

POSTAL SERVICES

ARTICLE 10-C.1

Scope

1. This Annex sets out the principles of the regulatory framework for postal services regarding which each State Party has undertaken commitments, as listed in Annex II (Schedules of Specific Commitments for Services) and Annex III (Schedules of Reservations and Non-Conforming Measures for Services and Investment) in accordance with either Article 10.7 (Schedules of Specific Commitments) or Article 10.8 (Schedules of Non-Conforming Measures) of Chapter 10 (Trade in Services).
2. This Annex does not require a State Party to liberalise services reserved to 1 (one) or more designated operators as listed in its Schedule of Specific Commitments for Services or Schedule of Reservations and Non-Conforming Measures for Services and Investment.
3. In case of inconsistency between the provisions of this Annex and any other provision of this Agreement, the provisions of this Annex shall prevail to the extent of such inconsistency.

ARTICLE 10-C.2

Definitions

For the purposes of this Annex:

- (a) "essential requirements" means general non-economic reasons for imposing conditions on the supply of postal services and may include the confidentiality of correspondence, the security of the network as regards the transport of dangerous goods, data protection, environmental protection and regional planning;

- (b) "licence" means any form of authorisation or permission¹ setting out rights and obligations specific to the postal sector, granted to an individual supplier by a regulatory authority, or any other competent body, and which is required before supplying a given service;
- (c) "postal service"² means services involving the collection, sorting, transport and delivery of postal items, irrespective of the destination (domestic or foreign), the speed of the service, (priority, non-priority, urgent, express or others), or the operator (public or private);
- (d) "postal item" means an item addressed in the final form in which it is to be carried by a postal service provider, whether public or private, and may include items such as a letter, parcel, newspaper, catalogue and others;
- (e) "regulatory authority" means the independent body or bodies charged with the regulation of postal services mentioned in this Annex;
- (f) "universal service" means the permanent provision of a postal service of specified quality at all points in the territory of a State Party at affordable prices for all users;
- (g) "postal monopoly" means a measure maintained by a State Party making a postal operator within the State Party's territory the exclusive supplier of specified collection, transport, sorting and delivery services; and
- (h) "designated operator" means any governmental or non-governmental entity officially designated by a State Party to operate postal services and to fulfil the related obligations arising out of the Universal Postal Service and under the relevant domestic law on its territory.

¹ For greater certainty, this includes the grant of a concession, registration, declaration, notification or individual licences.

² "Postal services" covers the Central Products Classification as set out in Statistical Office of the United Nations, Statistical Papers, CPC prov 1991 ("CPC"), CPC 7511 and CPC 7512.

ARTICLE 10-C.3

Prevention of anti-competitive practices in the postal sector

Each State Party shall endeavour to ensure that a supplier of postal services subject to a universal service obligation or a postal monopoly does not engage in anti-competitive practices such as:

- (a) using revenues derived from the supply of such service to cross-subsidise the supply of an express postal service or any non-universal postal service; and
- (b) differentiating among customers such as businesses, large volume mailers or consolidators with respect to tariffs or other terms and conditions for the supply of a service subject to a universal service obligation or a postal monopoly, if such differentiation is not based on objective or impartial criteria.

ARTICLE 10-C.4

Universal Services

Each State Party has the right to define the kind of universal service obligation it wishes to maintain and to decide on its scope and implementation. Each State Party may adopt the necessary measures in order to safeguard the implementation, development and maintenance of the universal postal service. Such measures and obligations shall not be regarded as anti-competitive *per se* if they are applied in a transparent, non-discriminatory and proportionate way.

ARTICLE 10-C.5

Licences to provide postal services

1. Each State Party may require licences for the supply of postal services. A licence should be granted wherever possible, by means of a simplified authorisation procedure in accordance with the State Party's laws and regulations.
2. A licence may require compliance with essential requirements, including quality standards and respect for the exclusive and special rights of designated operators of reserved services or of universal postal services.
3. If a State Party requires a licence:
 - (a) it shall make publicly available in an easily accessible form:
 - (i) the rights and obligations resulting from such a licence;
 - (ii) the criteria, terms and conditions for licensing; and
 - (iii) to the extent possible, the period of time normally required to reach a decision concerning an application for a licence;
 - (b) the procedures for granting a licence shall be transparent, non-discriminatory, proportionate and based on objective criteria; and
 - (c) any licensing fees³ which the applicants may incur from their application shall be reasonable and shall not in themselves restrict the supply of the service.

³ Licensing fees do not include payments for auction, tendering or other non-discriminatory means of awarding concessions or mandated contributions to the provision of universal services.

4. The status of an application for a licence and the reasons for the refusal to grant a licence shall be made known to the applicant upon request. Each State Party shall, in accordance with its laws and regulations, maintain or establish a procedure for applicants to appeal against the refusal to grant a licence to a domestic independent body. Such a procedure shall be transparent, non-discriminatory and based on objective criteria.

ARTICLE 10-C.6

Independence of the regulatory body

Each State Party may designate a regulatory body, whether specific to the postal service sector or not. The regulatory body shall be legally separate from, and not accountable to, any supplier of postal services. The decisions of, and the procedures used by, the regulatory bodies shall be impartial with respect to all market participants.