



MULTILATERAL TRADE ASSISTANCE PROJECT VIETNAM II
(MUTRAP II)

Ministry of Industry and Trade in partnership with the European Commission
ASIE/2003/005711



ACTIVITY CODE: HOR-1

“Improving the Quality of Trade-Related Legislation”

**CONSOLIDATED REPORT ON
LEGISLATIVE DRAFTING IN THE POSTAL/COURIER AND
TELECOMMUNICATION SECTOR**

Prepared by:

**Emmanuelle Raoult
Pham Hong Hai
Tran Tuan Anh
Nguyen Vu Hong Thanh**

This document has been prepared with financial assistance from the Commission of the European Communities.
The views expressed herein are those of the author and therefore in no way reflect the official opinion of the
Commission nor the Ministry of Industry of Trade

TABLE OF CONTENTS

PART 1. TELCOMMUNICATIONS SECTOR.....	3
1. Review of international best practices as regards the implementation of a Telecommunication Law.....	4
2. Vietnam Commitments in the telecommunication sector under the WTO Agreement	6
3. Overview of Vietnam’s Telecommunication sector under the perspective of its WTO commitments	8
3.1. <i>Overview of Vietnam’s Telecommunications sector.....</i>	8
3.2. <i>Vietnam's legal regime for trade in communication services.....</i>	9
3.3. <i>Consistency of Vietnamese laws, regulations and measures with the GATS</i>	11
4. Case Study on new WTO members and/or most advanced countries in the field of Telecommunication sector	14
4.1. <i>India</i>	14
4.2. <i>People’s Republic of China.....</i>	16
4.3. <i>Chinese Taipei</i>	19
PART 2. POSTAL SECTOR.....	22
1. Review of Vietnam’s Commitments in the postal sector under the WTO Agreement.....	23
1.1. <i>Background of Vietnamese situation in the Postal sector</i>	23
1.2. <i>Vietnam’s commitments in the frame of its WTO accession.....</i>	24
2. Review of international best practice as regards the implementation of a Postal Law	26
2.1. <i>Focus on the European Union’s Policy on Postal services.....</i>	27
2.2. <i>Objectives of the European Union Postal Policy Framework</i>	27
2.3. <i>The main provisions of the Directive 97/67/EC the Postal Directive</i>	28
2.4. <i>Further steps and Amendments to the 1997 Postal Directive: the Directive 2002/39/EC.....</i>	28
PART III: COMMENTARIES ON AD HOC SPECIFIC REQUESTS POSTAL/COURRIES AND TELECOMMUNICATIONS LAW	29
1. Analytical information about the scope of telecommunications law and its regulations objective in order to promote competition in the telecommunications sector.....	29
1.1. <i>Open markets.....</i>	29
1.2. <i>Interconnection.....</i>	29
1.3. <i>Interoperability.....</i>	30
1.4. <i>Rights of way</i>	30
1.5. <i>Co-location and facility sharing.....</i>	30
2. Analytical advice for the drafting of Vietnamese Telecommunications Law.....	31

2.1. <i>Basic items which to be included in a Telecommunication law</i>	31
2.2. <i>Current trends for a new reform of Telecommunications Laws and Regulations: the European Example</i>	37
2.3. <i>Recommendations and Guidelines</i>	38
3. Collection and provision of relevant experiences of newly acceded WTO Members (Case Study on new WTO members and/or most advanced countries in the field of Telecommunication sector)	39
4. Collection of experiences of structural body, operational and financial conditions of the Regulator and Policy market.	39
Annex 1: Summary Table – List of Major Laws and Regulations on Telecommunication Services	55
Annex 2: List of Laws and Application texts in force in the Postal sector in Vietnam	62
Annex 3: Main provisions set out in the Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service	74
Annex 4: Summary of the main items comprised in the People’s Republic of China on Postal Services (Revision of January 6, 2006)	80

PART 1. TELCOMMUNICATIONS SECTOR

Introduction

The telecommunication sector of the Socialist Republic of Viet Nam is regulated by the Ministry of Posts and Telematics (hereafter the ‘MPT’). More specifically, this State administration is in charge of the policy-making and the regulation of the following sub-sectors: posts, telecommunications, information technology, electronics, internet, radio transmission and emission techniques, radio-frequency management and national information infrastructure, management of public services. As well, the MPT monitors on the behalf of the Vietnamese Government posts, telecommunications and information technology enterprises¹.

The Vietnamese telecommunication sector is regulated by the Ordinance of Posts and Telecommunications of February 25, 2002 and by various applications texts such as decrees, circular, decisions, etc². However, since the enactment of this Law, the telecommunication sector met major market and technological developments and Vietnam joined WTO in January 2007.

In this context, Vietnam needs to draft a new telecommunications Law in accordance with WTO regulations and Vietnamese commitments³. However, the adjustment of Vietnam’s legal framework in the telecommunication sector is a complex and difficult task.

This report, which is drafted in the frame of the cooperation between the MPT and MUTRAP, aims at providing guidance to the MPT in order to improve the quality of Telecommunications legislation consistently with WTO rules and principles, as well as with other international and regional agreements.

More specifically, this report will provide a collection and provision of relevant experiences of newly acceded WTO Members in improving their telecommunication legislative systems. As such the report will be divided in three sections:

1. Review of international best practice as regards the implementation of a Telecommunication Law (PART 1);
2. Vietnam Commitments in the telecommunication sector under the WTO Agreement (PART 2);

¹ Please note that these information have been transmitted by the Ministry of Posts and Telematics from the “*Proposal for cooperation between the MPT and EU in charge of drafting a new telecommunication law*”-

² For a list of the trade/related application texts, please see Annex 1-Summary Table – List of Major Laws and Regulations on Telecommunication Services.

³ Cf. “*The Telecom market mechanism is changed into full competitive, today the telecom market shares by 8 FBO (Facilities based Operator) and more then 20 SBO (Service based Operator). The Telecommunications Law is needed for transparency purposes or in order to effectively develop a telecom market. The convergence of technologies is affected telecom regulations systems and the telecom legal framework relates to amendments, adjustments or new promulgations, etc*”. Cf. “*Proposal for cooperation between the MPT and EU in charge of drafting a new telecommunication law*”.

3. Case Study on new WTO members and/or most advanced countries in the field of Telecommunication sector (PART 3).

1. Review of international best practices as regards the implementation of a Telecommunication Law

This section will mainly focus on the World Trade Organisation (hereafter “WTO”) Telecommunications Regulatory Standards. Indeed, the telecommunication sector is regulated by the GATS which provide basic principles necessary to achieve liberalization of trade in services (most favoured nation, market access, national treatment). All kinds of services are covered by the GATS and this includes the telecommunications sector.

By joining the WTO, member states would bind themselves under GATS commitments agreed under the Schedule of Specific Commitments. As such, the “Annex on Telecommunications” (Telecom Annex), is part of GATS and contains specific provisions relating to trade in telecommunication services, such as access to public networks, competition safeguards, licensing, etc. Since Telecom Annex consists of GATS, all members must meet obligations stipulated therein.

The basic WTO document relevant for telecommunications is the Reference Paper on Basic Telecommunications (hereafter the “Reference Paper”). WTO candidate countries make commitments reflecting the standards contained in the Reference Paper before they are admitted to the WTO⁴.

The Reference Paper includes commitments to:

- ⇒ Maintain appropriate safeguards to prevent suppliers who, alone or together, are a major supplier from engaging in anti-competitive practices, in particular:
 - Anti-competitive cross-subsidization.
 - Anti-competitive use of information obtained from competitors.
 - Withholding from other service providers timely technical and commercial information necessary for them to provide services.

- ⇒ Establish interconnection with suppliers providing public telecommunications transport networks or services:
 - Under non-discriminatory terms, conditions, and rates.
 - In a timely fashion.
 - On terms, conditions and cost-oriented rates that are transparent, reasonable, have economic feasibility, and are sufficiently unbundled so that the supplier need not pay for network components/facilities not required for the service to be provided.
 - Upon 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 to necessary facilities.

⁴ Basic telecommunications is not defined in the Reference Paper. But it is generally understood to cover market access in network infrastructure and services involving real-time transmission of customer's information without change in form or content. This includes local, long distance and international fixed line and cellular voice telephony, data, paging regardless of how defined nationally.

- ⇒ Administer non-discriminatory universal service obligations.
- ⇒ Use transparent, licensing criteria.
- ⇒ Establish a regulator independent from any services supplier.
- ⇒ Use objective, timely, transparent, and non-discriminatory procedures for allocation of scarce resources such as radio frequencies, numbers, and rights-of-way.

The following table provides details as regard the provisions comprised in the Reference paper:

Competitive safeguards	
Prevention of anti-competitive practices in telecommunications	Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.
Safeguards	The anti-competitive practices referred to above shall include in particular: <ul style="list-style-type: none"> (a) engaging in anti-competitive cross-subsidization; (b) using information obtained from competitors with anti-competitive results; and (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.
Interconnection	
Interconnection to be ensured	Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided: <ul style="list-style-type: none"> (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates; (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and (c) upon 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.
Other Provisions	
Public availability of the procedures for interconnection negotiations	The procedures applicable for interconnection to a major supplier will be made publicly available.
Transparency of interconnection arrangements	It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.
Interconnection: dispute settlement	A service supplier requesting interconnection with a major supplier will have recourse, either: <ul style="list-style-type: none"> (a) at any time or (b) after a reasonable period of time which has been made publicly

	known to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.
Universal service	Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive per se, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.
Public availability of licensing criteria	Where a licence is required, the following will be made 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 individual licences. The reasons for the denial of a licence will be made known to the applicant upon request.
Independent regulators	The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.
Allocation and use of scarce resources	Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

2. Vietnam Commitments in the telecommunication sector under the WTO Agreement

2.1. Scope of Vietnam's obligations in the frame of its WTO accession

In the area of communication services, Vietnam undertook three sets of commitments⁵:

- ⇒ On courier services, including express delivery services and handling services of non-addressed items;
- ⇒ On telecommunication services, including basic and value-added telecommunication services; and
- ⇒ On audiovisual Services, including motion picture production, distribution and projection service, and sound recording services.

2.2. Content of obligations in the frame of its WTO accession

In the area of the telecommunication services, Vietnam's obligations under WTO agreement cover:

⁵ Please note that this section has been drafted according to the information of the SERV-1 Report "Implication assessment of Vietnam's GATS obligations and commitments"- Report Activity Phase I, 8. February 2007.

- The provisions of the GATS Annex on Telecommunications;
- The horizontal and sector-specific commitments for Telecommunication Services under its Schedule, including the Reference Paper attached to it.

Vietnam's specific commitments on telecommunication services are divided into separate sub-sectors, including basic telecommunication services and value-added services.

Commitments on cross-border supply are limited to commercial arrangements with an established Vietnamese entity or to the ability of off-shore/on-sea users and multinational companies to use satellite-earth stations.

As regards commercial presence, Vietnam undertook to allow foreign services suppliers to establish a business cooperation contract or joint venture with an authorized Vietnamese partner, where foreign capital contribution may not exceed a certain percentage of the joint venture⁶.

Moreover, Vietnam undertook the obligation to implement the regulatory principles contained in the Reference Paper. The following table summarises these obligations:

Competitive Safeguards	Vietnam is required to ensure that its major supplier, i.e. Vietnam Post and Telecommunications Corp. (VNPT), does not engage in anti-competitive cross-subsidization, use information gathered from competitors with trade-restricting results, or fail to make available, on a timely basis, the technical information about its facilities and operations needed by competitors to enter the market.
Interconnection	VNPT is to provide market entrants with interconnection at any technically feasible point in the network. Interconnection is to be provided at non discriminatory terms, conditions and rates, and should be of a quality no less favourable than VNPT gives its own services. Moreover, interconnection rates are to be cost-oriented, transparent, and where economically feasible, unbundled. A dispute mechanism administered by an independent body is called for to handle disagreements over interconnection terms and other issues.
Universal Service	Vietnam is free to impose universal (public) service obligations, but such obligations have to be administered in a transparent, non discriminatory, and competitively neutral manner, i.e. no more burdensome than required to meet the policy objectives
Public Availability of Licensing Criteria	Where licenses are needed, information and decision-making procedures are to be transparent
Independent Regulator	Regulatory bodies are to be separated from service providers and not accountable to them
Allocation and Use of Scarce	Procedures for allocating and using frequencies, numbers, and rights-of-way are to be carried out in an objective, timely, transparent, and non

⁶ Cf. For non-facilities based basic telecommunication services this limit is 51% upon WTO accession, which will be increased to 65% three years after accession. In the case of facilities based basic telecommunication services, the limit is fixed at 49%. For value-added, non-facilities-based services this limit will be increased to 65% three years after Vietnam's WTO accession, however, for value-added, facilities-based services the limit is fixed at 50%. SERV-1 Report "Implication assessment of Vietnam's GATS obligations and commitments"- Report Activity Phase I, 8. February 2007.

Resources	discriminatory manner.
------------------	------------------------

3. Overview of Vietnam’s Telecommunication sector under the perspective of its WTO commitments

3.1. Overview of Vietnam’s Telecommunications sector

Until the late 1980s, the telecommunication market in Vietnam was a State monopoly market. The activities of the operator (VNPT – Vietnam Post and Telecommunication) were strictly controlled by the Government. From 1986, the telecommunications sector reform program was launched and the telecommunication sector started to be liberalised⁷. Between 1995 and 2006, the communications sector opened up to competition with, notably, the establishment of new telecommunications companies such as: Sagon PostTel, Military Telecommunications Company Viettel.

The Prime Minister’s decision of the 29th April 1995 changed VNPT Company into a Corporation and the Directorate General of Posts and Telecommunications (today’s MPT) was not in charge anymore of the business management of VNPT.

On November 11, 2002 the Decree No.90/2002/ND-CP set up the MPT. Among its functions, the ministry has been given the task of regulating the telecommunications sector. From 2003, the monopoly of Vietnam’s telecommunications market was ended. According to MUTRAP’s local experts’ team report⁸, the telecommunications market is fully opened and competitive and Vietnam counts today we have 08 FBO – facilities based operator and more than 20 SBO – services based operators.

Vietnam’s policy objectives for the development of the telecommunications sector

The MPT is developing a Master Plan for ICT development toward the year 2010 and 2020. Following the draft strategy of ICT development in Vietnam to 2010 and up to 2020, the major targets are the following:

⇒ Toward 2005:

- Production, industry and Services: 30% of businesses will use ICT application.
- To complete the Phase 1 of the E-gov.
- To develop E-commerce.
- ICT applications in Education & Training.
- ICT applications in Medicine & Health care.
- Develop Agriculture & Suburban, contributing to the reducing poverty.

⇒ Toward 2010:

⁷ Cf. Please note that this section has been drafted according to available information and more particularly from the report drafted by MUTRAP’s local consultants: Activity Code HOR-1, “Overview of Vietnam’s Telecoms sector”, May 2007, *Pham Hong Hai and Tran Tuan Anh*

⁸ Cf. HOR-1, “Overview of Vietnam’s Telecoms sector”, *op-cit*.

