



Re: Americatel Guatemala, S.A. section 1377 comments on Guatemala compliance with its CAFTA's Telecommunications obligations.

We believe that Superintendencia de Telecomunicaciones (SIT), as an Guatemalan governmental authority and telecommunications regulator, has conducted discriminatory acts and practices incurring in anticompetitive practices against Americatel Guatemala, SA (Americatel), which is a subsidiary wholly controlled by a U.S. firm. Such acts directly attempt against CAFTA's Chapter 13 (Telecommunications) and Chapter 10 (Investment) by systematically encouraging Americatel to submit matters of administrative competence to the judicial system without any legal grounds and delaying or preventing the application of regulations under local law and the treaty.

The alleged discriminatory acts and practices principally originate by SIT's lack of enforcement and prosecution against illegal and *de facto* actions conducted by the main essential resources operator in Guatemala against Americatel and other operators, as evidenced in various resolutions.

SIT has harbored the main essential resources operator, Telecomunicaciones de Guatemala SA (Telgua), actions by denying access to essential resources to operator, Americatel. Such actions were carried despite the existence of a validly existing contract between the parties forbidding disconnection without resorting to the judicial system, which has not happened in the present case.

Further, contrary to CAFTA provisions and local law, SIT has declared itself incompetent to resolve petitions from Americatel regarding essential resources disconnection and remanded the parties to litigate such issues in the Courts of law. However, we believe that SIT has acted on discriminatory grounds through the issuance of contradictory resolutions in other cases based on similar facts. SIT has repeatedly stated in such resolutions that operators are forbidden to disconnect or deny access to essential resources without a judicial order. In the present case, SIT without legal grounds conducted discriminatory actions against Americatel.

Furthermore, we believe SIT has also favored essential resources operator, Telgua, by accepting Telgua's unilateral terms for the renegotiation of the contract, without Americatel's consent to such provisions as a legal counterparty of the contract. The law mandates that both parties should submit and agree to the new terms for the renegotiation, but Americatel's rights were directly affected by a SIT resolution that prevented Americatel's participation in the negotiation of the agreement, despite the timely submission of its terms before the authority. It is important to note that if Telgua's unilateral conditions are allowed and protected by SIT Americatel will automatically be forced out of the market due to lack of competitiveness.

A handwritten signature in black ink, appearing to read 'Gerardo Mesarez Huerta', written over a horizontal line.

Gerardo Mesarez Huerta
Legal Representative
Americatel Guatemala, S.A.