this Chapter.

Article 13.3: Approaches to Regulation

1. The Parties recognise the value of competitive markets to deliver a wide choice in the supply of telecommunications services and to enhance consumer welfare, and that economic regulation may not be needed if there is effective competition or if a service is new to a market. Accordingly, the Parties recognise that regulatory needs and approaches differ market by market, and that each Party may determine how to implement its obligations under this Chapter.

2. In this respect, the Parties recognise that a Party may:

- (a) engage in direct regulation either in anticipation of an issue that the Party expects may arise or to resolve an issue that has already arisen in the market;
- (b) rely on the role of market forces, particularly with respect to market segments that are, or are likely to be, competitive or that have low barriers to entry, such as services provided by telecommunications suppliers that do not own network facilities;²
or

¹ For greater certainty, nothing in this Chapter shall be construed to require a Party to authorise an enterprise of another Party to establish, construct, acquire, lease, operate or supply public telecommunications services, unless otherwise provided for in this Agreement.

² Consistent with this subparagraph, the United States, based on its evaluation of the state of competition of the U.S. commercial mobile market, has not applied major supplier-related measures pursuant to Article 13.7 (Treatment by Major Suppliers of Public Telecommunications Services), Article 13.9.2 (Resale), Article 13.11 (Interconnection with Major Suppliers), Article 13.13 (Co-Location by Major Suppliers) or Article 13.14 (Access to Poles, Ducts, Conduits and Rights-of-Way Owned or Controlled by Major Suppliers) to the commercial mobile market.

提供的电信网络或服务；¹

- (b) 要求一缔约方强制专门从事广播或有线传送电台或电视节目的任何企业作为公共电信网络提供广播或有线设施；或
- (c) 阻止一缔约方禁止运营一私营网络的人使用其私营网络向第三人提供公共电信网络或服务。

4. 附件 13-A(农村电话供应商—美国)和附件 13-B(农村电话供应商—秘鲁)包括与本章范围相关的额外条款。

第 13.3 条 监管方法

1. 缔约方认识到竞争市场对于在提供电信服务方面提供广泛选择和增加消费者福利的价值，并认识到如存在有效竞争或如一服务属于市场上的新服务，则可能无需进行经济监管。因此，缔约方认识到监管需要和方法因市场而异，并认识到每一缔约方可确定如何实施本章下义务。

2. 在这方面，缔约方认识到一缔约方可：

- (a) 在预测到市场中可能产生的问题或解决市场中已经产生的问题的情况下进行直接监管；
- (b) 依赖市场力量的作用，特别是对于具有竞争性或有可能具有竞争性或具有较低准入门槛的细分市场，例如由无自有网络的电信供应商所提供的服务；²或

¹ 为进一步明确，本章中任何内容不得解释为要求一缔约方授权另一缔约方的企业建立、建设、获得、租赁、经营或提供公共电信服务，除非本协定中另有规定。

² 在符合本款的前提下，根据对美国商用移动市场竞争情况的评估，美国未根据第 13.7 条(公共电信服务主要供应商给予的待遇)、第 13.9.2 条(转售)、第 13.11 条(与主要供应商的互联互通)、第 13.13 条(主要供应商的共址服务)或第 13.14 条(主要供应商拥有或控制的电杆、管线、管网和路权的接入)对商用移动市场适用与主要供应商相关的措施。

- (c) use any other appropriate means that benefit the long-term interest of end-users.

3. When a Party engages in direct regulation, it may nonetheless forbear, to the extent provided for in its law, from applying that regulation to a service that the Party classifies as a public telecommunications service, if its telecommunications regulatory body or other competent body determines that:

- (a) enforcement of the regulation is not necessary to prevent unreasonable or discriminatory practices;
- (b) enforcement of the regulation is not necessary for the protection of consumers; and
- (c) forbearance is consistent with the public interest, including promoting and enhancing competition between suppliers of public telecommunications services.

Article 13.4: Access to and Use of Public Telecommunications Services³

1. Each Party shall ensure that any enterprise of another Party has access to and use of any public telecommunications service, including leased circuits, offered in its territory or across its borders, on reasonable and non-discriminatory terms and conditions.

2. Each Party shall ensure that any service supplier of another Party is permitted to:

- (a) purchase or lease, and attach terminal or other equipment that interfaces with a public telecommunications network;
- (b) provide services to individual or multiple end-users over leased or owned circuits;
- (c) connect leased or owned circuits with public telecommunications networks and services or with circuits leased or owned by another enterprise;⁴

³ For greater certainty, this Article does not prohibit any Party from requiring an enterprise to obtain a licence to supply any public telecommunications service within its territory.

⁴ In Viet Nam, networks authorised to establish for the purpose of carrying out, on a non-commercial basis, voice and data telecommunications between members of a closed user group can only directly interconnect with each other where approved in writing by the telecommunications regulatory body. Viet Nam shall ensure that upon request an applicant receives the reasons for the denial of an authorisation. Viet Nam shall review this requirement to obtain written approval within two years of the date of entry into force of this Agreement.

(c) 使用有利于终端用户长期利益的任何其他适当方法。

3. 如一缔约方进行直接监管，则在其法律中所规定的限度内，该监管仍可不对该缔约方归为公共电信服务的一服务适用，如其电信监管机构或其他主管机构确定：

- (a) 实施监管对阻止不合理或歧视性做法是不必要的；
- (b) 实施监管对消费者保护是不必要的；以及
- (c) 不实施监管符合公共利益，包括促进和增强公共电信服务供应商之间的竞争。

第 13.4 条 公共电信服务的接入和使用³

1. 每一缔约方应保证，另一缔约方的任何企业可按照合理和非歧视的条款和条件，接入和使用在其领土内或跨境提供的任何公共电信服务，包括专用线路。

2. 每一缔约方应保证，允许另一缔约方的任何服务供应商：

- (a) 购买或租赁，并连接终端或其他公共电信网络接口设备；
- (b) 通过专用或自有线路向单个或多个终端用户提供服务；
- (c) 将专用或自有线路接入公共电信网络和服务，或接入另一企业的专用或自有线路；⁴

³ 为进一步明确，本条不禁止任何缔约方要求企业应获得在其领土内提供任何公共电信服务的许可。

⁴ 在越南，经电信监管机构书面批准后，授权建立用于在非商业基础上实现封闭用户群成员之间语音和数据通信的网络只能直接互联互通。越南应保证，应请求，申请人可收到不予授权的理由。越南应在本协定生效之日起 2 年内审议这一获得书面批准的要求。

- (d) perform switching, signalling, processing and conversion functions; and
- (e) use operating protocols of their choice.

3. Each Party shall ensure that an enterprise of any Party may use public telecommunications services for the movement of information in its territory or across its borders, including for intra-corporate communications, and for access to information contained in databases or otherwise stored in machine-readable form in the territory of any Party.

4. Notwithstanding paragraph 3, a Party may take measures that are necessary to ensure the security and confidentiality of messages and to protect the privacy of personal data of end-users of public telecommunications networks or services, provided that those measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade in services.

5. Each Party shall ensure that no condition is imposed on access to and use of public telecommunications networks and services, other than as necessary to:

- (a) safeguard the public service responsibilities of suppliers of public telecommunications networks and services, in particular their ability to make their networks or services generally available to the public; or
- (b) protect the technical integrity of public telecommunications networks or services.