- E-gov: The basic services.
- E-commerce: 25- 30% of the total transactions, 10 times increased as compared to 2002
- Frequent transactions via networks.
- Broad applications of ICT in all the economic, social economic, education, health, national security.
- National Infrastructure (toward 2010):
- Accelerate computerize in social activities,
- 100% of villages nationwide accessed to telephone service
- 100% of Postal Service-Cultural Exchange points and multi-purpose points accessed to Internet
- 100% of Districts and a number of villages accessed to broad-band services
- Telephone density up to 25~30%, more than 60% families having telephone in the whole country, in which the urban areas: to 100% families;
- Internet subscription density up to 8% (in which 30% for broadband), Internet user around 40% populations.

3.2. Vietnam's legal regime for trade in communication services

Vietnam's main provisions regarding the telecommunications sector in Vietnam are defined in the following legal texts⁹:

- The Ordinance on Posts and Telecommunications adopted by the Executive Committee of 10th National Congress on February 25, 2002.
- The Decree No 24/2004/ND-CP detailing the implementation of a number of articles of the Ordinance on Posts and Telecommunications regarding Radio Frequency was issued on 14/1/2004.
- The Decree No 160/2004/ND-CP detailing the implementation of a number of articles of the Ordinance on Posts and Telecommunications regarding Telecommunications was issued on 3/9/2004.
- Decree No.55/2001/ND-CP dated August 23, 2001 of the Government on the management, provision and use of Internet services
- Decision No.158/2001/QDTTg dated October 18, 2001 of the Government on the approving Viet Nam Post and Telecommunications development strategy through 2010¹⁰.

Please note Annex 1 of this report provides a detailed list of trade related application texts for the telecommunications sector¹¹. However, in the frame of Vietnam's commitments under WTO, the telecommunication laws, regulations and measures are envisaged under the perspective of measures falling under GATS Article XVI and XVII and should be scheduled in order to lawfully maintain them for committed services and/or which don't a priori comply with GATS obligations.

⁹ Please refer to the following report drafted by MUTRAP's local consultants: Activity Code HOR-1, "Overview of Vietnam's Telecoms sector", May 2007, *Pham Hong Hai and Tran Tuan Anh*

¹⁰ Please refer to Annex 1 which provides the list of main laws and regulations in force in the Telecommunication sector.

¹¹ Cf. Annex 1-Summary Table – List of Major Laws and Regulations on Telecommunication Services

Telecommunication services are governed by Ordinance 43-2002-PLUBTVQH10 on Posts & Telecommunications which entered into force on 1 October 2002) and the implementing Decree No. 160/2004-ND-CP (2004).

The Ordinance and the Decree regulate telecommunication networks and services, operations of service providers and users, licensing procedures, establishment of service provider networks, public telecom services and service prices and provides guidelines on the design, installation and subscription of terminals, fixed telephone service, mobile phones, selling or leasing mobile phone terminals, and telecom services.

The WTO Report of the Working Party on the Accession of Viet Nam states that: “*The 2002 Ordinance on Posts and Telecommunications set up an important legal framework for market liberalization and a level playing field for competitors*”¹².

Together with this Ordinance, several governmental decrees, Ministerial circulars and decisions had been promulgated on interconnection, tariffs and pricing, frequency and numbering, inspection, the settlement of disputes, and illegal services.

The use of telecommunications gateways and networks was regulated by Article 43 of the Ordinance and Articles 27 to 33 and 60 of the implementing Decree. These Articles were designed to ensure the rights and obligations of telecommunications services providers to access and use each other's public telecommunications transport networks.

Non-discrimination in granting access to and use of public telecommunications transport networks was guaranteed by Article 43.2 of the 2002 Ordinance on Posts and Telecommunications. Under this Article, public telecommunications services providers had an obligation to allow other public telecommunications services providers to interconnect with their own network under equitable and reasonable conditions.

According to the Decree 59/2006-ND-CP, licensing of businesses in network installation and provision of telecommunications services is subject to conditions and a “certificate of satisfaction of business conditions is required”. This means that the monopoly on the telecommunications network infrastructure has been terminated by law. However, the facilities-based market is still restricted to State-owned enterprises or State-controlled enterprises. Today, only State-owned enterprises or enterprises in which the State holds controlling shares or special shares may be licensed to establish telecom networks¹³.

For Services Based Operators (SBOs), authorization of doing business in Internet access services (ISP), Internet connection services (IXP) and Internet application services in posts and telecommunications (OSP Posts, OSP Telecoms) is also conditional, and a certificate of satisfaction of business conditions is required by Decree 59/2006-ND-CP.

The telecommunication industry's regulator is the Ministry of Post & Telematics and performs the functions of licensing service providers, regulating access and interconnection, regulating charges & tariffs, quality control, and dispute settlement.

¹² Cf. WTO Report - Accession of Vietnam, Report of the Working Party on the Accession of Viet Nam, WT/ACC/VNM/48- 27 October 2006.

¹³ Cf. SERV-1 Report “*Implication assessment of Vietnam's GATS obligations and commitments*”- Report Activity Phase I, 8. February 2007.

Cross border supply and foreign invested commercial presence for provision of basic telecommunications services is currently restricted to Business Cooperation Contracts with Vietnam’s gateway operators authorized to provide basic telecom services.

Foreign investment in the provision of value-added telecom services is also restricted by law to Business Cooperation Contracts with Vietnamese partners authorized to provide such services¹⁴.

Decision 217-2003-QD-TTg of the Prime Minister imposes lower telecommunication fees to ensure cost-based pricing in the sector. Accordingly, telecommunication fees are to be calculated on the basis of input costs and must be comparable to telecommunication rates in the region and the world. The State can “make interventions to stabilize telecommunication fees to protect the legitimate rights and interests of users and telecommunication”. Specific provisions are set out in order to prevent unfair competition by regulating the interconnection charges of services provided by long-time incumbents to new entrants. Telecommunication connection charges for corporate clients should be based on market prices; affiliates of a telecommunication service company should be charged the same as other corporate clients for the same service, and no price discrimination is allowed.

3.3. Consistency of Vietnamese laws, regulations and measures with the GATS

As a general remark, the WTO working paper states that long-term development plans of the telecommunication sector and strategies had been approved and published¹⁵. Consequently, the regulatory and business environment in Vietnam had been improved to become more transparent, predictable and pro-competitive. However, improvements of the legal framework are still needed in order to ensure the respect of Vietnam’s commitment on WTO.

Market access limitations applied to foreign players

Mode 1- Cross border supply:

WTO commitment	Vietnam
Commercial arrangements with an entity licensed to provide international telecommunication services	No specific provisions about commercial agreements on Mode 1 service provision
VSAT service: can be directly provided to entities licensed to establish earth-satellite stations	No specific provisions about conditions of entities to be licensed earth-satellite establishment
International gateways are allowed to establish on the non-discriminatory basis	No specific provisions about international gateway management

Mode 3-Commercial Presence:

¹⁴ Idem

¹⁵ ¹⁵ Cf. WTO Report - Accession of Vietnam, Report of the Working Party on the Accession of Viet Nam, WT/ACC/VNM/48- 27 October 2006.

WTO commitment	Vietnam
Two kinds of foreign investments: BCC, JV Possibility to renew current BCCs or to convert them into another form of establishment with conditions no less favorable than those they currently enjoy	No specific provisions about foreign ownership in telecoms enterprises No specific procedures for BCC convert to other forms of establishment

Indirect Investment

WTO commitment	Vietnam
Equivalent to direct investment	Stock Law allows foreign aggregated equity in an enterprise not more than 49% of the whole issued value

Principles that affect all market players:

a. Transparency:

Licensing

WTO Commitments	Vietnam
Transparent, and public availability of all procedures, criteria	One ambiguous criterion: subject to Prime Minister's approval

Interconnection

WTO Commitments	Vietnam
Transparency and public availability of all procedures for interconnection negotiations & arrangements, interconnection dispute settlement.	In principle, we have principles on interconnection negotiation and arrangement, as well as dispute settlement Yet we do not have reference agreement publicly available

Interconnection charge

WTO Commitments	Vietnam
Cost-based principle	Fixed cost imposed by the regulator

Access to and use of public networks

WTO Commitments	Vietnam
Public operators' responsibility to allow other operators to access and use their network in order to provide service to the end customers	No specific regulations on public operators' responsibility to allow other operators to access and use their network in order to provide service to the end customers

Backbone network

WTO Commitments	Vietnam
Transparent regulations	Ordinance: only definition of FBO Decree: definition of backbone network, yet not clear enough (no parameters provided)

Special share

WTO Commitments	Vietnam
Transparent regulations	Ordinance: refers to Special Share on Art. 38 Other general Laws: already abolished this type of share

b. Independent regulator

WTO Commitments	Vietnam
Regulator is independent from operators	MIC still supervise state's capital in enterprises VTC is under MIC Other telecoms are mostly under a Ministry/ government authority

c. Technological Neutrality

WTO Commitments	Vietnam
Neutrality on Technology	No specific regulations on technological neutrality

4. Case Study on new WTO members and/or most advanced countries in the field of Telecommunication sector

The following section provides information as regards the strategy adopted by other WTO members in reforming their Telecommunications. Such section is intended to provide Vietnamese authorities guidance as regard possible steps to be undertaken in order to comply with WTO obligations by setting up a competitive and transparent telecommunications sector. For the purpose of this study, three countries have been taken into consideration: India, the People's Popular Republic of China and Chinese Taipei¹⁶.

4.1. India

Background information

During the past five years, India's real GDP growth has averaged nearly 7% annually. Growth has been driven largely by the services sector, which accounted for almost 54% of GDP in 2005/06, up from 50% in 2000/01; wholesale and retail trade, hotels, transport, and communications were the leading subsectors. A continued obstacle to maintaining growth is the lack of infrastructure. However, much progress has been done in some areas, notably telecommunications, with a significant increase in penetration, especially of mobile telephony. The result has been a corresponding decline in tariffs of domestic and international long-distance calls. The telecom industry has grown rapidly since 2002: the number of subscribers (for fixed line and cellular phone) increased from 44.97 million in March 2002 to 183.5 million in November 2006; the average annual growth rate was 35%. The driver of growth has changed from fixed line to mobile telephony, which grew from 13 million subscribers in 2003 to 143.1 million in 2006. Private service providers have also increased significantly, accounting for 64.1% of total phones in November 2006, up from 15.1% in March 2002. The private service providers have concentrated on providing mobile phone services, as fixed line telephony services remain dominated by the public sector providers, although their market share fell from 98.6% in 2001/02 to 92.6% in November 2006.

Institutional and Legal Framework

Legal Framework: The telecom industry is administered under the Indian Telegraph Act 1885, the Indian Wireless Telegraphy Act 1933, and the Telecom Regulatory Authority of India Act 1997.

Regulator: the Telecom Regulatory Authority of India (TRAI), established in 1997.
Objectives:

- ⇒ to regulate telecommunications services,
- ⇒ protect the interests of service providers and consumers, and

¹⁶ Please note that this section is a summary of the following comprehensive reports:

- WTO, Trade Policy Review, India, WT/TPR/S/182
- WTO, Trade Policy Review, TAIPE, WT/TPR/S/165
- REPORT TO CONGRESS ON CHINA'S WTO COMPLIANCE, December 11, 2006. United States Trade Representative. See as well the report from Dr Claudio Dordi, *Relevant experiences of newly acceded WTO Members: a summary*. China.

⇒ ensure the development of the telecom sector.

Licensing: The Department of Telecommunications (DOT) is responsible for policy formulation and issuing licences for telecom services.

The DOT also administers the two public-sector companies, the Bharat Sanchar Nigam Limited (BSNL), and the Mahanagar Telephone Nigam Limited (MTNL).

Dispute settlement: is the responsibility of the Telecom Disputes Settlement and Appellate Tribunal (TDSAT). Since 2001, TDSAT has dealt with 1,491 cases; as at 22 December 2006, 1,156 had been settled and the remainder were pending. Most disputes handled by the TDSAT involve non-payment/withholding of duties, or different interpretations of regulations.

Structural reforms implemented

Licensing: To simplify the licence regime, a Unified Access Service (UAS) licence regime for fixed line and cellular services was introduced in November 2003.

The UAS regime allows an operator to provide any or all types of services permitted in the licence.

Operators are no longer required to have separate licences for each type of service provided. In April 2004, licence fees were reduced by 2%; current fees range from 6% to 10% of adjusted gross revenue (AGR) for UASs in the designated service area.

Foreign investment

Internet service providers (ISPs) Restrictions to foreign investment have been relaxed since 2000, when 100% foreign ownership was allowed for internet service providers (ISPs) without gateways, infrastructure providers providing dark fibre, and electronic and voice mail services; companies providing these services must, nonetheless, divest 26% of equity in favour of the Indian public in five years, if they are listed outside India.

From 2001, 74% foreign ownership was permitted for internet service providers with gateways, radio paging, and end-to-end bandwidth services.

In November 2005, foreign investment equity restrictions were increased from 49% to 74% in certain areas, such as fixed line, cellular, unified access services, and national and international long-distance calls services.

National long-distance (NLD) calls, unrestricted entry was permitted for national long-distance (NLD) calls in August 2000, with no limit on the number of service providers. Currently, there are two publicly owned and 14 private NLD operators. The NLD licence is issued for 20 years, and can be extended once for ten years. From 2006, entry requirements have been reduced for NLD operators; entry fees were reduced from Rs 1 billion to Rs 25 million, and licence fees from 15% to 6% of AGR. In addition, the mandatory roll-out obligations for NLD licences were removed on 14 December 2005.

Deregulation of international long-distance (ILD) calls has continued since the privatization of the Videsh Sanchar Nigam Limited (VSNL) in February 2002. Licences for ILD services

are issued initially for 20 years, with an automatic extension for five years. Like the NLD sector, there is no limit on the number of service providers. There are nine private and one public ILD service providers; private operators account for more than 90% of market share. In January 2006, a new ILD licence agreement reduced entry fees from Rs 250 million to Rs 25 million, and licence fees from 15% to 6% of AGR. Furthermore, there are no mandatory roll-out obligations for ILD service licensees except to have at least one switch in India.

The broadband policy announced by the DOT on 14 October 2004 allows service providers to access mutually agreed commercial arrangements, so as to use the available copper-loop for the expansion of broadband services. The authorities expect that there will be 20 million subscribers to broadband services, along with 40 million internet subscribers, by 2010.

Tariff policies

Cellular services: In September 2002, the requirement for cellular service providers to obtain approval from the TRAI on tariff changes was removed.

Currently, the Telecom Regulatory Authority of India regulates tariffs for services where markets are not competitive (rural fixed line telephone calls, national roaming in mobile phone calls, and leased circuits).

