ARTICLE 8.37

Universal service

1. Each Party has the right to define the kind of universal service obligation it wishes to maintain. That obligation will not be regarded *per se* as anticompetitive, provided that it is administered in a transparent, non-discriminatory and competitively neutral manner and is not more burdensome than necessary for the kind of universal service defined by the Party, with regard to all suppliers subject to the obligation.

2. Within the framework of its postal legislation or by other customary means, each Party shall set out the scope of the universal service obligation, fully taking into account the needs of the users and national conditions, including market forces, of that Party.

3. Each Party shall ensure that a supplier of postal and courier services in its territory which is subject to a universal service obligation under its laws and regulations does not engage in the following practices:

(a) excluding the business activities of other enterprises by cross-subsidising, with revenues derived from the supply of the universal service, the supply of express mail services (EMS)[1] or any non-universal service in a way which constitutes an abuse of a dominant market position in contravention of the competition law of the United Kingdom or a private monopolisation in contravention of Article 3 of the Law Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (Law No. 54 of 1947) of Japan respectively;[2] or

(b) unjustifiably differentiating among customers, such as large volume mailers or consolidators, where like conditions prevail with respect to charges and the provisions concerning acceptance, delivery, redirection, return and the number of days required for delivery for the supply of a service subject to a universal service obligation.

---

[1] For the purposes of this subparagraph, "express mail services (EMS)" means services referred to in subparagraph 1.3 of Article 1 of the Universal Postal Convention, done at Istanbul on 6 October 2016.

[2] For greater certainty, the enforcement of each Party's competition law and the related decisions by competition authority shall be covered by the provisions of Chapter 11.

ARTICLE 8.38

Border procedures

1. The border procedures for international postal services and international courier services[1] are enforced in accordance with related international agreements and the laws and regulations of each Party.

2. Without prejudice to paragraph 1, each Party shall not unduly accord less favourable treatment with respect to border procedures to international courier services than it accords to international postal services.

ARTICLE 8.39

Licences

1. Each Party may require a licence for the supply of a service covered by this Sub-Section.

2. If a Party requires a licence, it shall make publicly available:

(a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence; and

(b) the terms and conditions of licences.

---

[1] For the purposes of this Article:
(a) "international postal services" means services that designated operators referred to in subparagraph 1.12 of Article 1 of the Universal Postal Convention supply in accordance with the Acts of the Universal Postal Union; and
(b) "international courier services" means services consisting of the collection, sorting, transport and delivery of documents, printed matter, parcels and goods for foreign destinations, not regulated by the Acts of the Universal Postal Union.