6. Provided that they satisfy the criteria set out in paragraph 5, conditions for access to and use of public telecommunications networks and services may include:

- (a) a requirement to use a specified technical interface, including an interface protocol, for connection with those networks or services;
- (b) a requirement, when necessary, for the interoperability of those networks and services;
- (c) type approval of terminal or other equipment that interfaces with the network and technical requirements relating to the attachment of that equipment to those networks; and
- (d) a licensing, permit, registration or notification procedure which, if adopted or maintained, is transparent and provides for the processing of applications filed thereunder in accordance with a Party's laws or regulations.

- (d) 执行交换、信号传输、处理和转换功能；以及
- (e) 自行选择使用操作规程。

3. 每一缔约方应保证，任何缔约方的企业可使用公共电信服务用于在其领土内或跨境的信息流动，包括公司内部通信，并用于获得在任何缔约方领土内的数据库中所含信息或以其他方式以机器可读形式存储的信息。

4. 尽管有第 3 款，但是一缔约方可采取必要措施，以保证信息的安全和机密性，并保护公共电信网络或服务的终端用户的个人数据隐私，只要这些措施不对服务贸易构成任意或不合理歧视或构成变相限制的方式实施。

5. 每一缔约方应保证不对公共电信网络和服务的接入和使用施加条件，但为下列目的所必需的条件除外：

- (a) 保障公共电信网络和服务供应商的公共服务责任，特别是使其网络或服务可普遍获得的能力；或
- (b) 保护公共电信网络或服务的技术完整性。

6. 只要满足第 5 款中所列标准，接入和使用公共电信网络或服务的条件可包括：

- (a) 使用特定技术接口用于连接上述网络或服务的要求，包括接口协议；
- (b) 必要时上述网络和服务具备互操作性的要求；
- (c) 接入网络的终端或其他设备的机型批准及与该设备接入上述网络相关的技术要求；以及
- (d) 如采取或设立许可、准许、注册或通知程序，则该程序是透明的，且依照一缔约方法律或法规规定处理根据上述程序提交的申请。

Article 13.5: Obligations Relating to Suppliers of Public Telecommunications Services

*Interconnection*⁵

1. Each Party shall ensure that suppliers of public telecommunications services in its territory provide, directly or indirectly within the same territory, interconnection with suppliers of public telecommunications services of another Party.
2. Each Party shall provide its telecommunications regulatory body with the authority to require interconnection at reasonable rates.
3. In carrying out paragraph 1, each Party shall ensure that suppliers of public telecommunications services in its territory take reasonable steps to protect the confidentiality of commercially sensitive information of, or relating to, suppliers and end-users of public telecommunications services obtained as a result of interconnection arrangements and that those suppliers only use that information for the purpose of providing these services.

Number Portability

4. Each Party shall ensure that suppliers of public telecommunications services in its territory provide number portability without impairment to quality and reliability, on a timely basis, and on reasonable and non-discriminatory terms and conditions.⁶

⁵ For greater certainty, the term “interconnection”, as used in this Chapter, does not include access to unbundled network elements.

⁶ With respect to certain Parties, this paragraph shall apply as follows:

- (a) for Brunei Darussalam, this paragraph shall not apply until such time as it determines, pursuant to periodic review, that it is economically feasible to implement number portability in Brunei Darussalam;
- (b) for Malaysia, this paragraph shall apply only with respect to commercial mobile services until such time as it determines that it is economically feasible to apply number portability to fixed services; and
- (c) for Viet Nam, this paragraph shall apply to fixed services at such time as it determines that it is technically and economically feasible. Within four years of the date of entry into force of this Agreement for Viet Nam, it shall conduct a review for it to determine the economic feasibility of applying number portability to fixed services. With respect to commercial mobile services, this paragraph shall apply to Viet Nam no later than 2020.

第 13.5 条 公共电信服务供应商的义务

互联互通⁵

1. 每一缔约方应保证，其领土内的公共电信服务供应商可在同一领土内与另一缔约方的公共电信服务供应商直接或间接实现互联互通。
2. 每一缔约方应授权其电信监管机构要求以合理费率实现互联互通。
3. 在执行第 1 款时，每一缔约方应保证，其领土内的公共电信服务供应商采取合理步骤保护因互联互通安排而获得的公共电信服务供应商和终端用户的敏感商业信息或与之相关的敏感商业信息的机密性，并保证这些供应商仅为提供这些服务而使用该信息。

携号转网

4. 每一缔约方应保证，其领土内的公共电信服务供应商及时提供携号转网，且不减损质量和可靠性，并按合理和非歧视的条款和条件。⁶

⁵ 为进一步明确，本章中所使用的“互联互通”一词不包括接入非捆绑的网络元素。

⁶ 对于某些缔约方，本款应按下列方式适用：

- (a) 对于文莱达鲁萨兰国，在根据定期审议确定在文莱达鲁萨兰国实施携号转网属经济可行前，本款不得适用；
- (b) 对于马来西亚，在其确定对固定电信服务适用携号转网属经济可行前，本款应仅适用于商用移动服务；以及
- (c) 对于越南，本款应在其确定技术和经济可行时适用于固定服务。在本协定对越南生效之日后 4 年内，越南应开展审议以确定对固定服务适用携号转网的经济可行性。对于商用移动服务，本款应不迟于 2020 年对越南适用。

Access to Numbers

5. Each Party shall ensure that suppliers of public telecommunications services of another Party established in its territory are afforded access to telephone numbers on a non-discriminatory basis.⁷

Article 13.6: International Mobile Roaming

1. The Parties shall endeavour to cooperate on promoting transparent and reasonable rates for international mobile roaming services that can help promote the growth of trade among the Parties and enhance consumer welfare.

2. A Party may choose to take steps to enhance transparency and competition with respect to international mobile roaming rates and technological alternatives to roaming services, such as:

- (a) ensuring that information regarding retail rates is easily accessible to consumers; and
- (b) minimising impediments to the use of technological alternatives to roaming, whereby consumers when visiting the territory of a Party from the territory of another Party can access telecommunications services using the device of their choice.

3. The Parties recognise that a Party, when it has the authority to do so, may choose to adopt or maintain measures affecting rates for wholesale international roaming services with a view to ensuring that those rates are reasonable. If a Party considers it appropriate, it may cooperate on and implement mechanisms with other Parties to facilitate the implementation of those measures, including by entering into arrangements with those Parties.

4. If a Party (the first Party) chooses to regulate rates or conditions for wholesale international mobile roaming services, it shall ensure that a supplier of public telecommunications services of another Party (the second Party) has access to the regulated rates or conditions for wholesale international mobile roaming services for its customers roaming in the territory of the first Party in circumstances in which:⁸

⁷ For Viet Nam, this paragraph shall not apply with respect to blocks of numbers that have been allocated prior to entry into force of this Agreement.

⁸ For greater certainty, no Party shall, solely on the basis of any obligations owed to it by the first Party under a most-favoured-nation provision, or under a telecommunications-specific non-discrimination provision, in any existing international trade agreement, seek or obtain for its suppliers the access to regulated rates or conditions for wholesale international mobile roaming services that is provided under this Article.