Tariffs for all other telecom services have been liberalized. Increased competition as a result of deregulation, together with tariff rationalization measures, have resulted in significant tariff reductions: the peak national long distance tariff (above 1,000 km) fell from US\$0.67 per minute in 2000 to US\$0.02 per minute in 2006, the international long-distance tariff for the United States fell from US\$1.36 to US\$0.16 per minute, and the mobile phone tariff for local calls fell from US\$0.36 to US\$0.009-0.04 per minute.

4.2. People's Republic of China

Background

China counts six basic telecommunication service providers for both fixed and mobile services:
For fixed line:

- ⇒ China Telecom control 60% of the market;
- ⇒ China Netcom (formed by a merger between subsidiaries of China Telecom, China Netcom Co. Ltd, and Jitong, a company created by the Ministry of Electronics) currently 35% of the market, respectively, for fixed line services.

For mobile services:

- ⇒ China United Telecommunications Corporation (China Unicom);
- ⇒ China Mobile.

The State holds a majority of shares in six telecom service providers, although private-sector participation has increased in recent years.

There are differing degrees of foreign investment in the four companies that have listed on foreign stock exchanges.

The authorities state that the structure may change further in order to establish a "fair and just, effective and orderly market environment", although there are no specific plans at present.

As regards licensing and market opening, initially, limited competition was introduced and licences were granted only for the services to be provided:

- ⇒ China Telecom was to provide fixed line services, (+Railcom to provide fixed line telecommunications services);
- ⇒ China Mobile Communications (China Mobile) to provide mobile services;
- ⇒ China Satellite (ChinaSat) to provide satellite services, and
- ⇒ Unicom to provide mobile and paging services.

Today, there is at least a duopoly in each line of service.

Institutional and Legal Framework

Regulation of the Telecommunication sector: the telecommunication sector regulator is the Ministry of Information Industry (MII) it performs the following functions:

- ⇒ Formulation and implementation of telecommunications policy (important strategy and policy documents shall be approved by the State Council);
- ⇒ Formulation of tariff policies for communications and information services;
- ⇒ Setting up of "tariff standards" for basic postal and telecommunications services;
- ⇒ Supervision of tariffs' implementation.

The MII determines "price standards" for telecommunications in consultation with the NDRC. The National Development and Reform Council (NDRC) also plays a role in the decision-making and implementation process.

Legal Framework: China has no telecommunications law but a regulation: the 25 September 2000 "Regulations on Telecommunication" (State Council Directive 291) it set up the following:

- ⇒ Separation of government from the business of providing telecommunications services;
- ⇒ Requirements for a licence for basic telecommunications and value-added services;
- ⇒ Process of negotiating interconnection between networks for new service providers;
- ⇒ Management of service tariffs;
- ⇒ Definition of service quality.

A new telecommunication law is under preparation. Other legal texts connected to Telecommunications: the "Regulations for the Administration of Foreign Invested Telecom Enterprises" and the "Administrative Measures for Telecommunications Business Operating Permits".

China has committed itself to implementing the Telecoms Reference Paper, including establishing an independent regulator.

According to statements by China in the Council for Trade in Services, "China had separated the regulatory body from the operational business by establishing the MII in 1998". Moreover, "the MII could regulate in an impartial, fair and transparent manner and acted as an independent regulator".

Structural reforms implemented

The following table provides information as regards the steps followed in the frame of the reform deregulation of the Telecommunications Sector:

Date	Steps / Results
1993	Telecommunications Sector Reform Starts: deregulation of paging and some value-added services
1994	Creation of the company China Unicom which shares the monopoly of Telecommunication together with Ministry of Post and Telecommunications (MPT)
1995	<ol style="list-style-type: none"> 1. Directorate General of Telecommunications (DGT) is separated from MPT to create China Telecom. 2. Further Deregulation 3. Separation of postal and telecommunications services 4. Restructuring of telecommunication services <p>As a result of further deregulation and reform there are currently <u>six main nationwide basic telecommunications service providers</u> and over 17,000 value-added service providers.</p>
1998	Setting up of the Ministry of Information Industry (MII) as a merger of the Ministry of Post and Telecommunications (MPT) and the Ministry of Electronics Industries (MEI).
1995 - To date	<ol style="list-style-type: none"> 1. Rapid growth in the provision of telecommunication services. 2. Penetration rates of fixed line services increased from 14.7 telephone sets per 100 persons in 2001 to 24.9 per 100 in 2004 and for mobiles phones are 11.2 and 25.9. 3. Significant increase in the use of other services, such as the Internet. 4. Prices of telecommunications considerably reduced, although this is more caused by cuts in prices decided by the regulator than to price competition.

Foreign investment

Before China's accession to the WTO, foreign investment was not permitted in telecommunications services.

Currently, foreign investment in the sector is regulated by the "Provisions on Administration of Foreign Invested Telecommunications Enterprises" promulgated by Decree No. 333 of the State Council on 11 December 2001 and effective as of 1 January 2002.

The provisions brought foreign equity limits into conformity with China's GATS commitments: up to 49% for basic telecom services and up to 50% for value-added telecom services.

Interconnection

According to the "Regulations on Telecommunications", a dominant service provider cannot refuse an interconnection of any other service operators or of specific networks operators.

Interconnection are regulated under the "Regulations on Telecommunications", the "Regulations on the Interconnection between Public Telecommunication Networks" (Decree 9 of the Ministry of Information Industry), and other relevant regulations.

Accordingly, a dominant carrier is required to negotiate interconnection charges with new entrants and register the interconnection agreements with the MII¹⁷.

The interconnection charges are set according to standards stipulated in the "Measures on the Interconnection Charges between Public Telecommunication Networks". If the charges are not included in the Measures, service providers may negotiate and agree to a mutually acceptable charge and can apply for coordination by the MII or the relevant provincial telecommunications administration authorities if they are unable to agree. Indeed, the MII has determined interconnection charges in several cases when operators have been unable to reach agreement.

GATS commitments

China's GATS commitments relate to value-added, basic mobile voice and data services, and domestic and international services.

Market access through commercial presence: for value-added services, foreign service providers were permitted to establish joint ventures, with foreign equity restricted to 30%, and provide services in some cities (Shanghai, Guangzhou, and Beijing). Access was to be liberalized gradually: China committed itself to expand geographical coverage to 14 additional cities and to allow foreign equity up to 49% within one year of accession.

Today, China's commitments on domestic and international telecom services provide market access through commercial presence of foreigners through joint ventures of up to 25% of foreign equity within three years of China's accession.

Services would be limited at this time to and between the cities of Shanghai, Guangzhou, and Beijing. The authorities note that this has occurred according to schedule.

The geographic area of service provision would be expanded to include the 14 cities within five years of accession, and foreign investment limits be raised to 35%. Within six years after accession, the geographic restriction would be lifted, and foreign investment limits would be raised to 49%. As for the other services, cross-border supply seems to be subject to the same restrictions. For national treatment the limitations are the same as for value-added services.

4.3. Chinese Taipei

Background information

Revenue from telecommunications services totalled NT\$369 billion (3.6% of the GDP) in 2004.¹⁸

¹⁷ If no mutual agreement is reached within 60 days of one party expressing willingness to negotiate, either party can apply to the MII or the relevant provincial telecommunications authority for mediation. If agreement still cannot be reached within 45 days from either or both parties applying for mediation, the mediation authorities can solicit expert opinions and determine a compulsory interconnection scheme.

¹⁸ Of the total revenue, NT\$48.9 billion was generated by value-added services.

The main legal instrument governing telecommunications in Chinese Taipei is the Telecommunications Act.¹⁹

Regulation of the sector: the Ministry of Transportation and Communications (MOTC) is responsible for establishing policies pertaining to the sector and its Directorate General of Telecommunications (DGT) is responsible for regulating the sector.

According to the Telecommunications Act, there are two types of telecom operators:

- ⇒ Type I enterprises: Type I operations require franchising and licensing by the Ministry of Transportation and Communications (facilities-based operators);
- ⇒ Type II enterprises (non-facilities-based operators): Type II operations require a licence from the Directorate General of Telecommunications.

Institutional and Legal Framework

In November 2005, a law was promulgated establishing a new regulator. The new regulator was established on 22 February 2006.

The Directorate General of Telecommunications has been an independent regulatory authority for telecommunications since July 1996.

The establishment of the new regulator is aimed at combining existing regulatory authorities for telecommunications and broadcasting in response to recent technological developments.

Structural reforms implemented

Steps for reform and for deregulation of the Telecommunications Sector

Date	Steps / Results
1997	Liberalization of mobile communications services (specifically, radio paging, mobile phones, trunked radio, and mobile data communications)
1998	Opening of the satellite communications market
2000	The easing of licensing conditions and the start of issuing licenses for fixed network services: <ul style="list-style-type: none"> • Three operating licences were issued to private providers in 2000 and licences have begun to be issued for integrated network and leased-line services in 2004. • Changes in licensing conditions include: (a) reduction of the minimum paid-up capital for an integrated network provider and a reduction of the minimum domestic network capacity ports; and (b) relaxation of regulations over leased-line services. The Regulation Governing Fixed Network Telecommunications Businesses, amended on 20 September 2005, introduced new licensing rules for the local, long-distance and overseas network markets
2000	Liberalization of domestic leased circuit service Introduction of submarine cable leased-circuit service
2001	Issuance of licences for 3G mobile telecommunications services and adoption of the universal telecommunications service
2002	Relaxation of total direct shareholding for Type I enterprises from 20% to 49%

¹⁹ Numerous amendments were made to the Act in 1977, 1996, 1998, 1999, 2002, 2003, and 2005 (the latest amendment was on 2 February 2005).

	Elimination of a restriction on non-Chinese Taipei persons to be on the board of directors
2005	Privatisation of the state-owned dominant carrier (Chunghwa Telecom) was privatized. ²⁰ Chunghwa Telecom's market share in terms of revenues is 56.4% for overseas services and about 78.8% for domestic long-distance services (December 2005). The average tariff rate for overseas calls declined from NT\$29.9 per minute in 1997 to NT\$5.8 per minute in 2005. By contrast, Chunghwa Telecom's share in total revenues from local network services is about 98% (2005). ²¹ Consequently, competition in the local call and domestic leased circuit appears sluggish; The average tariff rate for local calls (peak period) declined slightly from NT\$0.34 per minute in 1997 to NT\$0.32 per minute in 2005. To address this issue, the Administrative Regulation Governing Tariffs of Type I Telecommunications Enterprises was amended on 11 January 2006. Under the Regulation, a dominant Type I telecommunications enterprise must set a wholesale price for telecom services provided for other telecom enterprises.
1998/2005	1998: The first 2G (second generation) private operators entered in the mobile communication services market. 2005: six 2G and five 3G (third generation) mobile service providers have been licensed. Number portability was enabled for mobile services

Foreign investment

- ⇒ Non-Chinese Taipei direct ownership of a Type-I enterprise may not exceed 49% of the total shares and
- ⇒ The sum of non-Chinese Taipei direct²² and indirect shareholding may not exceed 60%.
- ⇒ There are ownership restrictions on Type-II enterprises.

Tariffs policies

- ⇒ Services provided by Type I enterprises (facilities-based operators), are subject to price-cap regulations by the Directorate General of Telecommunications;
- ⇒ Tariffs determined by Type II enterprises must be notified to the Directorate General of Telecommunications.

²⁰ Currently, the government's share in the Chunghwa Telecom is 41.42%.

²¹ The Chunghwa Telecom's share in terms of traffic hours was 29.4%, 83.2% and 57.0% for mobile, long-distance, and overseas services, respectively, in December 2005. Its market share in terms of subscribers was 36.8% for mobile, 97.4% for long-distance and 67.8% for broadband services, in December 2005.

²² Direct ownership refers to equity held directly by non-Chinese Taipei persons. Indirect ownership refers to equity held by non-Chinese Taipei persons through a Chinese Taipei company.

PART 2. POSTAL SECTOR

Introduction

Today's postal and courier services are dominated by three key points: the principles of Universal Service Obligation (i), Competition law and Competitive environment (ii), Trade Law – WTO – MFN; National Treatment (iii)

The Universal Service Obligation supposes that all users/customers enjoy the right to a universal postal service involving the permanent provision of quality basic postal services at all points in their territory at affordable prices. At a national level, countries shall define in their legislation, the scope of Universal Service Obligation.

These shall simultaneously take into consideration the need to ensure:

- Quality of service;
- Affordable prices;
- The fulfilment of the needs of the population.

Competition law and Competitive environment: the liberalisation of postal services requires that such services are performed under competitive conditions. The basic principle for this liberalisation lies in reduction of barriers to competition. Such introduction of competition shall bring among others:

- More efficiency in the delivery of postal services;
- Innovation and introduction of new products;
- Better quality of service;
- More choices and better customer service.

Trade Law - WTO - MFN- National Treatment: Within the framework of the World Trade Organization, postal services provisions are set out in the General Agreement on Trade in Services (GATS)²³. Provisions regarding the Most Favoured Nation (MFN) and National Treatment apply to postal services as well. This means that:

- WTO Members shall not discriminate with others WTO Members as regards customs duties and charges of any kind imposed on imports or exports and treat other WTO trading partners in an equal manner (except exemptions set out in Article I (2) of the GATT) (*Principle of most-favoured nation treatment*);
- No WTO Member shall apply internal taxes or other internal charges to imported products more than those applied to national products (*Principle of national treatment*).

²³ Please refer to the report drafted by Paolo Vergano and Dietrich Barth which provides a concise definition GATS: “*The GATS applies to all measures affecting trade in services. The Agreement defines a service by the ways and means of supplying the service. The GATS covers the following four modes of supply: cross-border trade; consumption abroad; commercial presence and presence of natural persons. The WTO Members decide themselves in the GATS negotiations which services sectors and modes of supply they want to open up for trade in terms of market access and national treatment. When a WTO Member liberalises a services sector in the WTO, it undertakes a specific commitment to that effect. The GATS consists of general rules applying to all WTO Members and of rules which govern the specific commitments*”. Cf. Review of WTO rules, principles and practices relevant to the Vietnamese process of domestic legislative drafting. Dietrich Barth and Paolo Vergano.

In the frame of the cooperation between Ministry of Posts and Telematics (hereafter “the MPT”) and MUTRAP, this report shall provide the MPT guidance to improve the quality of Postal legislation consistently with WTO rules and principles, as well as with other international and regional agreements. It shall provide analysis so as to facilitate the implementation of the Legislative Action Plan for postal law from MUTRAP. Accordingly, this report will provide analysis and the following outputs:

- ⇒ A synthesis and analysis of the scope of pro-competitive postal laws, key pro-competitive law components and their underlying policy objectives/rationales, postal operations and business aspects in postal laws, and recommendations for Postal law of Viet Nam;
- ⇒ A Collection of international experiences in postal field regarding to regulatory body and policy-making authority;
- ⇒ A collection and provision of relevant experiences of newly acceded WTO members and of fully opened postal/courier market in improving their legislative systems concerning postal sector.

