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**Editor's Note. Reasonableness in Telecommunications Regulation.**

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A joint World Trade Organization (WTO) and International Telecommunication Union (ITU) training workshop was carried out last December 2004 related on Telecommunication Regulations and New Technologies, this event took place in Geneva, Switzerland. During this event, counselors of these international organizations and other prestigious counseling firms analyzed along with regulators from Chile, Australia and Singapore different themes related to the regulation of this sector.

All the presentations and expositions can be downloaded from the following link: [http://www.wto.org/english/tratop\\_e/serv\\_e/telecom\\_e/workshop\\_dec04\\_e/wk\\_prog\\_dec04\\_e.htm](http://www.wto.org/english/tratop_e/serv_e/telecom_e/workshop_dec04_e/wk_prog_dec04_e.htm). We would like to make emphasis on GATS principles & obligations for telecom regulation presented by Lee Tuthill, Counselor, Trade in Services Division.

This exposition is an interesting analysis of Reasonableness, in GATS, its Annex on Telecommunications, and the Reference Document Annexed to the Fourth Protocol of the Basic Telecommunications Group; all of them part of our positive law, through Law Nos. 2-95 and 153-98.

For Tuthill, *reasonableness* on regulations of telecommunications is deductible in the dispositions related to *non-discrimination* of GATS Articles II.1 and XVII; rules in access and use of Annex on Telecommunications, as well as *interconnection rules and universal services and allocation and use of scarce resources* Reference Document, paragraph 2.2, 3 y 6.

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Likewise, the WTO Consultant estimates that reasonableness of the regulation on telecommunication, general obligations of access to the information affecting trade of GATS Art. VI:1, our Free Access to Public Information Law supports.

Maybe the most important opinion qualified, in its summary of reasonableness criteria necessary in the rules of access of service providers to ensure interconnection, from Section 5(a) of Annex on Telecommunications and paragraph 2.2(b) and 2.5 of Reference Document, being the interconnections first or the task of conflict resolution.

Finally, the expositions defines reasonableness on regulations of telecommunications. According to *Merriam-Webster Online*: (a) *not extreme or excessive*; (b) *having a rational ground or motive*; (c) *logical, sensible, sound*.

It also quotes the Report of the Panel, Mexico, in the sense that reasonable applied by regulating organisms must be: appropriate or suitable to the circumstances or purpose; flexibility and balance are also part of the notion of "*reasonable*."

In addition to local dispositions and its interpretations of precedents and sentences, of INDOTEL and other competent jurisdictions, the telecommunication sector must always be aware that its judiciary regime, is object of interest and research of important sources of International and Compared Law, as those quoted in said document. These sources can be useful under the correct analyses of environment and scope of the regulation.

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**Fiscal. General Directorate of Internal Taxes Norms y Announcements.**

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The General Directorate of Internal Taxes (DGII) dictated and published in *El Caribe* on January 17, 2005, the first three new General Norms of this year and an announcement about the multiplier for the Adjustment for Inflation.

The General Norm Num. 01-05, on RNC, establishes that all contributors must update their RNC, address and commercial name in all the invoices and documents used for their operations; ISR and ITBIS contributors acquiring goods and services must verify on the internet webpage or calling the information services at DGII, that the RNC included in an invoice belongs to the subscriber and is active, under the penalty of not considering it as an advance of ITBIS either deductible of ISR, said invoice and, when presenting sworn statement, the ITBIS contributor, must provide an invoice report with acquisitions of goods and services in the local and foreign market.

As Norm No. 02-05, establishes as retain agent all entities that pay for freelance professionals services (engineering, architecture, accounting, auditing, lawyer, computing, administration, designing, assessments and consulting in general); entities that pay for services of rental of real estates to other non profit or for profit entities, with an applicable retention of 30% of the value of ITBIS billed. Likewise, it establishes as retain agent airlines companies, hotels and insurance companies that pay commissions to travel agencies for the sales of plane tickets, sales for accommodations or occupancy, and when paying services of intermediaries provided by insurance

representatives or agents, respectively. In this case, the retaining will be the totality of the applied ITBIS. in order to deduct these expenses for services from the ISR they should be carried out and effectively paid the retaining.

Finally, Norm No. 03-05, supersedes General Norms Nos.: 02-04, 01-04, 04-03, 03-03, 02-03, 01-03, 04-02, 02-02, 12-01, 10-01, 09-01, 08-01, 07-01, 06-01 bis, 06-01, 05-01, 04-01, 03-01, 01-01 and 05-93.