号码接入

5. 每一缔约方应保证，在其领土内设立的另一缔约方的公共电信服务供应商可在非歧视基础上获得电话号码接入。⁷

第 13.6 条 国际移动漫游

1. 缔约方应努力就提高国际移动漫游服务费率之透明度和合理性开展合作，以有助于促进缔约方之间的贸易增长并增加消费者福利。

2. 一缔约方可选择采取步骤以增强国际移动漫游费率和替代技术的透明度和竞争，例如：

- (a) 保证消费者可容易获得有关零售费率的信息；及
- (b) 将漫游替代技术使用的障碍降至最低程度，从而使消费者自一缔约方领土进入另一缔约方领土时，可使用其自行选择的设备接入电信服务。

3. 缔约方认识到，当一缔约方有权从事此项工作时，可选择采取或维持影响国际漫游批发服务费率之措施，以期保证这些费率属合理。如一缔约方认为适当，可与其他缔约方就执行机制开展合作，以便利这些措施之实施，包括与这些缔约方订立安排。

4. 如一缔约方(第一缔约方)选择监管国际移动漫游批发服务费率或条件，则其应保证另一缔约方(第二缔约方)之公共电信服务供应商在下列情况下可为其在第一缔约方领土内漫游之客户获得国际移动漫游批发服务之管制费率或条件：⁸

⁷ 对于越南，本款不得适用于在本协定生效之日前已分配之号码区块。

⁸ 为进一步明确，任何缔约方不得仅根据第一缔约方在任何现行国际贸易协定之最惠国待遇条款下或电信特定非歧视条款下对其赋予之义务，而为其供应商寻求或获得本条规定之国际移动漫游批发服务管制费率或条件。

- (a) the second Party has entered into an arrangement with the first Party to reciprocally regulate rates or conditions for wholesale international mobile roaming services for suppliers of the two Parties;⁹ or
- (b) in the absence of an arrangement of the type referred to in subparagraph (a), the supplier of public telecommunications services of the second Party, of its own accord:
 - (i) makes available to suppliers of public telecommunications services of the first Party wholesale international mobile roaming services at rates or conditions that are reasonably comparable to the regulated rates or conditions;¹⁰ and
 - (ii) meets any additional requirements¹¹ that the first Party imposes with respect to the availability of the regulated rates or conditions.

The first Party may require suppliers of the second Party to fully utilise commercial negotiations to reach agreement on the terms for accessing such rates or conditions.

5. A Party that ensures access to regulated rates or conditions for wholesale international mobile roaming services in accordance with paragraph 4 shall be deemed to be in compliance with its obligations under Article 10.4 (Most-Favoured-Nation Treatment), Article 13.4.1 (Access to and Use of Public Telecommunications Services), and Article 13.7 (Treatment by Major Suppliers of Public Telecommunications Services) with respect to international mobile roaming services.

6. Each Party shall provide to the other Parties information on rates for retail international mobile roaming services for voice, data and text messages offered to consumers of the Party when visiting the territories of the other Parties. A Party shall provide that information no later than one year after the date of entry into force of this Agreement for the Party. Each Party shall update that information

⁹ For greater certainty, access under this subparagraph to the rates or conditions regulated by the first Party shall be available to a supplier of the second Party only if such regulated rates or conditions are reasonably comparable to those reciprocally regulated under the arrangement referred to in this subparagraph. The telecommunications regulatory body of the first Party shall, in the case of disagreement, determine whether the rates or conditions are reasonably comparable.

¹⁰ For the purposes of this subparagraph, rates or conditions that are reasonably comparable means rates or conditions agreed to be such by the relevant suppliers or, in the case of disagreement, determined to be such by the telecommunications regulatory body of the first Party.

¹¹ For greater certainty, such additional requirements may include, for example, that the rates provided to the supplier of the second Party reflect the reasonable cost of supplying international mobile roaming services by a supplier of the first Party to a supplier of the second Party, as determined through the methodology of the first Party.

- (a) 第二缔约方与第一缔约方已订立安排，对等监管两缔约方供应商的国际移动漫游批发服务实施费率或条件；⁹或
- (b) 如无(a)项中所指类型的安排，则第二缔约方的公共电信服务供应商可自动：
 - (i) 使第一缔约方的公共电信服务供应商以可与管制费率或条件进行合理比较的费率或条件获得国际移动漫游批发服务；¹⁰及
 - (ii) 满足第一缔约方就管制费率或条件的可获性施加的任何额外要求¹¹。

第一缔约方可要求第二缔约方的供应商充分利用商业谈判，就获得此类费率或条件的条款达成协议。

5. 一缔约方依照第 4 款保证可使用国际移动漫游批发服务的管制费率或条件应被视为遵守其在第 10.4 条(最惠国待遇)、第 13.4.1 条(公共电信服务的接入和使用)和第 13.7 条(公共电信服务主要供应商给予的待遇)下对国际移动漫游服务的义务。

6. 每一缔约方应向其他缔约方提供关于向进入其他缔约方领土的该缔约方消费者提供的使用语音、数据和文本消息的国际移动漫游零售服务的费率信息。一缔约方应不迟于本协定对该缔约方生效之日后 1 年提供该信息。每一缔约方应每年或按其他议定

⁹ 为进一步明确，仅当第一缔约方监管的费率或条件可与本项中所指的安排项下对等监管的费率或条件进行合理比较时，第二缔约方的供应商方可获得此类管制费率或条件。如出现分歧，第一缔约方的电信监管机构应确定该费率或条件是否可以合理比较。

¹⁰ 就本项而言，可合理比较的费率或条件指由相关供应商同意属可合理比较的费率或条件，如遇分歧，则由第一缔约方的电信监管机构确定属可合理比较。

¹¹ 为进一步明确，此类额外要求可包括，例如按第一缔约方的方法所作确定，向第二缔约方供应商提供的费率反映第一缔约方供应商向第二缔约方供应商提供国际移动漫游服务的合理成本。

and provide it to the other Parties on an annual basis or as otherwise agreed. Interested Parties shall endeavour to cooperate on compiling this information into a report to be mutually agreed by the Parties and to be made publicly available.

7. Nothing in this Article shall require a Party to regulate rates or conditions for international mobile roaming services.

Article 13.7: Treatment by Major Suppliers of Public Telecommunications Services

Each Party shall ensure that a major supplier in its territory accords suppliers of public telecommunications services of another Party treatment no less favourable than that major supplier accords in like circumstances to its subsidiaries, its affiliates or non-affiliated service suppliers regarding:

- (a) the availability, provisioning, rates or quality of like public telecommunications services; and
- (b) the availability of technical interfaces necessary for interconnection.

Article 13.8: Competitive Safeguards

1. Each Party shall maintain appropriate measures for the purpose of preventing suppliers of public telecommunications services that, alone or together, are a major supplier in its territory from engaging in or continuing anti-competitive practices.

2. The anti-competitive practices referred to in paragraph 1 include in particular:

- (a) engaging in anti-competitive cross-subsidisation;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available, on a timely basis, to suppliers of public telecommunications services, technical information about essential facilities and commercially relevant information that are necessary for them to provide services.

Article 13.9: Resale

1. No Party shall prohibit the resale of any public telecommunications

时间更新该信息并向其他缔约方提供。利害关系缔约方应努力合作，将这一信息编制成经缔约方同意的报告并使之可公开获得。

7. 本条中任何内容不得要求一缔约方监管国际移动漫游服务费率或条件。

第 13.7 条 公共电信服务主要供应商给予的待遇

每一缔约方应保证，其领土内的主要供应商给予另一缔约方公共电信服务供应商的待遇不得低于该主要供应商在相似情况下就下列方面给予其下属、关联或非关联服务供应商的待遇：

- (a) 同类公共电信服务的可获性、供应、费率或质量；
及
- (b) 互联互通所必需的技术接口的可获性。

第 13.8 条 竞争保障

1. 每一缔约方应维持适当措施，以防止单独或联合成为其领土内的一主要供应商的公共电信服务供应商从事或继续从事反竞争行为。

2. 第 1 款中所指的反竞争行为特别包括：

- (a) 从事反竞争性交叉补贴；
- (b) 使用从竞争对手获得的信息产生反竞争结果；以及
- (c) 未及时使公共电信服务供应商获得其提供服务所必需的基本设施技术信息和相关商业信息。

第 13.9 条 转售

1. 任何缔约方不得禁止转售任何公共电信服

service.¹²

2. Each Party shall ensure that a major supplier in its territory:
 - (a) offers for resale, at reasonable rates¹³, to suppliers of public telecommunications services of another Party, public telecommunications services that the major supplier provides at retail to end-users; and
 - (b) does not impose unreasonable or discriminatory conditions or limitations on the resale of those services.¹⁴
3. Each Party may determine, in accordance with its laws and regulations, which public telecommunications services must be offered for resale by major suppliers pursuant to paragraph 2, based on the need to promote competition or to benefit the long-term interests of end-users.
4. If a Party does not require that a major supplier offer a specific public telecommunications service for resale, it nonetheless shall allow service suppliers to request that the service be offered for resale consistent with paragraph 2, without prejudice to the Party's decision on the request.