As such the report will be divided in three sections:

- ⇒ Review of Vietnam’s Commitments in the postal sector under the WTO Agreement;
- ⇒ Review of international best practice as regards the implementation of a Postal Law;
- ⇒ Case Study on new WTO members and/or most advanced countries in the field of Telecommunication sector.

1. Review of Vietnam’s Commitments in the postal sector under the WTO Agreement

1.1. Background of Vietnamese situation in the Postal sector

The Ministry of Posts and Telematics of the Socialist Republic of Viet Nam is the state administration in charge of policy-making and regulatory matters in posts²⁴. As well, the MPT controls, on the behalf of Government, the state enterprise for posts/couriers services.

The Vietnamese postal and courier market is regulated by the Ordinance of Posts and Telecommunications dated May 25th 2002. However, the recent Vietnam’s accession to WTO requires that Vietnam’s legal framework meets the goals of the setting up of an effective postal market.

Additionally, the postal and courier market is now opened to competition and the postal/courier market is shared by the publicly owned national postal operator (Vietnam Post) and private couriers. The Postal Law is needed for transparent purposes and effective development of the postal market.

²⁴ This section contains information provided by MUTRAP Vietnamese experts from the following report: ANNEX TO HOR-1 TERM OF REFERENCE, TECHNICAL ASSISTANCE OF MUTRAP IN DRAFTING POSTAL/COURIER LAW, February 2007

1.2. Vietnam's commitments in the frame of its WTO accession

The definition of Postal and courier, express mail services set forth by the WTO includes the following services:

- Postal services related to letters consisting of pick-up, transport and delivery services of letters, newspapers, journals, periodicals, brochures, leaflets and similar printed matter whether for domestic or foreign destinations.
- Postal services related to parcels consisting of pick-up, transport and delivery of parcels and packages whether for domestic or foreign destinations;
- Post office counter services rendered at counters (sales of stamps etc) and ;
- Some other postal services such as mailbox rental, etc.

The WTO provisions which apply to courier services are the following:

⇒ GATS

Within the framework of the World Trade Organization, postal services provisions are set out in the General Agreement on Trade in Services (GATS)²⁵. More particularly and in order to check whether Vietnam legal framework on courier services complies with WTO commitments, courier legal framework needs to be analysed under the perspective of Article XVI – Market Access and XVII – National Treatment of the GATS.

⇒ GATT

Provisions regarding the Most Favoured Nation (MFN) and National Treatment apply to postal services as well. This means that:

- Vietnam shall not discriminate with others WTO Members as regards customs duties and charges of any kind imposed on imports or exports. Moreover, Vietnam committed to treat other WTO trading partners in an equal manner (except exemptions set out in Article I (2) of the GATT) (*Principle of most-favoured nation treatment*);
- Vietnam shall not apply internal taxes or other internal charges to foreign (imported) products more than those applied to Vietnamese (national) products (*Principle of national treatment*).

In the frame of its accession, and in the field of Communication services, Vietnam undertook three sets of commitments:

²⁵ Please refer to the report drafted by Paolo Vergano and Dietrich Barth which provides a concise definition GATS: “The GATS applies to all measures affecting trade in services. The Agreement defines a service by the ways and means of supplying the service. The GATS covers the following four modes of supply: cross-border trade; consumption abroad; commercial presence and presence of natural persons. The WTO Members decide themselves in the GATS negotiations which services sectors and modes of supply they want to open up for trade in terms of market access and national treatment. When a WTO Member liberalises a services sector in the WTO, it undertakes a specific commitment to that effect. The GATS consists of general rules applying to all WTO Members and of rules which govern the specific commitments”. Cf. Review of WTO rules, principles and practices relevant to the Vietnamese process of domestic legislative drafting. Dietrich Barth and Paolo Vergano.

- ⇒ On audiovisual Services, including motion picture production, distribution and projection service, and sound recording services);
- ⇒ On telecommunication services, including basic and value-added telecommunication services; and
- ⇒ On courier services, including express delivery services and handling services of non-addressed items

More specifically, in the area of courier services, Vietnam undertook the following commitments²⁶:

- ⇒ Express Delivery: Vietnam committed to allow express delivery services providers of WTO Members to operate as majority shareholders (limited to 51%) in joint ventures upon its WTO accession, and as 100% foreign owned enterprises after five years.
- ⇒ Business/commercial presence: A horizontal entry for Mode 3 in the Schedule also allows business cooperation contracts and representative offices as other ways of establishing commercial presence.
- ⇒ Delivery of Documents, parcels, etc: Vietnam committed to not apply restrictions on delivery of documents, parcels, packages, goods and other items, through all relevant modes of supply. As well, Vietnam committed that foreign express delivery operators will receive equal treatment as that provided to the Vietnam Post Office.

Vietnam's legal regime for trade in courier services

The main legal provisions on the courier sector lies in the Ordinance on Posts and Telecommunications which has been enacted in October 2002²⁷. It governs the regulatory, operational and business activities in posts, telecommunications and radio frequency management.

Additionally, such Ordinance set up the legal framework for market liberalization and a level playing field for competitors. Numbers of application texts and/other legal texts have been adopted in complement to the Ordinance on Posts and Telecommunications²⁸.

However, the purpose of this report shall not be to analyse the all legal text in the courier sector: only those who are compliant with the provisions and general principles of WTO Agreements and trade-related measures shall be taken into consideration.

Among the 32 legal texts in force in the courier sector in Vietnam which have been transmitted and summarised²⁹, the following list of laws and regulations, are referred to for the purpose of this report.

²⁶ Cf. WORLD TRADE ORGANIZATION RESTRICTED WT/ACC/VNM/48/Add.2 27 October 2006, (06-5203), Working Party on the Accession of Viet Nam

²⁷ Please note that this section has been drafted according to the information of the SERV-1 Report “*Implication assessment of Vietnam’s GATS obligations and commitments*”- Report Activity Phase I, 8. February 2007.

²⁸ Please see in Annex 1 of this Report the list of legal texts in force in the field of courier sector in Vietnam.

²⁹ Cf. Annex 1

- ⇒ Ordinance 43/2002-PL-UBTVQH10 on Posts and Telecommunications;
- ⇒ Decree No. 157/2004-ND-CP of the Government dated 18 August 2004 Making Detailed Provisions for Implementation of a Number of Articles of the Ordinance on Posts and Telecommunications
- ⇒ Decree No. 157/2004-ND-CP
- ⇒ Decision of the Prime Minister No.217/2003/QD-TTg on the management of post and telecommunication service charges

As well, for all communication services, foreign investment is regulated by the Law on Investment (2005).

Under Decree 157-2004-ND-CP of the Government dated 18 August 2004, Viet Nam Post retains its monopoly over the public post network, while other enterprises are allowed to engage in domestic and international post delivery.

Consistency of Vietnamese laws, regulations and measures with the GATS:

In the field of express delivery, Vietnam is not compliant with WTO commitments and lacks a legal framework on licensing. Vietnam specifically confirmed in the Working Party Report, that it would adopt licensing requirements for express delivery services in compliance with the WTO Agreement and its accession commitments.

Indeed, the Vietnamese Government explained that the country did not have a legal basis under Vietnamese law to issue a decree on express delivery licensing and that Viet Nam's Protocol of Accession was needed in order to adopt legislative texts on express delivery.

The Vietnamese Government committed to issue such a decree promptly upon ratification of Viet Nam's Protocol of Accession, and in any event, within three months of ratification.

In the meantime, licensing of express delivery services would proceed in a manner consistent with the commitments set out in paragraph 507 of the Working Party.

Proposed further legislative steps to be taken in order to ensure Vietnam's compliance with WTO commitments

In order to comply with its obligations and commitments, we recommend that the Vietnamese Government to adopt as soon as possible legislation on licensing system for express delivery services fully compatible with GATS provisions.

2. Review of international best practice as regards the implementation of a Postal Law

This Part will focus on international experience in order to provide the Vietnamese authorities:

- ⇒ A synthesis and analysis of the scope of pro-competitive postal laws. This comprises information as regards key pro-competitive law components and their underlying policy objectives/rationales.
- ⇒ Collection of international experiences in postal field regarding to regulatory body and policy-making authority (structure, powers, financing, etc.).

It is worth mentioning that these two items go beyond of Vietnam's commitments in the frame of its WTO accession. Vietnam did not commit further in the Protocol of Accession than what has been described in Part 1. However, since the scope of this report is to provide our Vietnamese counterparts advice in the frame of the drafting of a new postal law, it may be interesting to focus on selected international experience or challenges which - sooner or later - Vietnam will have to face.

2.1. Focus on the European Union's Policy on Postal services

The example of the European Union presents some interests since it has been declared one of the most advanced in the courier/postal field by the Universal Postal Union.

The following section will summarise the main items which are comprised in the EU Directive No.97/67/EC, hereafter the "Postal Directive"³⁰. However, it worth mentioning that, according to EU law, the Postal directive has been implemented by each EU member State at a national level. That means that specific laws have been drafted and adopted at a national level in order to implement or 'transcript' into national legislation the rules and principles governing EU postal sector³¹.

2.2. Objectives of the European Union Postal Policy Framework

In the postal sector, the purpose of the EU policy is to complete the internal market for postal services and to "*ensure that efficient, reliable and good-quality postal services are available throughout the European Union to all its citizens at affordable prices*". This means that within the borders of the EU, each citizen, company or institution shall enjoy the same quality of postal services at a reasonable price. Accordingly, Member States shall setup an appropriate regulatory framework in the postal sector.

To achieve this goal, specific objectives for action have been identified at the EU level:

Need to define universal postal service: this implies, at an EU level and for all EU Member States, to define the right of access to postal services for users including a minimum range of services of specified quality. Each Member State shall provide such services at affordable prices for all users, irrespective of their geographical location.

Need to set a common maximum limit of the extent of the postal reserved areas which each Member State may grant to its provider(s) of the universal service: this measure shall ensure the economic and financial viability of the provision of the universal service.

Need to a gradual and controlled market opening to competition at the EU level: at the same time, Member States shall be given sufficient means to ensure that the provision of universal service is guaranteed on a lasting basis.

³⁰ Cf. Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service.

³¹ Please note that this section only considers EU postal items which can be relevant for Vietnam in the frame of implementation of a competitive postal sector reform. Therefore, provisions on EU cross-border mail, intra-community issues have not been considered.

- Need to improve the quality of postal services by setting at the EU level common quality of service standards: accordingly, standards for national mail are set and made available to public;
- Need of related- costs tariffs and of a transparent approach of financing of the universal service compatible with EU law;
- Need to harmonise technical standards, taking users' interests into account;
- Outside of the reserve sector, need to ensure that non-reserved sector activities are subject to fair conditions of competition.

Such principles have been implemented in EU legislative framework through at the 1997 Postal Directive which established a complete regulatory framework for European postal services.

2.3. The main provisions of the Directive 97/67/EC the Postal Directive

This Directive establishes the following common rules among EU Members:

- ⇒ The provision of a universal postal service within the territory of the EU;
- ⇒ The criteria defining the services which may be reserved for universal service providers and the conditions governing the provision of non-reserved services;
- ⇒ Tariff principles and transparency of accounts for universal service provision;
- ⇒ The setting of quality standards for universal service provision and the setting-up of a system to ensure compliance with those standards;
- ⇒ The harmonisation of technical standards;
- ⇒ The creation of independent national regulatory authorities.

Please refer to Annex 2 for the table summarising the main items developed in the 1997 postal directive.

2.4. Further steps and Amendments to the 1997 Postal Directive: the Directive 2002/39/EC

In the view of gradual opening of Postal markets, the European Parliament and the Council adopted on 10 June 2002, the Postal Directive 2002/39/EC. This Directive which amends the 1997 Postal Directive by defining further steps in the process of Gradual and controlled market opening, and Further limitation of the reserved services. Additionally, the European Commission has put forward a proposal to open EU postal markets fully to competition by 2009³².

³² The proposal has been submitted to European Parliament and Council for adoption in accordance with the co-decision procedure (Article 251 EC) and transmitted to the European Economic and Social Committee and the Committee of the Regions for their opinion.

PART III: COMMENTARIES ON AD HOC SPECIFIC REQUESTS POSTAL/COURIERS AND TELECOMMUNICATIONS LAW

1. Overview of the Telecommunication Sector

Preliminary remarks:

The Vietnamese beneficiary requested the EU expert to provide for the second assignment to be held from November 26 until December 7 the following information:

- EU experts are providing analytical information about the scope of telecommunications law and its regulations objective to promote competition in the field of telecommunications;
- Analytical advice for structural body of Vietnamese Telecommunications Law.
- Collection and provision of relevant experiences of newly acceded WTO Members (i.e., China, Taiwan, etc.) in improving their legislative systems concerning telecommunications sector.
- Collection of experiences of structural body, operational and financial conditions of the Regulator and Policy maker.

1. Analytical information about the scope of telecommunications law and its regulations objective in order to promote competition in the telecommunications sector.

The following section will detail the key Principles guiding the setting up of a competitive and liberalized telecommunication sector.

1.1. Open markets

The telecoms sector is still largely dominated by operators which are former monopolies. As regards markets recently opened to competition, they inevitably dominate the telecommunications sector, and the regulators need to ensure that they do not use their position unfairly to squeeze out new competitors³³.

However, in recent years, many new entrants have demonstrated that they can compete strongly raising standards in the sector to the benefit of consumers.

The introduction of general authorisations for all types of electronic communication has greatly enhanced the ability of new and existing service providers to enter the European communications market. It has removed the bureaucratic bottleneck created by individual licensing, while establishing a series of rights and obligations for providers as well as rules on interoperability and rights of way.

1.2. Interconnection

All operators of public communications networks in the EU have both a right and an obligation to negotiate interconnection with each other in order to allow users of one network

³³ Please note that this section has been drafted with the support of EU information comprised in the following website: http://ec.europa.eu/information_society/policy/ecommm/current/index_en.htm

to communicate with users on other networks and allow them access to services provided on other networks.

In a newly liberalised market, terms and conditions for interconnection to the incumbent operator's network are critical for successful market opening.

1.3. Interoperability

Services provided over communications networks should be interoperable in order to ensure that consumer choice is not restricted because of incompatibilities between different technologies.

In order to promote the efficiency of communications networks and sustainable competition, and to ensure the maximum benefits for end-users, national regulatory authorities are required to encourage and, where appropriate, ensure adequate access and interconnection and interoperability of services.

1.4. Rights of way

Communication network providers need to dig up streets to lay cables, put up masts and antennae and install a range of different infrastructure so they can do business. In order to ensure a level playing field, it is essential that all providers receive equal treatment when applying for rights of way for such equipment.

Usually, the regulatory framework requires public authorities to consider without delay any requests by communications network providers for rights to install facilities on public (and, in the case of public networks, private) land or buildings.

All applications must be reviewed on the basis of transparent, non-discriminatory and publicly available procedures, although differentiated treatment for providers of public and non-public networks is permitted.