Finally, with the announcement of the multiplier for inflation, DGII informed contributors that for year 2005 it will be 1.2874, modifies taxes scales, exempting rents up to RD\$257,280.00; adjusting the figure in RD\$ in Articles 101, 238 (3), 239 p. II and III, 241, 243, 250 paragraph, 257, 263, 290, 299 (m) and (o) of the Tributary Code and Articles 28 p. III, 55 p. I and 126 of Regulation No. 139-98; establishes that the rate for the varying rates for the year closing December 31, 2004 is RD\$31.05 for one US dollar.

**Telecommunications. New way of dialing phone calls.**

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The Dominican Institute of Telecommunications (INDOTEL), through an announcement in *El Caribe* on January 18, 2005, informed the country that starting next February 1<sup>st</sup> it will be necessary to dial ten digits, which means that in order to dial a local, national or cellular call on must dial 809, country area code, before dialing the phone number.

This change in telephone numbering is a consequence of the growth of the telecommunication industry in the Dominican Republic, forcing INDOTEL to



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request NANPA, allocation of a new additional area code, starting this year.

With resolution No. 122-04, of July 30, 2004, INDOTEL established a period from January 31 until July, 2005, to dial with seven or ten digits, with the purpose of allowing users to familiarize with the new dialing system.

During this stage both public and private companies and institutions must change all the documentation that shows their telephone numbers, which they must provide to their clients both locally as well as international.

#### **Free Trade. First national consultancy for ratifying FTA.**

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On January 18, the Industry, Trade and Free Zone Permanent Commission of the Senate of the Dominican Republic carried out the first national consultancy on the Evaluation of the Impact and Perspectives of the Free Trade Agreement with the United States and Central America, with the participation of the Dominican producing sector representatives.

During this event several gave their opinions related to advantages and disadvantages that this agreement will provide to the country, dividing into two groups the criteria of the participants.

On one side, the American Chamber of Commerce, the FTA Support Coalition, the Dominican Association of Free Zone (ADOZONA) and Association of the Pharmaceuticals Representatives, Agents and Producer (ARAF) in favor of the FTA ratification. Meanwhile opposing this group are Emergency Agricultural Committee of the FTA, the Industries Association of the

Dominican Republic (AIRD), the Pharmaceutical Industries Association and the Sugar Cane Industry.

Mr. Alejandro Santos, president of Industry, Trade and Free Zones Commission of the Senate assured the allocation of funds for an objective report of the FTA and assured that new consultancy will be provided previously informed for public attendance.

#### **Telecommunications. Free National/Local calls.**

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Telecommunication company, TRICOM, S.A., announced that starting January 21, all charges for national long distance will be eliminated for residential telephone service provided by this company.

TRICOM stated that the residential clients benefited with this initiative, Local Minute Service will not be increased, beneficiaries will only pay charges generated by local minute service, according to the plan subscribed (RD\$0.95 per additional minute) plus tax.

In addition, this company is offering a decrease in time to install new residential service, free "Caller ID," and dialing 1411 is free for those who have this included plan service.

The president of the Dominican Institute of Telecommunications (INDOTEL), José Rafael Vargas, declared that they had not been officially notified of these new services, but any new offer will increase competition in this sector and will lower the prices that consumers pay.



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### Energy. High Technology Energy Meters.

On January 19, 2005 a group large energy consumption clients presented a proposal to install high technology energy meters in order to improve billing collection index for this sector and tariffs are reduced and more transparent. This was submitted to distribution companies, to the regulating authorities, technicians and businessmen.

To guarantee the effectiveness of this new technology, big clients of the energy sector, will finance the first 500 meters, in order for distribution companies can verify the technical feasibility of this project.

Each meter will communicate via radio with the other meters and send messages to the collector, allowing the distribution company to instantly balance consumption and notice who and where is committing a fraud.

### Energy. Renewable Energy Project.

Salvador Rivas, Director of Non-Conventional Energy Directorate of the Secretariat of State of Industry and Commerce said during an interview with *El Caribe* the interest of said ministry in collaborating and developing programs to save energy and provide more efficient energy for both residential and industrial sector through renewable energy.

According to Mr. Rivas, these projects, that include installation of solar heaters, water pumps and low consumption light, will be financed by the Banco de Reservas, through private companies that will be selected and through easy financing mechanisms with a recuperation rate by loan granted of four to six months. For this

the have the support of the Spanish National Center for Renewable Energy (CENER) and the German Technical Cooperation.

In addition, he said that deputies and senators are willing to approve the Project submitted to National Congress related to renewable energy during their next legislature and will have public visits and seminars regarding to this topic.

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