Article 13.10: Unbundling of Network Elements by Major Suppliers

Each Party shall provide its telecommunications regulatory body or another appropriate body with the authority to require a major supplier in its territory to offer to public telecommunications service suppliers access to network elements on an unbundled basis on terms and conditions, and at cost-oriented rates, that are reasonable, non-discriminatory and transparent for the supply of public telecommunications services. Each Party may determine the network elements required to be made available in its territory, and the suppliers that may obtain those elements, in accordance with its laws and regulations.

¹² Brunei Darussalam may require that licensees who purchase public telecommunications services on a wholesale basis only resell their services to an end-user.

¹³ For the purposes of this Article, each Party may determine reasonable rates through any methodology it considers appropriate.

¹⁴ Where provided in its laws or regulations, a Party may prohibit a reseller that obtains, at wholesale rates, a public telecommunications service available at retail to only a limited category of subscribers from offering the service to a different category of subscribers.

务。¹²

2. 每一缔约方应保证其领土内一主要供应商：

- (a) 以合理费率¹³向另一缔约方的公共电信服务供应商许诺转售该主要供应商向终端用户零售的公共电信服务；及
- (b) 不对这些服务转售施加不合理或歧视性条件或限制。¹⁴

3. 每一缔约方可依照其法律法规，根据促进竞争或有利于终端用户长期利益的需要，确定主要供应商根据第 2 款必须许诺转售何种公共电信服务。

4. 如一缔约方不要求一主要供应商许诺转售一特定公共电信服务，则该缔约方仍应允许服务供应商提出符合第 2 款的关于许诺转售该服务的请求，且不影响该缔约方对此请求所作决定。

第 13.10 条 主要供应商的网络元素非捆绑

每一缔约方应授权其电信监管机构或另一适当机构要求其领土内一主要供应商根据非捆绑的条款和条件并以成本导向的费率，向公共电信服务供应商提供公共电信服务供应所需的合理、非歧视和透明的网络元素的接入。每一缔约方可依照其法律法规，确定要求在其领土内可获得的网络元素及可获得这些元素的供应商。

¹² 文莱达鲁萨兰国可要求批量购买公共电信服务的被许可人仅向终端用户转售其服务。

¹³ 就本条而言，每一缔约方可通过其认为适当的任何方法确定合理费率。

¹⁴ 如一缔约方的法律或法规中规定，则一缔约方可禁止转售商将以批发费率获得的仅对有限类别用户零售的一公共电信服务向不同类别的用户提供。

Article 13.11: Interconnection with Major Suppliers*General Terms and Conditions*

1. Each Party shall ensure that a major supplier in its territory provides interconnection for the facilities and equipment of suppliers of public telecommunications services of another Party:

- (a) at any technically feasible point in the major supplier's network;
- (b) under non-discriminatory terms, conditions (including technical standards and specifications) and rates;
- (c) of a quality no less favourable than that provided by the major supplier for its own like services, for like services of non-affiliated service suppliers, or for its subsidiaries or other affiliates;
- (d) in a timely manner, on terms and conditions (including technical standards and specifications), and at cost-oriented rates, that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the suppliers do not have to pay for network components or facilities that they do not require for the service to be provided; and
- (e) on 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.

Options for Interconnecting with Major Suppliers

2. Each Party shall ensure that a major supplier in its territory provides suppliers of public telecommunications services of another Party with the opportunity to interconnect their facilities and equipment with those of the major supplier through the following options:

- (a) a reference interconnection offer or another standard interconnection offer containing the rates, terms and conditions that the major supplier offers generally to suppliers of public telecommunications services; or
- (b) the terms and conditions of an interconnection agreement that is in effect.

3. In addition to the options provided in paragraph 2, each Party shall ensure that suppliers of public telecommunications services of another Party have the opportunity to interconnect their facilities and equipment with those of the major supplier through the negotiation of a new interconnection agreement.

第 13.11 条 与主要供应商的互联互通

一般条款和条件

1. 每一缔约方应保证，其领土内一主要供应商为另一缔约方的公共电信服务供应商的设施和设备以下列方式提供互联互通：
 - (a) 在该主要供应商网络的任何技术可行节点；
 - (b) 根据非歧视的条款、条件(包括技术标准和规格)和费率；
 - (c) 质量不低于该主要供应商为其自身同类服务、为非附属服务供应商的同类服务、为其分支机构或为其其他附属机构提供的质量；
 - (d) 以及时的方式和成本导向的费率，根据透明、合理、注意经济可行性且充分体现非捆绑的条款和条件(包括技术标准和规格)，从而使供应商不必为提供服务所不需要的网络元素或设施支付费用；以及
 - (e) 应请求，在向大多数用户提供的网络终节点基础上增设节点，收费应反映必要额外设施的建设成本。

与主要供应商互联互通的选择

2. 每一缔约方应保证，其领土内一主要供应商向另一缔约方的公共电信服务供应商提供通过下列选择将其设施和设备与该主要供应商的设施和设备互联互通的机会：
 - (a) 一互联互通参考报价或另一标准互联互通报价，包含该主要供应商通常给予公共电信服务供应商的费率、条款和条件；或
 - (b) 一有效互联互通协议的条款和条件。
3. 除第 2 款中所规定的选择外，每一缔约方应保证，另一缔约方的公共电信服务供应商有机会通过谈判达成一新的互联互通协议而将其设施和设备与主要供应商的设施和设备互联互通。

Public Availability of Interconnection Offers and Agreements

4. Each Party shall make publicly available the applicable procedures for interconnection negotiations with a major supplier in its territory.
5. Each Party shall provide means for suppliers of another Party to obtain the rates, terms and conditions necessary for interconnection offered by a major supplier. Those means include, at a minimum, ensuring:
 - (a) the public availability of interconnection agreements that are in effect between a major supplier in its territory and other suppliers of public telecommunications services in its territory;
 - (b) the public availability of rates, terms and conditions for interconnection with a major supplier set by the telecommunications regulatory body or other competent body; or
 - (c) the public availability of a reference interconnection offer.

Services for which those rates, terms and conditions are made publicly available do not have to include all interconnection-related services offered by a major supplier, as determined by a Party under its laws and regulations.

Article 13.12: Provisioning and Pricing of Leased Circuits Services by Major Suppliers

1. Each Party shall ensure that a major supplier in its territory provides to service suppliers of another Party leased circuits services that are public telecommunications services in a reasonable period of time on terms and conditions, and at rates, that are reasonable and non-discriminatory, and based on a generally available offer.
2. Further to paragraph 1, each Party shall provide its telecommunications regulatory body or other appropriate bodies the authority to require a major supplier in its territory to offer leased circuits services that are public telecommunications services to service suppliers of another Party at capacity-based and cost-oriented prices.