Where local authorities have control or ownership of a network or service provider, they are obliged to separate these activities structurally and effectively from their functions as authority responsible for assigning rights to install facilities. This is necessary to ensure the independence of the competent authority not only at national but also at local levels of government.

1.5. Co-location and facility sharing

Digging up roads to lay cables can inconvenience the public, while installing masts or antennae may distort the landscape.

Therefore, authorities may restrict rights to install facilities on grounds of environmental protection, public health or town and country planning.

If, as a result of these restrictions, providers are deprived of possibilities to roll out infrastructure, States may impose obligations on operators who already have facilities installed to share these facilities or the location.

2. Analytical advice for the drafting of Vietnamese Telecommunications Law

2.1. Basic items which to be included in a Telecommunication law

In order to provide rigorous advice for the drafting of the new Vietnamese Telecommunication law, the expert refers to the example of the European Framework Directive which is compliant with WTO, applied and implemented in 27 countries. This section will mainly focus on the structure of a telecommunication competitive regulation.

➤ Scope and aim of a telecommunication law

Establish a harmonised framework for the regulation of electronic communications services, electronic communications networks, associated facilities and associated services.

The Law shall lay down tasks of national regulatory authorities and establishes a set of procedures to ensure the harmonised application of the regulatory framework throughout the Country.

➤ National regulatory authorities

The law shall guarantee the independence of national regulatory authorities by ensuring that they are legally distinct from and functionally independent of all organisations providing electronic communications networks, equipment or services.

The State that retain ownership or control of undertakings providing electronic communications networks and/or services shall ensure effective structural separation of the regulatory function from activities associated with ownership or control.

The state shall ensure that national regulatory authorities exercise their powers impartially and transparently.

The State shall publish the tasks to be undertaken by national regulatory authorities in an easily accessible form, in particular where those tasks are assigned to more than one body.

It shall ensure, where appropriate, consultation and cooperation between those authorities, and between those authorities entrusted with the implementation of competition law and national authorities entrusted with the implementation of consumer law, on matters of common interest.

Where more than one authority has competence to address such matters, the State shall ensure that the respective tasks of each authority are published in an easily accessible form.

National regulatory authorities and national competition authorities shall provide each other with the information necessary for the application of the provisions of the Telecommunication Law.

In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as the originating authority.

➤ **Right of appeal**

Effective mechanisms shall exist under which any user or operator providing electronic communications networks and/or services who is affected by a decision of a national regulatory authority has the right of appeal against the decision to an appeal body that is independent of the parties involved.

This body, which may be a court, shall have the appropriate expertise available to it to enable it to carry out its functions.

The Law shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism.

Pending the outcome of any such appeal, the decision of the national regulatory authority shall stand, unless the appeal body decides otherwise.

Where the appeal body is not judicial in character, written reasons for its decision shall always be given. In such a case, its decision shall be subject to review by a court or tribunal.

➤ **Provision of information**

The Law shall ensure that operators providing electronic communications networks and services provide all the information, including financial information, necessary for national regulatory authorities to ensure conformity with the provisions of, or decisions made in accordance with, this Directive and the Specific Directives.

These operators shall provide such information promptly on request and to the timescales and level of detail required by the national regulatory authority.

The information requested by the national regulatory authority shall be proportionate to the performance of that task. The national regulatory authority shall give the reasons justifying its request for information.

➤ **Consultation and transparency mechanism**

The Law shall ensure that where national regulatory authorities intend to take measures which have a significant impact on the relevant market, they give interested parties the opportunity to comment on the draft measure within a reasonable period.

National regulatory authorities shall publish their national consultation procedures. Member States shall ensure the establishment of a single information point through which all current consultations can be accessed.

The results of the consultation procedure shall be made publicly available by the national regulatory authority, except in the case of confidential information in accordance with Community and national law on business confidentiality.

TASKS OF NATIONAL REGULATORY AUTHORITIES:

➤ **Policy objectives and regulatory principles**

The Law shall ensure that in carrying out the regulatory tasks the national regulatory authorities take all reasonable measures which are aimed at achieving the objectives. Such measures shall be proportionate to those objectives.

The Law shall ensure that in carrying out the regulatory tasks in particular those designed to ensure effective competition, national regulatory authorities take the utmost account of the desirability of making regulations technologically neutral.

National regulatory authorities may contribute within their competencies to ensuring the implementation of policies aimed at the promotion of cultural and linguistic diversity, as well as media pluralism.

The national regulatory authorities shall promote competition in the provision of electronic communications networks, electronic communications services and associated facilities and services by inter alia:

- (a) Ensuring that users, including disabled users, derive maximum benefit in terms of choice, price, and quality;
- (b) Ensuring that there is no distortion or restriction of competition in the electronic communications sector;
- (c) Encouraging efficient investment in infrastructure, and promoting innovation; and
- (d) Encouraging efficient use and ensuring the effective management of radio frequencies and numbering resources.

The national regulatory authorities shall contribute to the development of the internal market by inter alia:

- (a) Removing remaining obstacles to the provision of electronic communications networks, associated facilities and services and electronic communications services at European level;
- (b) Ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services;
- (c) Cooperating with each other and with the Commission in a transparent manner to ensure the development of consistent regulatory practice and the consistent application of this Directive and the Specific Directives.

The national regulatory authorities shall promote the interests of the citizens by inter alia:

- (a) Ensuring all citizens have access to a universal service;
- (b) Ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved;
- (c) Contributing to ensuring a high level of protection of personal data and privacy;
- (d) Promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services;

- (e) Addressing the needs of specific social groups, in particular disabled users; and
- (f) Ensuring that the integrity and security of public communications networks are maintained.

➤ **Management of radio frequencies for electronic communications services**

The Law shall ensure the effective management of radio frequencies for electronic communication services in their territory.

It shall ensure that the allocation and assignment of such radio frequencies by national regulatory authorities are based on objective, transparent, non-discriminatory and proportionate criteria.

The Law shall promote the harmonisation of use of radio frequencies across the country.

The Law may make provision for undertakings to transfer rights to use radio frequencies with other operators.

The Law shall ensure that an operator's intention to transfer rights to use radio frequencies is notified to the national regulatory authority responsible for spectrum assignment and that any transfer takes place in accordance with procedures laid down by the national regulatory authority and is made public.

National regulatory authorities shall ensure that competition is not distorted as a result of any such transaction.

➤ **Numbering, naming and addressing**

The Law shall ensure that national regulatory authorities control the assignment of all national numbering resources and the management of the national numbering plans.

The Law shall ensure that adequate numbers and numbering ranges are provided for all publicly available electronic communications services. National regulatory authorities shall establish objective, transparent and non-discriminatory assigning procedures for national numbering resources.

National regulatory authorities shall ensure that numbering plans and procedures are applied in a manner that gives equal treatment to all providers of publicly available electronic communications services.

In particular, the Law shall ensure that an undertaking allocated a range of numbers does not discriminate against other providers of electronic communications services as regards the number sequences used to give access to their services.

The Law shall ensure that the national numbering plans, and all subsequent additions or amendments thereto, are published, subject only to limitations imposed on the grounds of national security.

Where this is appropriate in order to ensure full global interoperability of services, the law shall coordinate their positions in international organisations and forums in which decisions are taken on issues relating to the numbering, naming and addressing of electronic communications networks and services.

➤ **Rights of way**

The law shall ensure that when a competent authority considers:

- An application for the granting of rights to install facilities on, over or under public or private property to an undertaking authorised to provide public communications networks, or
- An application for the granting of rights to install facilities on, over or under public property to an undertaking authorised to provide electronic communications networks other than to the public,

The competent authority:

- Acts on the basis of transparent and publicly available procedures, applied without discrimination and without delay, and
- Follows the principles of transparency and non-discrimination in attaching conditions to any such rights.

The abovementioned procedures can differ depending on whether the applicant is providing public communications networks or not.

The Law shall ensure that where public or local authorities retain ownership or control of operators operating electronic communications networks and/or services, there is effective structural separation of the function responsible for granting the rights from activities associated with ownership or control.

The Law shall ensure that effective mechanisms exist to allow undertakings to appeal against decisions on the granting of rights to install facilities to a body that is independent of the parties involved.

➤ **Co-location and facility sharing**

Where an operator providing electronic communications networks has the right under national legislation to install facilities on, over or under public or private property, or may take advantage of a procedure for the expropriation or use of property, national regulatory authorities shall encourage the sharing of such facilities or property.

In particular where operators are deprived of access to viable alternatives because of the need to protect the environment, public health, public security or to meet town and country planning objectives, the Law may impose the sharing of facilities or property (including physical co-location) on an operator operating an electronic communications network or take measures to facilitate the coordination of public works only after an appropriate period of public consultation during which all interested parties must be given an opportunity to express their views.

Such sharing or coordination arrangements may include rules for apportioning the costs of facility or property sharing.

➤ **Accounting separation and financial reports**

The Law shall require undertakings providing public communications networks or publicly available electronic communications services which have special or exclusive rights for the provision of services in other sectors

(a) Keep separate accounts for the activities associated with the provision of electronic communications networks or services, to the extent that would be required if these activities were carried out by legally independent companies, so as to identify all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to their activities associated with the provision of electronic communications networks or services including an itemised breakdown of fixed asset and structural costs, or

(b) Have structural separation for the activities associated with the provision of electronic communications networks or services.

The Law may choose not to apply the requirements referred to in the first subparagraph to operators the annual turnover of which in activities associated with electronic communications networks or services is less than a specific threshold (for example, in the EU this threshold is of EUR 50 million).

➤ **Operators with significant market power**

An operator shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.

In particular, national regulatory authorities shall, when assessing whether two or more operators are in a joint dominant position in a market, act in accordance with the law and take into the utmost account the guidelines on market analysis and the assessment of significant market power published by the Ministry of Telematics or another Competition Authority.

Where an operator has significant market power on a specific market, it may also be deemed to have significant market power on a closely related market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the operator.

➤ **Standardisation**

The Ministry shall draw up and publish a list of standards and/or specifications to serve as a basis for encouraging the harmonised provision of electronic communications networks, electronic communications services and associated facilities and services.

The Law shall encourage the use of the standards and/or specifications for the provision of services, technical interfaces and/or network functions, to the extent strictly necessary to ensure interoperability of services and to improve freedom of choice for users.

As long as standards and/or specifications have not been published, the Law shall encourage the implementation of standards and/or specifications adopted by adopted by the International Telecommunication Union (ITU), the International Organisation for Standardisation (ISO) or the International Electro technical Commission (IEC).

➤ **Dispute resolution between undertakings**

In the event of a dispute arising in connection with obligations arising between operators providing electronic communications networks or services, the national regulatory authority concerned shall, at the request of either party, issue a binding decision to resolve the dispute in the shortest possible time frame and in any case within four months except in exceptional circumstances.

The Law may make provision for national regulatory authorities to decline to resolve a dispute through a binding decision where other mechanisms, including mediation, exist and would better contribute to resolution of the dispute in a timely manner.

The national regulatory authority shall inform the parties without delay. If after a short period of time (for example 4 months as in the EU) the dispute is not resolved, and if the dispute has not been brought before the courts by the party seeking redress, the national regulatory authority shall issue, at the request of either party, a binding decision to resolve the dispute in the shortest possible time frame and in any case within four months.

The decision of the national regulatory authority shall be made available to the public, having regard to the requirements of business confidentiality. The parties concerned shall be given a full statement of the reasons on which it is based.

2.2. Current trends for a new reform of Telecommunications Laws and Regulations: the European Example

The current rules which govern the telecoms sector in the EU were agreed in 2002³⁴.

In this fast-developing sector, the regulatory framework now needs to be revised, to ensure it continues to serve the best interests of consumers and industry in today's marketplace. The EU Commission's review proposals, adopted in November 2007, will bring the EU's rules up to date.

Telecoms are more than ever central to our lives and work. Economic and social activities alike have come to rely on telecoms services and infrastructure.

The sector is changing rapidly, however. Major developments since the 2002 regulatory framework was agreed include the growth in voice-over-internet (VOIP) telephony and the uptake of television services through broadband lines³⁵.

➤ **Further steps**

³⁴ For more information please refer to the following website:
http://ec.europa.eu/information_society/policy/ecomm/tomorrow/index_en.htm

³⁵ In economic terms, the telecoms sector is one of Europe's most important, with annual turnover of around €290 billion, and around 4% of the jobs in the Union. More widely, the prices charged by the telecoms sector represent a direct cost of doing business in Europe. Liberalisation in the telecoms sector in the EU, launched in the mid 1980s, has brought significant benefits for consumers. The price of telecoms services have fallen, on average, by around 30% in the past decade. Moreover, the introduction of competition has raised standards of service all round, making former monopolies much more respondent to the needs of consumers.

Effective regulation is planned to be reinforced.

The reform will tackle some areas where the current rules have still not opened up the market to competition – notably where former incumbents continue to dominate.

The idea is to remove the requirements for *ex ante* regulation in major parts of the telecoms sector.

In these markets, *ex post* regulation will become the norm, i.e. operators will have to seek redress for any problems through application to the competition authority and/or through the courts.

In the future, regulatory action will focus on those sectors of the telecoms market where competition has so far been most restricted.

This will allow the achievements in improving services and reducing costs to consumers in those markets where regulation will become lighter to be reversed.

Regulators will still monitor those sectors, and take action. By focusing regulatory efforts and resources on the sectors where it is most needed, the EU Commission aims to win the greatest benefits for consumers, in the shortest possible time.

2.3. Recommendations and Guidelines

In order to implement telecommunication provisions, some basic recommendations can help to draft a new Law. A full set of European Recommendations is available at the following web link:

http://ec.europa.eu/information_society/policy/ecomm/library/recomm_guidelines/index_en.htm.

These recommendations mainly concern the following items:

- Recommendation on accounting separation and cost accounting systems under the regulatory framework for electronic communications;
- Recommendation on broadband electronic communications through power lines;
- Recommendation on the provision of leased lines in the European Union (Part 1 - Major supply conditions for wholesale leased lines);
- Recommendation on the processing of caller location information in electronic communications networks for the purpose of location-enhanced emergency call services;
- Recommendation on notifications, time limits and consultations;
- Recommendation on Relevant Markets;
- List of standards and/or specifications for electronic communications networks, services and associated facilities and services;
- Commission guidelines on market analysis and the assessment of significant market power;

- Interconnection Pricing. Commission Recommendation amending Rec 98/511/EC of 29 July 1998 on Interconnection in a liberalised telecommunications market - Part 1 : Interconnection Pricing;
- Leased Lines Interconnection Pricing.

3. Collection and provision of relevant experiences of newly acceded WTO Members (Case Study on new WTO members and/or most advanced countries in the field of Telecommunication sector)

Please note that such information have been drafted in Section V of the Global Report


“Report on Legislative Drafting in the Postal/Courier and Telecommunication Services Sector”, section 4. *“Case Study on new WTO members and/or most advanced countries in the field of Telecommunication sector”*.