Article 13.13: Co-Location by Major Suppliers

1. Subject to paragraphs 2 and 3, each Party shall ensure that a major supplier in its territory provides to suppliers of public telecommunications services of another Party in the Party's territory physical co-location of equipment necessary for interconnection or access to unbundled network elements based on a generally

互联互通报价和协议的可获性

4. 每一缔约方应使其领土内一主要供应商进行互联互通谈判的可适用程序可公开获得。
5. 每一缔约方应向另一缔约方的供应商提供方法，以获得一主要供应商提供互联互通所需的费率、条款和条件。这些方法至少包括保证：
 - (a) 其领土内一主要供应商与其领土内其他公共电信服务供应商之间有效的互联互通协议的公开可获性；
 - (b) 电信监管机构或其他主管机构规定的与一主要供应商互联互通的费率、条款和条件的公开可获性；或
 - (c) 一互联互通参考报价的公开可获性。

按一缔约方根据其法律法规所确定，使这些费率、条款和条件公开可获的服务不必包括主要供应商提供的所有互联互通相关服务。

第 13.12 条 主要供应商对专用线路服务的提供和定价

1. 每一缔约方应保证，其领土内一主要供应商在一合理期限内、按照合理和非歧视的条款、条件和费率，并根据普遍可获得的报价，向另一缔约方的服务供应商提供属公共电信服务的专用线路服务。
2. 在第 1 款基础上，每一缔约方应授权其电信监管机构或其他主管机构要求其领土内一主要供应商按能力和成本为导向的价格，向另一缔约方的服务供应商提供属公共电信服务的专用线路服务。

第 13.13 条 主要供应商的共址服务

1. 在遵守第 2 款和第 3 款的前提下，每一缔约方应保证其领土内一主要供应商按照合理和非歧视的条款、条件和成本导向费率并根据普通可获得的报价，及时向另一缔约方的公共电信服务供应商提供互联互通所必需的设备共址服务或非捆绑网络元素的

available offer, on a timely basis, and on terms and conditions and at cost-oriented rates, that are reasonable and non-discriminatory.

2. Where physical co-location is not practical for technical reasons or because of space limitations, each Party shall ensure that a major supplier in its territory provides an alternative solution, such as facilitating virtual co-location, based on a generally available offer, on a timely basis, and on terms and conditions and at cost-oriented rates, that are reasonable and non-discriminatory.

3. A Party may determine, in accordance with its laws and regulations, which premises owned or controlled by major suppliers in its territory are subject to paragraphs 1 and 2. When the Party makes this determination, it shall take into account factors such as the state of competition in the market where co-location is required, whether those premises can be substituted in an economically or technically feasible manner in order to provide a competing service, or other specified public interest factors.

4. If a Party does not require that a major supplier offer co-location at certain premises, it nonetheless shall allow service suppliers to request that those premises be offered for co-location consistent with paragraph 1, without prejudice to the Party's decision on such a request.

Article 13.14: Access to Poles, Ducts, Conduits and Rights-of-way Owned or Controlled by Major Suppliers¹⁵

1. Each Party shall ensure that a major supplier in its territory provides access to poles, ducts, conduits, and rights-of-way or any other structures as determined by the Party, owned or controlled by the major supplier, to suppliers of public telecommunications services of another Party in the Party's territory on a timely basis, on terms and conditions and at rates, that are reasonable, non-discriminatory and transparent, subject to technical feasibility.

2. A Party may determine, in accordance with its laws and regulations, the poles, ducts, conduits, rights-of-way or any other structures to which it requires major suppliers in its territory to provide access in accordance with paragraph 1. When the Party makes this determination, it shall take into account factors such as the competitive effect of lack of such access, whether such structures can be substituted in an economically or technically feasible manner in order to provide a competing service, or other specified public interest factors.

¹⁵ Chile may comply with this obligation by maintaining appropriate measures for the purpose of preventing a major supplier in its territory from denying access to poles, ducts, conduits and rights-of-way, owned or controlled by the major supplier.

接入。

2. 如因技术原因或由于空间限制而无法提供物理共址，则每一缔约方应保证其领土内一主要供应商按照合理和非歧视的条款、条件和成本导向费率，并根据普通可获得的报价，及时提供替代解决办法，例如促进虚拟共址。

3. 一缔约方可依照其法律法规，确定在其领土内的主要供应商拥有或控制的何处场所需遵守第 1 和第 2 款。该缔约方作出确定时应考虑的因素包括，例如需要共址服务的市场中的竞争状态，这些场所可否以经济或技术可行的方式替代从而提供竞争性服务，或其他特定公共利益因素。

4. 如一缔约方不要求一主要供应商在特定场所提供共址服务，该缔约方仍应允许服务供应商提出符合第 1 款的关于提供用于共址的这些场所的请求，且不影响该缔约方对此请求所作决定。

第 13.14 条 主要供应商拥有或控制的电杆、管线、管网和路权的接入¹⁵

1. 每一缔约方应保证，其领土内一主要供应商按照合理、非歧视和透明的条款、条件和费率，并在遵守技术可行性的前提下，及时向该缔约方领土内另一缔约方的公共电信服务供应商提供该主要供应商拥有或控制的电杆、管线、管网和路权的接入，或该缔约方确定的任何其他构造的接入。

2. 一缔约方可依照其法律法规，确定要求其领土内主要供应商依照第 1 款提供接入何种电杆、管线、管网、路权或任何其他构造。在该缔约方作出这一确定时应考虑如下因素：即缺少此种接入对竞争的影响，上述构造可否以经济或技术可行的方式替代以提供竞争性服务，或其他特定公共利益因素。

¹⁵ 智利可通过维持适当措施以阻止其领土内一主要供应商拒绝对其拥有或控制的电杆、管线、管网和路权的接入而遵守这一义务。

Article 13.15: International Submarine Cable Systems^{16, 17}

Each Party shall ensure that any major supplier who controls international submarine cable landing stations in the Party's territory provides access to those landing stations, consistent with the provisions of Article 13.11 (Interconnection with Major Suppliers), Article 13.12 (Provisioning and Pricing of Leased Circuits Services by Major Suppliers) and Article 13.13 (Co-Location by Major Suppliers), to public telecommunications suppliers of another Party.

Article 13.16: Independent Regulatory Bodies and Government Ownership

1. Each Party shall ensure that its telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications services. With a view to ensuring the independence and impartiality of telecommunications regulatory bodies, each Party shall ensure that its telecommunications regulatory body does not hold a financial interest¹⁸ or maintain an operating or management role¹⁹ in any supplier of public telecommunications services.

2. Each Party shall ensure that the regulatory decisions and procedures of its telecommunications regulatory body or other competent authority related to provisions contained in this Chapter are impartial with respect to all market participants.

3. No Party shall accord more favourable treatment to a supplier of telecommunications services in its territory than that accorded to a like service supplier of another Party on the basis that the supplier receiving more favourable treatment is owned by the national government of the Party.

¹⁶ For Chile, this provision shall apply when its telecommunications regulatory body obtains the authority to implement this provision. Nonetheless, Chile shall ensure reasonable and non-discriminatory access to international submarine cable systems including landing stations in its territory.

¹⁷ For Viet Nam, co-location for international submarine landing stations owned or controlled by the major supplier in the territory of Viet Nam excludes physical co-location.

¹⁸ This paragraph shall not be construed to prohibit a government entity of a Party other than the telecommunications regulatory body from owning equity in a supplier of public telecommunications services.

¹⁹ Viet Nam's telecommunications regulatory body assumes the role of representing the government as owner of certain telecommunications suppliers. In this context, Viet Nam shall comply with this provision by ensuring that any regulatory actions with respect to those suppliers do not materially disadvantage any competitor.