Such section provides information as regards the strategy adopted by other WTO members in reforming their Telecommunications. Such section is intended to provide Vietnamese authorities guidance as regard possible steps to be undertaken in order to comply with WTO obligations by setting up a competitive and transparent telecommunications sector. For the purpose of this study, three countries have been taken into consideration: India, the People’s Popular Republic of China and Chinese Taipei.

4. Collection of experiences of structural body, operational and financial conditions of the Regulator and Policy market.



Such information can be found in section 1 “Analytical information about the scope of telecommunications law and its regulations objective in order to promote competition in the telecommunications sector”.

In case the Vietnamese counterparts would need very detailed information, the following table comprises web link to most of the European Union’s Member States laws on telecommunications:

		General Framework for a Telecommunications Law Authorisation Access Universal Service		ePrivacy	
		Status of notification	Infringement for non-transposition	Status of notification	Infringement for non-transposition
	Belgium <i>België/Belgique</i>	complete (more details)	To see the press releases IP/03/1356 IP/03/1750 IP/04/510	complete (more details)	To see the press releases IP/03/1663 IP/04/435

	Bulgaria <i>България</i>	complete (more details)	To see the press release IP/07/1530	complete (more details)	
	Czech Republic <i>Česká republika</i>	complete (more details)		complete (more details)	
	Denmark <i>Danmark</i>	complete (more details)		complete (more details)	
	Germany <i>Deutschland</i>	complete (more details)	To see the press releases IP/03/1356 IP/03/1750 IP/04/510	complete (more details)	To see the press releases IP/03/1663 IP/04/435
	Estonia <i>Eesti</i>	complete (more details)		complete (more details)	
	Ireland <i>Éire</i>	complete (more details)		complete (more details)	
	Greece <i>Ελλάδα</i>	complete (more details)	To see the press releases IP/03/1356 IP/03/1750 IP/04/510	complete (more details)	To see the press releases IP/03/1663 IP/04/435
	Spain <i>España</i>	complete (more details)	To see the press release IP/03/1356	complete (more details)	
	France	complete (more details)	To see the press releases IP/03/1356 IP/03/1750 IP/04/510	complete (more details)	To see the press releases IP/03/1663 IP/04/435
	Italy <i>Italia</i>	complete (more details)		complete (more details)	
	Cyprus <i>Κύπρος/Kıbrıs</i>	complete (more details)		complete (more details)	
	Latvia <i>Latvija</i>	complete (more details)		complete (more details)	

	Lithuania <i>Lietuva</i>	complete (more details)		complete (more details)	
	Luxembourg	complete (more details)	To see the press releases IP/03/1356 IP/03/1750 IP/04/510	complete (more details)	To see the press releases IP/03/1663 IP/04/435
	Hungary <i>Magyarország</i>	complete (more details)		complete (more details)	
	Malta	complete (more details)		complete (more details)	
	Netherlands <i>Nederland</i>	complete (more details)	To see the press releases IP/03/1356 IP/03/1750 IP/04/510	complete (more details)	To see the press releases IP/03/1663 IP/04/435
	Austria <i>Österreich</i>	complete (more details)		complete (more details)	
	Poland <i>Polska</i>	complete (more details)		complete (more details)	
	Portugal	complete (more details)	To see the press releases IP/03/1356 IP/03/1750	complete (more details)	To see the press releases IP/03/1663 IP/04/435
	Romania <i>România</i>	complete (more details)		complete (more details)	
	Slovenia <i>Slovenija</i>	complete (more details)		complete (more details)	
	Slovakia <i>Slovensko</i>	complete (more details)		complete (more details)	
	Finland <i>Suomi</i>	complete (more details)		complete (more details)	To see the press releases IP/03/1663 IP/04/435

	Sweden <i>Sverige</i>	complete (<u>more details</u>)		complete (<u>more details</u>)	To see the press release <u>IP/03/1663</u>
	United Kingdom	complete (<u>more details</u>)		complete (<u>more details</u>)	

2. Overview of the Postal Sector

Preliminary remarks:

The Vietnamese beneficiary requested the EU expert to provide for the second assignment to be held from November 26 until December 7 the following information:

- Provision of synthesis and analysis of the scope of pro-competitive postal laws, key pro-competitive law components and their underlying policy objectives/rationales, postal operations and business aspects in postal laws, and recommendations for Postal law of Viet Nam;
- Collection and provision of relevant experiences of newly acceded WTO Members (i.e., China, Taiwan, Saudi Arabia, etc.) and of fully opened postal/courier market (i.e., New Zealand, England, Netherlands, Sweden...) in improving their legislative systems concerning postal sector;
- Collection of international experiences in postal field regarding Regulator and Policy market authority (structure, powers, financing,...);
- Introduction of legal framework of industry country/developing country in postal and courier area (regulations on accession to domestic and international market, form of business presence, regulations on customs, governance of designated postal operator, supervision/inspection and harmonization mechanism of competition ...).

In order to provide the answers to such request, the following sections provide information and answers to such requests.

1. Provision of synthesis and analysis of the scope of pro-competitive postal law

The following section will provide details on the key pro-competitive law components and their underlying policy objectives/rationales, postal operations and business aspects in postal laws.

The postal services sector is of vital importance for commercial users and consumers alike and is considered as a service of general economic interest³⁶.

The postal markets are dynamic and quickly evolving in conjunction with the ever widening markets of communication, advertising and electronic commerce.

Within the aim to open the market for postal services and ensure a high quality universal

³⁶ Additional information is available on the following website:
http://ec.europa.eu/internal_market/post/index_en.htm

service, by opening up the sector to competition in a gradual and controlled way on the basis of the regulatory framework of the Postal Directive.

The improvement of the quality of service, in particular in terms of delivery performance and convenient access are fundamental aspects of this policy.

The following section provides information of the major trends and key principles for the setting up of a pro-competitive postal law. Such section shall help to provide later recommendations for the drafting of a new postal law in Vietnam.

*1.1. Challenges linked to the application of postal law and current regulatory developments*³⁷

In most of the industrial countries which have implemented a competitive postal law, substantial and measurable changes occurred such as:

- The improvement of the quality of postal services,
- The establishment of a harmonised minimum level of universal service and
- The introduction of a gradual and controlled opening of the postal market to competition.

For example, since the implementation of 1997 Postal Directive³⁸, quality among postal operators in Europe – measured in delivery time – continued at a high level and exceeded the EU's performance objectives for delivery of 85% of intra-EU mail within three days, and 97% within five days.

Another important element triggered by the implementation of an opened and pro-competitive postal market is the independence of National Regulatory Authorities (NRAs) from the operators.

However, a successfully implementation of more complex elements of a Postal Law such as licensing/authorisation schemes, price control and accounting, vary according to the quality of the Postal law and of its application texts (Decrees, Circulars, decisions, etc).

Indeed clear and detailed provisions of the Postal legal framework would avoid possible misinterpretation of the conditions which could constitute a barrier to market entry.

As for example, significant regulatory developments have also occurred in several Member States. These go beyond what is required by the EU regulatory framework. In particular on 1 January 2006 one Member State – the United Kingdom – fully opened up its postal market (joining the other two Member States that have de jure already fully opened their postal

³⁷ Cf. **REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT on the application of the Postal Directive (Directive 97/67/EC as amended by Directive 2002/39/EC)**

³⁸ Cf. Directive 97/67/EC of the European Parliament and the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service; See as well the Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services. Report from the Commission to the European Parliament and the Council on the Application of the Postal Directive (97/67/EC) - COM(2002) 632. Report from the Commission to the European Parliament and the Council on the Application of the Postal Directive (97/67/EC as amended by Directive 2002/39/EC) - COM(2005) 102 and SEC(2005) 388.

sector to competition: SE, FI). Equally Germany and the Netherlands have confirmed their plans to proceed faster than envisaged in the Postal Directive³⁹.

Taking these developments into account and combining them with previous ones, around 60% of the EU letter post will effectively be opened up to competition by the end of 2007. The complete abolition of a reserved area in some Member States, its significant reduction in some others and the firming up of plans in several others gives a strong impetus to those Member States still applying a reserved area to move rapidly in the same direction.

1.2. Benefits of the implementation of a postal market reform: the European example

The following section will provide information about the gain from postal market opening in terms of business and its consequences for the economy. Please note that such EU statement is directly linked to the liberalisation of EU's postal market since the enactment of the 1997 postal Directive.

Such section shall provide the Vietnamese counterparts an idea of the gains brought by the liberalisation of the postal sector.

Since the last decade, the postal market has continued to evolve towards a one way distribution market and away from the more traditional two way communications model.

As for EU, currently more than 87.5% of letter post items (EU wide) are sent by businesses and organisations rather than individuals and the business to consumer (B2C) segment of the letter post alone now accounts for 62% of total volume, up from 60.5% in 2004.

This trend is expected to continue as the growth rates of the connected products (unaddressed and addressed direct mail) are substantively higher than that of traditional letter mail.

However, it is worth underlying that such trend can go on only if the pace of postal reform is maintained.

Compared to other world economies, like the USA for example, there appears to be significant growth potential in the market (particularly in some of the EU-10 Member States).

However, only a modern and dynamic postal market will be able to release the full potential of the sector. This potential has also to be seen in the broader context of the wider communications market which contains many new products and services (home shopping, e-commerce, hybrid mail⁴⁰ and value added services).

The postal sector has undergone a remarkable transformation in the last decade. A number of European postal companies have risen to the challenge.

Growth oriented strategies and the prospect of gradual market opening have inter alia resulted in postal operators entering adjacent sectors. Indeed growth in terms of revenue as well as in terms of profit margins has increased⁴¹. Meaningful competition in the letter post market has yet to develop.

³⁹ Cf. REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT on the application of the Postal Directive (Directive 97/67/EC as amended by Directive 2002/39/EC)

⁴⁰ This involves the transmission of an electronic image of a document or its conversion in digital format and transmission to a distant point, where the image is printed out, enveloped and sent to the addressee. – COM(91) 476, p. 46.

⁴¹ According to the available information, the profit rates achieved in the letter post business have been significantly higher than the rates in the more competitive parcel and express segment. In the letter post segment

Objective analysis of market shares of competitors as well as subjective perception of key players both confirm that even in cases where the monopoly has been completely abolished or substantively reduced, real competition is only emerging.

Nevertheless, the mere prospect of market opening has created considerable momentum within the postal sector and is likely to further generate changes:

- There seems to be broad agreement that postal services do not constitute natural monopolies;
- Competition is not an end in itself, but a means to promote innovation, investment and consumer welfare.

The adoption and the implementation of the 1997 Postal Directive have had a major regulatory and market impact:

- The reduction of the reserved area to 50g (for letters) by 1 January 2006 has opened up an additional 7% of volume to competition.
- The planned and gradual process of full market opening and the outlook generated by the target date of 2009 for the achievement of full market opening has triggered a dynamic reform process, greater efficiency and the development of a far more customer-oriented market.
- In general, there is evidence that the positive effects of postal reform include more customer focused services.

Further steps

The scope of the following section is to give the Vietnamese counterparts a picture of the advantages of the implementation of a pro-competitive postal law

All the intermediate policy results of the Postal Directive have been achieved to date:

- Monopolies have been progressively reduced by either implementing the gradual market opening calendar enshrined in the Postal Directive (e.g. reduction of the reserved area to 50g on 1 January 2006) or by additionally opening important segments (such as direct mail) or fully opening the postal market (UK, Sweden, Finland);
- Competition has grown and in the most advanced Member States the market shares of the incumbents have been reduced to around 90% and the perceived degree of competition has generally grown between 2000 and 2005. But Still competition has not grown as much as hoped;

profit margins can vary between 10% and 20%, while in the parcel and express segment profit margins can be between 2.5% and 10%. This concerns particularly letter post, items of correspondence as well as – with some notable exceptions – direct mail. Between 2000 and 2005 there seems to have been no significant growth in competition in this segment of postal services and this must be seen as giving rise to some concern.

- Universal service providers have restructured and successfully adapted to the regulatory and market developments. This is underpinned by the generally positive trend as regards overall revenue and profitability growth;
- The quality of service has improved, consumer satisfaction is high and the universal service has been maintained.

European Main focus for further steps: High level of universal service and consumer needs:

- The present Postal EU framework is based on the principle of minimum harmonisation. It has already given Member States a number of possibilities to adapt universal service to the specific needs of the country in question.
- The reference period has given some examples where business oriented products – that are commercially appealing – no longer had to be considered as part of the universal service since the market fully ensures their provision.
- On the other hand, the need to fully assure universal service rights for consumers and small businesses is generally uncontested.
- Individual consumers (including SMEs) and citizens must enjoy the same quality of service – if not better – after full market opening. Their needs, including future ones, must be the guideline. This also requires that their rights, when it comes to treating their complaints, should be strengthened (e.g. by extending appeal procedures to all operators).
- Greater cooperation between National Regulatory Authorities could also enhance best practice. This might concern benchmarking and information exchange in relation to consumer complaints (i.e. by profiting from the practices of Member States that have more experience in dealing with complaints) or in relation to authorisation procedures and accounting.

2. Collection and provision of relevant experiences of newly acceded WTO Members and of fully opened postal/courier market in improving their legislative systems concerning postal sector.

This section will provide a comparative law approach for both newly acceded WTO Members and fully opened postal courier countries.

2.1. Relevant experience for fully opened postal courier

The following section provides the main principle which aim at ensuring:

- The setting up of a liberalised and pro-competitive postal market and
- A fully compatible WTO provisions telecommunication law.

Main provisions set out in the Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service.

➤ **Universal service**

Users are entitled to enjoy the right to a universal service involving:

- The permanent provision of a postal service of specified quality
- At all points in their territory
- At affordable prices for all users.

The MS shall take steps to ensure that the density of the points of contact and of the access points takes account of the needs of users.

Universal service provider(s) guarantee(s) every working day and not less than five days a week, a minimum:

- One clearance,
- One delivery to the home or premises of every natural or legal person or, by way of derogation, under conditions at the discretion of the national regulatory authority, one delivery to appropriate installations.

Exception exists and shall be accepted national regulatory authorities, as Universal service includes the following minimum facilities:

- The clearance, sorting, transport and distribution of postal items up to two kilograms,
- The clearance, sorting, transport and distribution of postal packages up to 10 kilograms,
- Services for registered items and insured items.

National regulatory authorities may increase the weight limit of universal service coverage for postal packages to any weight not exceeding 20 kilograms and may lay down special arrangements for the door-to-door delivery of such packages.

The minimum and maximum dimensions for the postal items in question shall be those laid down in the Convention and the Agreement concerning Postal Parcels adopted by the Universal Postal Union.