第 13.15 条 国际通信海缆系统^{16,17}

每一缔约方应保证，在控制该缔约方领土内国际通信海缆登陆站的任何主要供应商，在符合第 13.11 条(与主要供应商的互联互通)、第 13.12 条(主要供应商对专用线路服务的提供和定价)和第 13.13 条(主要供应商的共址服务)的前提下，向另一缔约方的公共电信供应商提供这些登陆站的接入。

第 13.16 条 独立监管机构和政府所有权

1. 每一缔约方应保证，其电信监管机构与任何公共电信服务供应商分离且不对其负责。为保证电信监管机构的独立性和公正性，每一缔约方应保证，其电信监管机构不在任何公共电信服务的供应商中享有财务权益¹⁸，或维持经营或管理角色¹⁹。
2. 每一缔约方应保证，其电信监管机构或其他主管机关作出的、与本章所含规定相关的监管决定和程序，对所有市场参与者是公正的。
3. 任何缔约方不得以获得更优惠待遇的供应商为该缔约方国家政府所有而给予其领土内一电信服务供应商优于给予另一缔约方一同类服务供应商的待遇。

¹⁶ 对于智利，如其电信监管机构获得实施本规定的授权，则这一规定应适用。尽管如此，智利应保证以合理和非歧视的方式接入国际通信海缆系统，包括其领土内的登陆站。

¹⁷ 对于越南，由其领土内主要供应商拥有或控制的国际通信海缆登陆站的共址不包括物理共址。

¹⁸ 本款不得解释为禁止一缔约方电信监管机构之外的政府实体拥有一公共电信服务供应商的股权。

¹⁹ 越南电信监管机构代表政府担任某些电信供应商的所有人。在此方面，越南应通过保证对于这些供应商的任何监管行动不对任何竞争者造成实质不利影响，以遵守这一规定。

Article 13.17: Universal Service

Each Party has the right to define the kind of universal service obligation it wishes to maintain. Each Party shall administer any universal service obligation that it maintains in a transparent, non-discriminatory and competitively neutral manner, and shall ensure that its universal service obligation is not more burdensome than necessary for the kind of universal service that it has defined.

Article 13.18: Licensing Process

1. If a Party requires a supplier of public telecommunications services to have a licence, the Party shall ensure the public availability of:

- (a) all the licensing criteria and procedures that it applies;
- (b) the period that it normally requires to reach a decision concerning an application for a licence; and
- (c) the terms and conditions of all licences in effect.

2. Each Party shall ensure that, on request, an applicant receives the reasons for the:

- (a) denial of a licence;
- (b) imposition of supplier-specific conditions on a licence;
- (c) revocation of a licence; or
- (d) refusal to renew a licence.

Article 13.19: Allocation and Use of Scarce Resources

1. Each Party shall administer its procedures for the allocation and use of scarce telecommunications resources, including frequencies, numbers and rights-of-way, in an objective, timely, transparent and non-discriminatory manner.

2. Each Party shall make publicly available the current state of frequency bands allocated and assigned to specific suppliers²⁰ but retains the right not to provide detailed identification of frequencies that are allocated or assigned for specific government uses.

3. For greater certainty, a Party's measures allocating and assigning spectrum

²⁰ For Peru, the commitment to make publicly available assigned bands shall apply only to bands used to provide access to end-users.

第 13.17 条 普遍服务

每一缔约方有权定义其希望维持的普遍服务义务的种类。每一缔约方应对其维持的任何普遍服务义务以透明、非歧视及竞争中立的方式加以管理，并应保证其普遍服务义务对于其定义的普遍服务种类的负担不超出必要的限度。

第 13.18 条 许可程序

1. 如一缔约方要求公共电信服务供应商取得许可，则该缔约方应保证下列各项可公开获得：

- (a) 其适用的所有许可标准和程序；
- (b) 就许可申请作出决定通常所需期限；以及
- (c) 所有有效许可的条款和条件。

2. 每一缔约方应保证，应请求，申请人可获知下列情况的理由：

- (a) 不予许可；
- (b) 特定供应商附条件许可；
- (c) 撤销许可；或
- (d) 拒绝更新许可。

第 13.19 条 稀缺资源的划分和使用

1. 每一缔约方应以客观、及时、透明及非歧视的方式，管理其分配和使用稀缺电信资源的程序，包括频谱、码号及路权。

2. 每一缔约方应使已划分和指定给特定供应商²⁰的频段现状可公开获得，但保留不提供已划分或指定为政府专门使用的详细频率识别的权利。

3. 为进一步明确，一缔约方划分和指定频谱及管理频率的措施本身不与第 10.5 条(市场准入)相抵触，无论其适用于跨境服务

²⁰ 对于秘鲁，使指定频段可公开获得的承诺应仅适用于接入终端用户的频段。

and managing frequency are not *per se* inconsistent with Article 10.5 (Market Access) either as it applies to cross-border trade in services or through the operation of Article 10.2.2 (Scope) to an investor or covered investment of another Party. Accordingly, each Party retains the right to establish and apply spectrum and frequency management policies that may have the effect of limiting the number of suppliers of public telecommunications services, provided that the Party does so in a manner that is consistent with other provisions of this Agreement. This includes the ability to allocate frequency bands, taking into account current and future needs and spectrum availability.

4. When making a spectrum allocation for commercial telecommunications services, each Party shall endeavour to rely on an open and transparent process that considers the public interest, including the promotion of competition. Each Party shall endeavour to rely generally on market-based approaches in assigning spectrum for terrestrial commercial telecommunications services. To this end, each Party shall have the authority to use mechanisms such as auctions, if appropriate, to assign spectrum for commercial use.

Article 13.20: Enforcement

Each Party shall provide its competent authority with the authority to enforce the Party's measures relating to the obligations set out in Article 13.4 (Access to and Use of Public Telecommunications Services), Article 13.5 (Obligations Relating to Suppliers of Public Telecommunications Services), Article 13.7 (Treatment by Major Suppliers of Public Telecommunications Services), Article 13.8 (Competitive Safeguards), Article 13.9 (Resale), Article 13.10 (Unbundling of Network Elements by Major Suppliers), Article 13.11 (Interconnection with Major Suppliers), Article 13.12 (Provisioning and Pricing of Leased Circuits Services by Major Suppliers), Article 13.13 (Co-Location by Major Suppliers), Article 13.14 (Access to Poles, Ducts, Conduits and Rights-of-way Owned or Controlled by Major Suppliers) and Article 13.15 (International Submarine Cable Systems). That authority shall include the ability to impose effective sanctions, which may include financial penalties, injunctive relief (on an interim or final basis), or the modification, suspension or revocation of licences.

Article 13.21: Resolution of Telecommunications Disputes

1. Further to Article 26.3 (Administrative Proceedings) and Article 26.4 (Review and Appeal), each Party shall ensure that:

Recourse

- (a) enterprises have recourse to a telecommunications regulatory body or other relevant body of the Party to resolve disputes regarding the Party's measures relating to matters set out in Article 13.4 (Access

贸易或通过对另一缔约方的投资者或涵盖投资运用第 10.2.2 条(范围)。为此,每一缔约方可保留制定和应用可产生限制公共电信服务供应商数量效果的频谱和频率管理政策的权利,只要该缔约方以符合本协定其他条款的方式采取这一政策。其中包括分配频段的能力,同时考虑目前和未来的频谱需求和频谱的可获性。

4. 在向商用电信服务分配频谱时,每一缔约方应努力依赖考虑包括促进竞争在内的公共利益的开放透明程序。每一缔约方在向地面商用电信服务分配频谱时应通常依赖基于市场的方法。为此,每一缔约方应有权使用相关机制分配商用频谱,例如如适当可通过拍卖。

第 13.20 条 执行

每一缔约方应授权其主管机关执行与如下条款中所列义务相关的措施:即第 13.4 条(公共电信服务的接入和使用)、第 13.5 条(公共电信服务供应商的义务)、第 13.7 条(公共电信服务主要供应商给予的待遇)、第 13.8 条(竞争保障)、第 13.9 条(转售)、第 13.10 条(主要供应商的网络元素非捆绑)、第 13.11 条(与主要供应商的互联互通)、第 13.12 条(主要供应商对专用线路服务的提供和定价)、第 13.13 条(主要供应商的共址服务)、第 13.14 条(主要供应商拥有或控制的电杆、管线、管网和路权的接入)以及第 13.15 条(国际通信海缆系统)。这一授权应包括实施有效制裁的能力,可包括罚款、强制救济(临时或最终的),或修改、中止或撤销许可等。

第 13.21 条 电信争端的解决

1. 在第 26.3 条(行政程序)和第 26.4 条(复审和上诉)的基础上,每一缔约方应保证:

追偿

- (a) 企业可求助于该缔约方的电信监管机构或其他相关机构,以解决涉及该缔约方与如下条款中所列事项相关的措施的争端:即第 13.4 条(公共电信服务的接入和使用)、第 13.5 条(公共电信服务供应商的义

to and Use of Public Telecommunications Services), Article 13.5 (Obligations Relating to Suppliers of Public Telecommunications Services), Article 13.6 (International Mobile Roaming), Article 13.7 (Treatment by Major Suppliers of Public Telecommunications Services), Article 13.8 (Competitive Safeguards), Article 13.9 (Resale), Article 13.10 (Unbundling of Network Elements by Major Suppliers), Article 13.11 (Interconnection with Major Suppliers), Article 13.12 (Provisioning and Pricing of Leased Circuits Services by Major Suppliers), Article 13.13 (Co-Location by Major Suppliers), Article 13.14 (Access to Poles, Ducts, Conduits and Rights-of-way Owned or Controlled by Major Suppliers) and Article 13.15 (International Submarine Cable Systems);

- (b) if a telecommunications regulatory body declines to initiate any action on a request to resolve a dispute, it shall, upon request, provide a written explanation for its decision within a reasonable period of time;²¹
- (c) suppliers of public telecommunications services of another Party that have requested interconnection with a major supplier in the Party's territory may seek review, within a reasonable and publicly specified period of time after the supplier requests interconnection, by its telecommunications regulatory body to resolve disputes regarding the terms, conditions and rates for interconnection with that major supplier; and

*Reconsideration*²²

- (d) any enterprise whose legally protected interests are adversely affected by a determination or decision of the Party's telecommunications regulatory body may appeal to or petition the body or other relevant body to reconsider that determination or decision. No Party shall permit the making of an application for reconsideration to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body, unless the regulatory or other relevant body issues an order that the determination or decision not be enforced while the proceeding is pending. A Party may limit the circumstances under which reconsideration is available, in accordance with its laws and regulations.

²¹ For the United States, this subparagraph applies only to the national regulatory body.

²² With respect to Peru, enterprises may not petition for reconsideration of rulings of general application, as defined in Article 26.1 (Definitions), unless provided for under its laws and regulations. For Australia, paragraph 1(d) does not apply.

务)、第 13.6 条(国际移动漫游)、第 13.7 条(公共电信服务主要供应商给予的待遇)、第 13.8 条(竞争保障)、第 13.9 条(转售)、第 13.10 条(主要供应商的网络元素非捆绑)、第 13.11 条(与主要供应商的互联互通)、第 13.12 条(主要供应商对专有线路服务的提供和定价)、第 13.13 条(主要供应商的共址服务)、第 13.14 条(主要供应商拥有或控制的电杆、管线、管网和路权的接入)以及第 13.15 条(国际通信海缆系统);

- (b) 如一电信监管机构拒绝就争端解决请求采取任何行动, 则应请求, 该电信监管机构应在一合理期限内对其决定作出书面说明;²¹
- (c) 已请求与该缔约方领土内一主要供应商实现互联互通的另一缔约方的公共电信服务供应商可在其提出互联互通请求后一合理且公开规定的期限内, 寻求由其电信监管机构进行审议, 以解决与主要供应商涉及互联互通条款、条件和费率的争端; 以及

复议²²

- (d) 受法律保护的利益因该缔约方电信监管机构的裁定或决定而受到不利影响的企业, 可向该机构或其他相关机构上诉或申诉, 要求复议该裁定或决定。任何缔约方不得允许将提出复议申请为由作为不遵守电信监管机构的裁定或决定的理由, 除非该监管机构或其他相关机构作出在诉讼程序结束前不执行该裁定或决定的命令。一缔约方可依照其法律法规, 限定可使用复议的情况。

²¹ 对于美国, 本项仅适用于国家级监管机构。

²² 对于秘鲁, 企业不能就普遍适用的裁决申请复议, 如第 26.1 条(定义)中所定义, 除非其法律法规有规定。对于澳大利亚, 第 1 款(d)项不适用。

Judicial Review

2. No Party shall permit the making of an application for judicial review to constitute grounds for non-compliance with the determination or decision of the telecommunications regulatory body, unless the judicial body issues an order that the determination or decision not be enforced while the proceeding is pending.

Article 13.22: Transparency

1. Further to Article 26.2.2 (Publication), each Party shall ensure that when its telecommunications regulatory body seeks input²³ for a proposal for a regulation, that body shall:

- (a) make the proposal public or otherwise available to any interested persons;
- (b) include an explanation of the purpose of and reasons for the proposal;
- (c) provide interested persons with adequate public notice of the ability to comment and reasonable opportunity for such comment;
- (d) to the extent practicable, make publicly available all relevant comments filed with it; and
- (e) respond to all significant and relevant issues raised in comments filed, in the course of issuance of the final regulation.²⁴

2. Further to Article 26.2.1 (Publication), each Party shall ensure that its measures relating to public telecommunications services are made publicly available, including:

- (a) tariffs and other terms and conditions of service;
- (b) specifications of technical interfaces;
- (c) conditions for attaching terminal or other equipment to the public telecommunications network;
- (d) licensing, permit, registration or notification requirements, if any;
- (e) general procedures relating to resolution of telecommunications

²³ For greater certainty, seeking input does not include internal governmental deliberations.

²⁴ For greater certainty, a Party may consolidate its responses to the comments received from interested persons. Viet Nam may comply with this obligation by responding to any questions regarding its decisions upon request.

司法审查

2. 任何缔约方不得允许将提出司法审查申请作为不遵守电信监管机构的裁定或决定的理由，除非该司法机构作出在诉讼程序结束前不执行该裁定或决定的命令。

第 13.22 条 透明度

1. 在第 26.2.2 条(公布)基础上，每一缔约方应保证在其电信监管机构就一法规提案征求意见²³时，该机构应：

- (a) 该提案可公开获得或以其他方式向任何利害关系人提供；
- (b) 包括对提案目的和理由的说明；
- (c) 向利害关系人作出充分公告告知其可作出评论并提供作出评论的合理机会；
- (d) 在可行的限度内，使所提交的所有相关评论可公开获得；以及
- (e) 在颁布最终法规的过程中，对评论中提出的所有重大和相关问题作出答复。²⁴

2. 在第 26.2.1 条(公布)基础上，每一缔约方还应保证其与公共电信服务相关的措施可公开获得，包括：

- (a) 服务资费及其他条款和条件；
- (b) 技术接口规格；
- (c) 终端或其他设备连接公共电信网络的条件；
- (d) 许可、准许、注册或通知要求(如有)；
- (e) 与第 13.21 条(电信争端的解决)中所规定的解决电

²³ 为进一步明确，征求意见不包括政府内部审议。

²⁴ 为进一步明确，一缔约方可合并答复所收到的利害关系人的评论。越南可通过应请求答复就其决定所提任何问题以遵守这一义务。

disputes provided for in Article 13.21 (Resolution of Telecommunications Disputes); and

- (f) any measures of the telecommunications regulatory body if the government delegates to other bodies the responsibility for preparing, amending and adopting standards-related measures affecting access and use.