➤ **Requirements of Universal Service**

1. Universal service provision shall meet the following requirements:
2. it shall offer a service guaranteeing compliance with the essential requirements,
3. it shall offer an identical service to users under comparable conditions,
4. it shall be made available without any form of discrimination whatsoever, especially without discrimination arising from political, religious or ideological considerations,
5. it shall not be interrupted or stopped except in cases of force majeure,
6. it shall evolve in response to the technical, economic and social environment and to the needs of users.

However, provisions under universal service shall not present any obstacle to the need to preserve public morality, public security, including criminal investigations, and public policy.

Member States shall take steps to ensure that users are regularly given sufficiently detailed and up-to-date information by the universal service provider(s) regarding general conditions of access etc. as well as on prices and quality standard levels.

This information shall be published in an appropriate manner.

➤ **Reserved services**

Universal service covers:

- Clearance, sorting, transport and delivery of items of domestic correspondence,
- Whether by accelerated delivery or not,
- The price of which is less than five times the public tariff for an item of correspondence in the first weight step of the fastest standard category where such category exists, provided that they weigh less than 350 grams.

The way for gradual liberalization can be the review of the price and weight limits.

Document exchange may not be reserved.

➤ **Conditions governing the provision of non-reserved services and access to the network**

Non-reserved services which are outside the scope of the universal service can be granted general authorisations to the extent necessary in order to guarantee compliance with the essential requirements.

For non-reserved services which are within the scope of the universal service can be granted authorisation procedures, including individual licences, to the extent necessary in order to guarantee compliance with the essential requirements and to safeguard the universal service.

The granting of authorisations may:

1. where appropriate, be made subject to universal service obligations,
2. if necessary, impose requirements concerning the quality, availability and performance of the relevant services,
3. be made subject to the obligation not to infringe the exclusive or special rights granted to the universal service provider(s) for the reserved postal services.

Authorisation procedures shall be transparent, non-discriminatory, and proportionate and based on objective criteria.

Reasons for refusing an authorisation in whole or in part are communicated to the applicant and must establish an appeal procedure.

In order to ensure that the universal service is safeguarded, where an universal service obligation represent an unfair financial burden for the universal service provider, it may establish a compensation fund administered for this purpose by a body independent of the beneficiary or beneficiaries.

In this case, it may make the granting of authorisation subject to an obligation to make a financial contribution to that fund.

Principles of transparency, non-discrimination and proportionality are respected in establishing the compensation fund and when fixing the level of the financial contributions. Only the following services may be financed in this way:

Universal service provider(s) guarantee(s) every working day and not less than five days a week, a minimum:

- one clearance,
- one delivery to the home or premises of every natural or legal person or, by way of derogation, under conditions at the discretion of the national regulatory authority, one delivery to appropriate installations.

Universal service includes the following minimum facilities:

- the clearance, sorting, transport and distribution of postal items up to two kilograms,
- the clearance, sorting, transport and distribution of postal packages up to 10 kilograms,
- services for registered items and insured items.

➤ **Tariff principles and transparency of accounts**

Tariffs for each of the services forming part of the provision of the universal service comply with the following principles:

1. prices must be affordable and must be such that all users have access to the services provided,
2. prices must be geared to costs, a uniform tariff should be applied throughout their national territory,
3. the application of a uniform tariff does not exclude the right of the universal service provider(s) to conclude individual agreements on prices with customers,
4. tariffs must be transparent and non-discriminatory.

➤ **Accounting**

The universal service providers shall keep separate accounts within their internal accounting systems at least for each of the services within the reserved sector on the one hand and for the non-reserved services on the other.

The accounts for the non-reserved services should clearly distinguish between services which are part of the universal service and services which are not.

The accounting systems shall allocate costs to each of the reserved and to the non-reserved services respectively in the following manner:

- (a) costs which can be directly assigned to a particular service shall be so assigned;

(b) common costs, that are costs which cannot be directly assigned to a particular service, shall be allocated as follows:

(i) whenever possible, common costs shall be allocated on the basis of direct analysis of the origin of the costs themselves;

(ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost structures;

(iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the reserved services and, on the other hand, to the other services.

➤ **Quality of services**

Quality-of-service standards are set and published in relation to universal service in order to guarantee a postal service of good quality.

Quality standards shall focus, in particular, on routing times and on the regularity and reliability of services.

➤ **Users' complaint**

Transparent, simple and inexpensive procedures are drawn up for dealing with users' complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards.

Member States shall adopt measures to ensure that those procedures enable disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement and/or compensation.

Users, acting individually or, where permitted by national law, jointly with organisations representing the interests of users and/or consumers, may bring before the competent national authority cases where users' complaints to the universal service provider have not been satisfactorily resolved.

➤ **The national regulatory authority**

Each Member State shall designate one or more national regulatory authorities for the postal sector that are legally separate from and operationally independent of the postal operators.

The national regulatory authorities may also be charged with ensuring compliance with competition rules in the postal sector.

3. Introduction of legal framework of industry country/developing country in postal and courier area

As request by the Ministry of Post and Telematics, this section will provide basic information on regulations on accession to domestic and international market, form of business presence,

regulations on customs, governance of designated postal operator, supervision/inspection and harmonization mechanism of competition⁴².

Most of the example given comes from the EU because it is the most complete available information to date.

3.1. Why is it necessary to create an internal market for the postal sector?

Postal services are a key element of the so called network industries (energy, transport and telecommunications).

Before full market opening, postal services are often fragmented across the EU:

- Ownership is usually vested in public corporations and while some services within the sector are open to competition (express services) others were not (letter mail).
- At the same time, the sector as a whole is operating at a loss while much of its infrastructure required modernisation and fresh investment.

In order to overcome these shortcomings and to put the sector on a firmer footing, a new approach is needed while setting up market opening:

- Retention of the status quo is not a viable option as it would perpetuate fragmentation and possibly lead to stagnation in the sector.
- Creating a competitive market on the other hand is expected to complement similar initiatives in parallel sectors (network industries), reconcile the interest of postal users and service providers and pave the way towards a more sustainable, adaptable and innovative postal sector.

3.2. Is creating an internal market for postal services more likely to disrupt and distort the operation of the postal sector?

No. As for example, the EU internal market is slowly taking shape and assuming that it will be completed by 2009.

Postal operators and users will have had a period of 12 years to adjust to the necessary changes. All major changes are being phased in as the process continues and their impact is carefully monitored.

Rather than disrupting the sector, EU policy tries to reconcile the interests of a number of key stakeholders – national postal operators, the current postal operators, “would be” new entrants and users/consumers and to strike the right balance between increasing competition and the diminution of existing monopolies.

Current rules on access (to postal services) for users, quality of service standards and pricing levels are all designed to ensure that citizens and businesses get value for money while at the same time providing postal operators with a stable environment and the opportunity to invest in new products and services.

3.3. What benefits has the internal market generated for consumers?

⁴² The following section is based on the information from the following website:
http://ec.europa.eu/internal_market/post/faq_en.htm

Citizens continue to be significant users of postal services and their interests are being protected in a number of different ways. For example, as regards the costs of postal services, usually pro-competitive laws establish that prices must be both affordable so as to ensure maximum access and geared to costs thus minimising opportunities for excessive charges while at the same time ensuring the economic viability of the service.

It also stipulates that postal operators providing universal postal services must not apply discriminatory tariffs and allows for the application of uniform tariffs.

As regards quality, the postal framework shall set (quality) standards governing access to postal services and delivery targets.

In the event of failures to deliver on these targets, corrective action including the imposition of fines may be foreseen by the Law and imposed by the Regulator.

3.4. Focus on difficult concepts to set up in drafting a Postal Law

- **Universal Service**

Universal implies something which is available or accessible everywhere and to everyone and on the same conditions.

In practice, this means relatively easy access to certain postal services, the most common being letter and parcel post. In other words, citizens/businesses located in rural areas should enjoy broadly the same or at least comparable access to that available to their urban counterparts.

Within the postal sector, universal services involve the permanent and obligatory provision of a service at sufficient points within a national boundary so as to take account of the needs of users.

Such services must also meet specified quality targets and be available at affordable prices.

As for example, the new EU Commission proposal maintains these obligations. It also reinforces consumer protection and increases the role of national regulatory authorities⁴³.

- **Reserved Area**

This is the segment of postal services which is reserved to those postal operators (which may be either public or private) providing universal services within national boundaries.

In practice, this means that letter mail/parcel under certain weight and cost limits can only be handled by those operators who are bound by universal service obligations described above.

The rationale behind the reserved area is that it is an appropriate form of compensation for taking on the uneconomic burden of universal service, when this burden has been shown to exist.

The size of the reserved area is being progressively reduced and might not be retained in the context of a fully liberalised sector.

⁴³ The proposal is available on the following link:
http://ec.europa.eu/internal_market/post/legislation_en.htm#proposal

3.5. In Europe, the reform of the postal sector has been underway for sometimes. What has been achieved since the Postal Directive was adopted in 1997?

The postal sector has moved forward under increased market opening and in key areas is becoming more competitive and efficient.

Challenging universal service obligations continue to be met and customers are broadly satisfied with the quality of services.

The regulatory framework set out in the Postal Directive is in place and national regulators are well placed to ensure compliance by postal operators.

The pace of competitive entry is slower than originally anticipated and national postal operators have retained their dominant positions in markets open to competition.

The EU Commission and Member States are continuing to identify and propose ways to dismantle remaining market barriers and a study by external consultants on these issues has been presented recently.

3.6. Have prices of postal services increased or decreased as a result of EU Postal policy?

Prices for consumer letter mail have generally increased in recent years.

Prices for business users (which generate three quarters of mail volumes) have decreased overall. In general, consumers are satisfied with the quality of postal services and find that prices although rising, are at a generally acceptable level. However, prices for consumer letter mail vary significantly across Europe.

As of early 2004, the average price of a 20 gram stamp for first class letter service ranged from € 0.15 in Malta to € 0.65 in Finland.

In general, higher than average stamp prices do not deter customers from using postal services and their average annual postage bill (in the 6 most expensive Member States) would come to only about € 47 per capita or about one-tenth of one percent of annual income.

3.7. How are letter postal services facing up to the challenge posed by new forms of communication such as e-mail?

Postal services are continuing to evolve and this evolution is being shaped by changes in closely related communications, advertising and transportation sectors. While it is true that the use of e-mail has increased in recent years and that letter mail is declining as a percentage of overall message volumes, many key sectors, such as e-commerce, publishing, mail order, insurance, banking and advertising depend on the postal infrastructure.

Businesses are increasingly finding mail to be an exceptionally effective medium for forging and strengthening commercial relationships.

Nowadays, the bulk of mail deliveries are no longer dominated by private, person to person communications but by business to business and business to customer communications. In short, mail continues to have a bright future as a key communication channel.

3.8. What role do national postal regulators play in the implementation of the EU postal policy?

National regulators are entrusted with a wide range of regulatory functions which stem from the EU and national legislation. These extend from more specific functions such as ensuring compliance with quality standards and price setting to broader and more far reaching tasks such as creating the conditions for the growth of competition and paving the way for new entrants into the sector.

The office of postal regulator is now well established across the EU and most are endowed with the sufficient resources and the power to monitor and sanction postal operators for non compliance with their obligations.

Annex 1: Summary Table – List of Major Laws and Regulations on Telecommunication Services

No.	Date of issue	Full Title	Reference No.	Nature of the Act	Scope	Summary
I	Ordinance					
1	25/5/2002	Ordinance on posts and telecommunications	43/2002/PL-UBTVQH10	Ordinance	This Ordinance governs post and telecommunications, radio frequencies; rights and obligations of organizations and individuals in the post and telecommunications	<p>Vietnam has identified post and telecommunication as important economic, technological and service sector in the infrastructure of the national economy. The development of the post and telecommunication sector aims at meeting the needs for socio-economic development, improving the quality of life of the people and ensuring national defence and security.</p> <p>This Ordinance applies to Vietnamese individuals and organizations, foreign individual and organizations in Vietnam.</p> <ol style="list-style-type: none"> 1. General provisions 2 .Post 3 .Telecommunications 4. Radio frequency 5. International Co operations in post and telecommunications 6. State Management in post and telecommunication 7. Reward and punishment of violations 8. Implementation provisions
II	Decree of Government					
2	23/8/2001	Decree of the Government on the management, provision and use of Internet services	55/2001/ND-CP	Decree	This Decree adjusts the management, provision and use of Internet services in Vietnam.	All domestic organization and individuals and foreign organizations and individuals involved in Internet activities in Vietnam must abide by this Decree.

No.	Date of issue	Full Title	Reference No.	Nature of the Act	Scope	Summary
						<ol style="list-style-type: none"> 1. General Provisions 2. Establishment of equipment systems provision and use of Internet services 3. State management on the Internet 4. Complaints, inspection, examination and violation penalty 5. Implementation provisions
3	14/01/2004	Decree of Government detailing the implementation of a number of articles of the ordinance on post and telecommunications regarding radio frequency	24/2004/NĐ-CP	Decree	This Decree details the implementation of a number of articles of the Ordinance on Post and Telecommunications regarding the activities of managing and using radio frequencies, radio equipment and satellite orbits under Vietnam's sovereignty.	<p>This Decree applies to Vietnamese organizations and individuals as well as foreign organizations and individuals using radio frequencies and equipment in Vietnam</p> <ol style="list-style-type: none"> 1. General provisions 2. Planning on, and allocation of Radio Frequency 3. Licensing on Radio Frequency 4. Examination and control of radio frequencies, handing of harmful interference, management of electromagnetic compatibility. 5. International coordination and registration of radio frequency and satellite orbits 6. Complaints, denunciations, inspection and handing of violations 7. Implementation provision
4	03/09/2004	Decree of Government detailing the implementation of a number of articles of the Ordinance on Posts and Telecommunications regarding Telecommunications	160/2004/NĐ-CP	Decree	This Decree details the implementation of a number of articles on telecommunications of the Post and Telecommunications Ordinance, which was passed on	This Decree applies to Vietnamese organizations and individuals; foreign organizations and individuals engaged in telecommunications activities in Vietnam in the establishment of telecommunication

No.	Date of issue	Full Title	Reference No.	Nature of the Act	Scope	Summary
					May 25, 2002 by the Standing Committee of the National Assembly	<p>networks; provision and use of telecommunication services; manufacture, export and import of telecommunication equipment; construction and installation of telecommunication works.</p> <ol style="list-style-type: none"> 1. General provisions 2. Telecommunication networks and services 3. Service provision and use parties 4. Interconnection 5. Telecommunication numbering 6. Telecommunication Licenses 7. Provision of public utility telecommunication services 8. Telecommunication quality standards 9. Telecommunication tariffs 10. Settlement of disputes 11. Inspection, examination, handing of violations 12. Implementation provisions
III	Decision of the Prime Minister					
5	18/10/2001	Decision of the Prime Minister on the approval of Vietnam's Post and Telecommunication Development Strategy until 2010 and orientation until 2020	158/2001/QĐ-TTg	Decision	The Decision approves the Post and Telecommunication Development Strategy until 2010 and orientation until 2020	<ol style="list-style-type: none"> 1. Background 2. Objectives of the Strategy 3. Orientations for the development of each area 4. Major solutions 5. Organization and implementation
6	8/2/2002	Decision of the Prime Minister approving the plan on Vietnam's internet development in the 2001-2005 period	33/2002/QĐ-TTg	Decision	Plan on Internet development in the 2001-2005 period	<ol style="list-style-type: none"> 1. Development objectives 2. Major measure 3. Mobilization of resources