Article 13.23: Flexibility in the Choice of Technology

1. No Party shall prevent suppliers of public telecommunications services from choosing the technologies they wish to use to supply their services, subject to requirements necessary to satisfy legitimate public policy interests, provided that any measure restricting that choice is not prepared, adopted or applied in a manner that creates unnecessary obstacles to trade. For greater certainty, a Party adopting those measures shall do so consistent with Article 13.22 (Transparency).

2. When a Party finances the development of advanced networks²⁵, it may make its financing conditional on the use of technologies that meet its specific public policy interests.

Article 13.24: Relation to Other Chapters

In the event of any inconsistency between this Chapter and another Chapter of this Agreement, this Chapter shall prevail to the extent of the inconsistency.

Article 13.25: Relation to International Organisations

The Parties recognise the importance of international standards for global compatibility and interoperability of telecommunications networks and services and undertake to promote those standards through the work of relevant international organisations.

Article 13.26: Committee on Telecommunications

1. The Parties hereby establish a Committee on Telecommunications (Committee) composed of government representatives of each Party.

2. The Committee shall:

- (a) review and monitor the implementation and operation of this

²⁵ For greater certainty, “advanced networks” includes broadband networks.

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- (f) 电信监管机构的任何措施，如政府委托其他机构负责制定、修改和采取影响接入和使用的与标准的相关的措施。

第 13.23 条 技术选择的灵活性

1. 任何缔约方不得阻止公共电信服务供应商选择其希望用于服务提供的技术，但需遵守满足合法公共政策利益所必需的要求，只要限制这一选择的任何措施不以对贸易造成不必要障碍的方式制定、采取或适用。为进一步明确，采取这些措施的一缔约方应以符合第 13.22 条(透明度)的方式采取。
2. 如一缔约方资助高级网络的开发²⁵，则其可将使用满足特定公共政策利益的技术作为资助条件。

第 13.24 条 与其他章的关系

如本章与本协定另一章出现不一致，则在不一致的范围内应以本章为准。

第 13.25 条 与国际组织的关系

缔约方认识到电信网络和服务的全球兼容性和互操作性的国际标准的重要性，并承诺通过相关国际组织的工作推广这些标准。

第 13.26 条 电信委员会

1. 缔约方特此设立电信委员会(委员会)，由每一缔约方的政府代表组成。
2. 委员会应：
 - (a) 审议和监督本章的实施和运用，以期保证本章的有

²⁵ 为进一步明确，“高级网络”包括宽带网络。

Chapter, with a view to ensuring the effective implementation of the Chapter by enabling responsiveness to technological and regulatory developments in telecommunications to ensure the continuing relevance of this Chapter to Parties, service suppliers and end users;

- (b) discuss any issues related to this Chapter and any other issues relevant to the telecommunications sector as may be decided by the Parties;
- (c) report to the Commission on the findings and the outcomes of discussions of the Committee; and
- (d) carry out other functions delegated to it by the Commission.

3. The Committee shall meet at such venues and times as the Parties may decide.

4. The Parties may decide to invite representatives of relevant entities other than the Parties, including representatives of private sector entities, having the necessary expertise relevant to the issues to be discussed, to attend meetings of the Committee.

效实施，通过对电信领域技术和监管发展情况作出回应，以保证本章与缔约方、服务供应商和终端用户保持持续相关性；

- (b) 讨论与本章相关的任何问题及缔约方可能决定的与电信部门相关的任何其他问题；
- (c) 向自贸协定委员会报告委员会讨论的结果和成果；以及
- (d) 履行自贸协定委员会委派的其他职能。

3. 委员会应在缔约方可能决定的地点和时间召开会议。

4. 缔约方可决定邀请除缔约方外的具备与待讨论问题相关的必要专门知识的相关实体代表出席委员会会议，包括私营部门实体的代表。

ANNEX 13-A**RURAL TELEPHONE SUPPLIERS – UNITED STATES**

The United States may exempt rural local exchange carriers and rural telephone companies, as defined, respectively, in sections 251(f)(2) and 3(37) of the *Communications Act of 1934*, as amended, (47 U.S.C. 251(f)(2) and 153(44)), from the obligations contained in Article 13.5.4 (Obligations Relating to Suppliers of Public Telecommunications Services – Number Portability), Article 13.9 (Resale), Article 13.10 (Unbundling of Network Elements by Major Suppliers), Article 13.11 (Interconnection with Major Suppliers) and Article 13.13 (Co-Location by Major Suppliers).

附件 13-A

农村电话供应商—美国

美国对于分别按经修正的《1934 年通信法》第 251(f)(2)节和第 3(37)节(《美国法典》第 47 篇第 251(f)(2)节和第 153(44)节)中所定义的农村本地交换运营商和农村电话公司,可免除第 13.5.4 条(公共电信服务供应商的义务—携号转网)、第 13.9 条(转售)、第 13.10 条(主要供应商的网络元素非捆绑)、第 13.11 条(与主要供应商的互联互通)以及第 13.13 条(主要供应商的共址服务)中所含义务。

ANNEX 13-B**RURAL TELEPHONE SUPPLIERS – PERU**

1. With respect to Peru:
 - (a) a rural operator shall not be considered a major supplier;
 - (b) Article 13.5.4 (Obligations Relating to Suppliers of Public Telecommunications Services – Number Portability) shall not apply to rural operators; and
 - (c) Article 13.12 (Provisioning and Pricing of Leased Circuits Services by Major Suppliers), Article 13.13 (Co-Location by Major Suppliers) and Article 13.14 (Access to Poles, Ducts, Conduits, and Rights-of-way Owned or Controlled by Major Suppliers) shall not apply to the facilities deployed by major suppliers in rural areas.
2. For the purposes of this Annex, for Peru:
 - (a) rural area means a population centre:
 - (i) that is not included within urban areas, with a population of less than 3,000 inhabitants, a low population density and a lack of basic services; or
 - (ii) with a teledensity rate of less than two fixed lines per 100 inhabitants; and
 - (b) rural operator means a rural telephone company that has at least 80 per cent of its total fixed subscriber lines in operation in rural areas.

附件 13-B
农村电话供应商—秘鲁

1. 对于秘鲁：
 - (a) 一农村运营商不得视为一主要供应商；
 - (b) 第 13.5.4 条(公共电信服务供应商的义务—携号转网)不得适用于农村运营商；以及
 - (c) 第 13.12 条(主要供应商对专有线路服务的提供和定价)、第 13.13 条(主要供应商的共址服务)和第 13.14 条(主要供应商拥有或控制的电杆、管线、管网和路权的接入)不得适用于主要供应商在农村地区部署的设施。

2. 就本附件而言，对于秘鲁：
 - (a) 农村地区指人口中心：
 - (i) 不包括在市区内，人口少于 3000 个居民、低人口密度且缺乏基本服务；或
 - (ii) 电话普及率为每 100 个居民拥有的固定电信线路少于 2 条；以及
 - (b) 农村运营商指至少 80% 的固定用户线路在农村运营的农村电话公司。