No.	Date of issue	Full Title	Reference No.	Nature of the Act	Scope	Summary
7	21/03/2007	Decision of the Prime Minister on the management of post and telecommunication service charge	39/2007/QĐ-TTg	Decision	This Decision regulates the management of P&T service charge and activities related to service charge offered by all domestic and foreign organizations and individuals that are engaged in activities of providing and using P&T services	<ol style="list-style-type: none"> 1. Scope and subjects of application 2. Principles for charge management 3. Management contents on P&T service charge 4. Grounds for determining charges 5. Competence for charge management 6. Right and obligations of P&T businesses 7. Prohibitive acts for P&T businesses 8. Right and obligations of user 9. Exemption and reduction of P&T charges in special cases 10. Implementation provisions
IV	Circular/Join Circular					
8	20/11/2001	Circular guiding the implementation of Decree 55/2001/ND-CP ⁴⁴	04/2001/TT-TCBD	Circular	This Circular guides the implementation the management, provision and use of Internet services in Vietnam	<ol style="list-style-type: none"> 1. General provisions 2. Rights and obligations of parties. 3. Licensing 4. Interconnection 5. Settlement of disputes 6. Implementation provisions
9	29/11/2004	Circular of MPT's Minister guiding the implementation of a number of article of the government's decree No. 142/2004/ND-CP providing for the sanctioning of administrative violations in post, telecommunications and radio frequencies	04/2004/TT-BBCVT	Circular	This Circular guides the implementation of a number of articles of the Government's Decree No. 142/2004/ND-CP of July 8, 2004 providing for the sanctioning of administrative violations related to post, telecommunications and radio frequencies with regard to acts	<ol style="list-style-type: none"> 1. General provisions 2. Acts of administrative violation related to post, telecommunications and radio frequencies 3. Procedures and competence for sanctioning administrative violations 6. Organization of implementation

⁴⁴ Circular No. 04/2006/TT-BBCVT amendment Circular 04/2001/TT-TCBD

No.	Date of issue	Full Title	Reference No.	Nature of the Act	Scope	Summary
					of administrative violation in the domains of post, telecommunications and radio frequencies and the sanctioning thereof	
10	1/06/2006	Join Circular on management of online games	60/2006/TTLT-BVHTT-BBCVT-BCA	Join Circular	This Circular governs the production, provision and use of online game services in Vietnam.	<p>Subject to the application of this Circular are enterprises and individuals producing online games, enterprises providing online game services, Internet access service providers (ISP), Internet agents and users of online game services</p> <ol style="list-style-type: none"> 1. General Provisions 2. Provision of OG services 3. Responsibilities of organizations and individuals providing and using OG services 4. Inspection, examination, handing of violations 5. Organization of implementation
V	Decision of the MPT					
11	20/03/2003	Decision of the Minister of Posts and Telematics (MPT) promulgating the table of international telephone using the Internet protocol (IP)	48/2003/QĐ-BBCVT	Decision	Promulgating the table of international telephone using the Internet protocol	The charges of international telephone using the Internet protocol (IP) using the public switched telephone network (PSTN) are regulated in this document.
12	26/04/2006	Decision of MPT promulgating the regulation on interconnection between public telecommunications networks	12/2006/QĐ-BBCVT	Decision	This Decision the regulation on interconnection between public telecommunications networks	1. This Regulation provides for effecting network interconnection in order to ensure the capacity, quality and time of interconnection. And this Regulation applies to the implementation of

No.	Date of issue	Full Title	Reference No.	Nature of the Act	Scope	Summary
						<p>agreements on interconnection between the following public telecommunications networks:</p> <p>a/ Fixed telecommunications networks (local, domestic long-distance and international);</p> <p>b/ Mobile telecommunications networks (regional and national).</p> <p>2. Subjects of application: Telecommunications enterprises</p>
13	06/09/2006	Decision of the MPT's Minister promulgating the regulation on management of the quality of post and telecommunications services	33/2006/QĐ-BBCVT	Decision	This regulation provides for management of the quality of post, delivery, express delivery and telecommunications services	<ol style="list-style-type: none"> 1. General provisions 2. Announcement of the quality of post and telecommunication services 3. Reporting on quality of post and telecommunication services 4. Inspection of quality of post and telecommunication services 5. Monitoring of the quality of post and telecommunication services 6. Publication of information on quality of post and telecommunication services 7. Inspection, handling of violations and settlement of complaints and denunciations 8. Organization of implementation
14	15/12/2006	Decision of the MPT' Minister promulgating regime on professional report for postal/telecommunication/IT businesses.	1141/2006/QĐ-BBCVT	Decision	The decision promulgates the contemporary report regime applied for enterprises, branches' enterprises that engage in providing postal/courier/telecommunication/ internet/IT services	<ol style="list-style-type: none"> 1. Report forms 2. Report periods 3. Report time-limit 4. Use of estimated data 5. Means of report (in writing on paper and electronic means)
15	5/4/2007	Decision of the MPT' Minister on handling complaint and guiding to	05/2007/QĐ-BBCVT	Decision	The Decision promulgates the regulations on process, procedures	<ol style="list-style-type: none"> 1. General provisions 2. Regulations on complaint and handling

No.	Date of issue	Full Title	Reference No.	Nature of the Act	Scope	Summary
		treat disputes between services' users and postal/courier/telecommunications/Internet providers			related to handling complaint and guiding to resolve disputes over contract implementation between user and service providers	complaints service providers 3. Regulations on guiding to resolve disputes applied for regulator 4. Implementation provisions
VII	Decision of other Ministries					
16	29/12/2000	Decision of the MOF's Minister issuing the post and telecommunication operation licensing fee levels	215/2000/QĐ-BTC	Decision	The Decision fixes the post and telecommunication (PT) operation licensing fee levels that are applied by organizations and individuals granted post and telecommunication operation licenses in Vietnam	1. 6. Fee for granting of licenses to open new postal services 7. Fee for granting of licenses to test postal services 10. Fee for granting of licenses to practice postal stamp printing 18. Fee for granting of licenses to establish postal networks and provide postal services 20. A special kind of fee associated with national sovereignty (permits to be granted for once, with a duration specified therein)
VIII	Directive of MPT					
17	07/05/2004	Directive of The MPT's Minister on intensifying the assurance of safety and security for post, telecommunication and internet information in the new situation	06/2004/CT-BBCVT	Directive	This Directive is to intensify the assurance of information safety and security in service of the State management over the provision and use of postal, telecommunication and Internet services, the use of radio transmitter and receivers nationwide	All stakeholders (P&T enterprises, units of MPT) have to strictly observe the legislation and have the responsibility to assure information security in P&T and internet activities

Annex 2: List of Laws and Application texts in force in the Postal sector in Vietnam

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
I Ordinance – 1 doc.						
18	25/5/2002	<i>Ordinance on posts and telecommunications</i>	43/2002/PL-UBTVQH10	Ordinance	<i>This Ordinance governs post and telecommunications, radio frequencies (hereinafter referred to as post and telecommunications); rights and obligations of organizations and individuals in the Post and telecommunications</i>	<ol style="list-style-type: none"> 1. General provisions 2. Post 3. Telecommunications 4. Radio frequency 5. International Co operations in post and telecommunications 6. State Management in post and telecommunication 7. Reward and punishment of violations 8. Implementation provisions
II Decree of Government – 2 docs.						
19	18/08/2004	<i>Decree of Government detailing the implementation of a number of articles of the ordinance on post and telecommunications</i>	157/2004/NĐ-CP	Decree	<i>This Decree details the implementation of a number of articles of the Ordinance on Post and Telecommunications applicable to Vietnamese organizations and individuals; and foreign organizations and individuals involved in post activities in Vietnam</i>	<ol style="list-style-type: none"> 1. General provisions 2. Postal networks and services 3. Provision of public-utility postal services 4. Postage stamps 5. Parties involving in the provision and use of postal services, conditions for postal activities 6. Settlement of complaints and disputes, and compensation for damage in service provision and use 7. Implementation provision
20	08/07/2004	Decree of the Government providing for the sanctioning of administrative violations in post,	142/2004/NĐ-CP	Decree	This Decree is to sanction administrative violations related to post, telecommunications and	<ol style="list-style-type: none"> 1. General provisions 2. Administrative violations related to post, telecommunications and radio,

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
		telecommunications and radio frequencies			radio frequencies. The administrative violations that are wilful or involuntary action of organization or individual with regard to the state management over post, telecommunications and radio frequencies are not crimes.	sanctioning forms and fines 3. Competence, procedure of sanctioning administrative violations and implementation of sanctioning decision. 4. Complaint, denouncement and handling violations 5. Implementation provisions
III	Decision of the Prime Minister - 6 docs.					
21	18/10/2001	<i>Decision of the Prime Minister on the approval of Vietnam's Post and Telecommunication Development Strategy until 2010 and orientation until 2020</i>	158/2001/QĐ-TTg	Decree	<i>The Decision approves the Post and Telecommunication Development Strategy until 2010 and orientation until 2020</i>	<ol style="list-style-type: none"> 1. Background 2. Objectives of the Strategy 3. Orientations for the development of each area 4. Major solutions 5. Organization and implementation
22	8/11/2004	<i>Decision of the Prime Minister on the management of courier service</i>	190/2004/QĐ-TTg	Decree	<p><i>This Decision is to assign the MPT to perform the State management over courier services, including:</i></p> <ol style="list-style-type: none"> 1. <i>Services of domestic and international receipt, sorting, transportation and delivery by physical means</i> 2. <i>Express mail services, including the services mentioned in Clause 1 above but with shorter time and higher reliability. Express mail services usually contain value-added elements such as at-home receipt</i> 	<ol style="list-style-type: none"> 1. <i>To assign the Ministry of Post and Telematics to perform the State management over courier services</i> 2. <i>The MPT shall have to elaborate legal documents on management of courier services for promulgation according to its competence or submission to competent agencies for promulgation</i> 3. <i>This Decision takes effect 15 days after its publication in the Official Gazette</i>

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
					<i>services, search and positioning, delivery certification, changeability of addressees and other value-added elements;</i> <i>3. Other courier services prescribed by law</i>	
23	26/09/2005	<i>Decision of the Prime Minister approving the Vietnam post development planning till 2010</i>	236/2005/QĐ-TTg	Decree	<i>This Decision is to approve the Vietnam post development planning till 2010</i>	<ol style="list-style-type: none"> 1. The planning's objectives 2. Contents and scope of principal elements of the planning 3. Orientations for, and major solutions to, the implementation of the approved planning 4. Management and organization of planning implementation
24	31/10/2005	Decision of the Prime Minister on mobilization, management and use of postal savings	270/2005/QĐ-TTg	Decree	The Decision is to permit VNPT to provide postal saving service in order to mobilize citizens' unused money for development and investment purpose etc.	<ol style="list-style-type: none"> 1. VNPT's function in postal saving field 2. Mobilization forms 3. Use of postal saving 4. Services to be supplied 5. Responsibility of related government agencies 6. Implementation provision
25	20/7/2006	Decision of the Prime Minister on allocation of news paper, magazines for ethnic minority and mountainous/special difficult areas.	975/QĐ-TTg	Decree	The Decision rules that Government supplies free of charge some newspapers, magazines in order to enhance the Gov. propaganda activities for ethnic minority, mountainous and special difficult areas.	<ol style="list-style-type: none"> 1. Newspapers and magazines to be supplied free of charge 2. Task allocation 3. Finance mechanism to sustain the newspapers and magazines provision 4. Implementation
26	21/03/2007	Decision of the Prime Minister on the management of post and	39/2007/QĐ-TTg	Decree	This Decision regulates the management of P&T service	<ol style="list-style-type: none"> 1. Scope and subjects of application 2. Principles for charge management

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
		telecommunication service charge			charge and activities related to service charge offered by all domestic and foreign organizations and individuals that are engaged in activities of providing and using P&T services	3. Management contents on P&T service charge 4. Grounds for determining charges 5. Competence for charge management 6. Right and obligations of P&T businesses 7. Prohibitive acts for P&T businesses 8. Right and obligations of user 9. Exemption and reduction of P&T charges in special cases 10. Implementation provisions
IV	Circular of MPT – 4 docs.					
27	29/11/2004	<i>Circular of MPT's Minister guiding the implementation of a number of article of the government's decree No. 142/2004/ND-CP providing for the sanctioning of administrative violations in post, telecommunications and radio frequencies</i>	04/2004/TT-BBCVT	Decree	<i>This Circular guides the implementation of a number of articles of the Government's Decree No. 142/2004/ND-CP of July 8, 2004 providing for the sanctioning of administrative violations related to post, telecommunications and radio frequencies with regard to acts of administrative violation in the domains of post, telecommunications and radio frequencies and the sanctioning thereof</i>	1. General provisions 2. Acts of administrative violation related to post, telecommunications and radio frequencies 3. Procedures and competence for sanctioning administrative violations 6. Organization of implementation
28	06/05/2005	<i>Circular of MPT's Minister guiding the licensing of mail delivery service business and</i>	01/2005/TT-BBCVT	Decree	<i>This Circular details the implementation of the Ordinance on Post and Telecommunications</i>	I. General Provisions II. Grating mail delivery service business licenses

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
		<i>registration of mail delivery agency for foreign delivery organizations</i>			<i>regarding postal sector for: - The grant of mail delivery service business licenses (licenses) and, - Registration of mail delivery agency for foreign delivery organizations.</i>	<i>III. Registration of Mail Delivery Agency for Foreign Delivery Organizations IV. Implementation of the Decree</i>
29	24/04/2006	<i>Circular of the MPT's Minister guiding the implementation of the government's decree No. 12/2006/ND-CP detailing the implementation of the commercial law regarding international goods sale and purchase activities and goods sale and purchase agency, processing and transit with foreign parties for goods subject to specialized management by the MPT</i>	02/2006/TT-BBCVT	Decree	<i>This Circular guides a number of contents regarding the goods subject to the specialized management by the Post and Telematics Ministry in Section IV of Appendix No. 3 to then Government's Decree No. 12/2002/ND-CP of January 23, 2006</i>	<i>1. General provisions 2. Grant of import permits 3. Implementation provision</i>
30	03/01/2007	Circular of the MPT' Minister guiding a number of content regarding postal services provided by Vietnam Post	01/2007/TT-BBCVT	Decree	This Circular guides a number of contents regarding postal services provided by Vietnam Post	1. Guides on postal services mentioned in Article 15 of P&T Ordinance 2. Regulation on dispatch of postal items in subsection 2 Article 17 of P&T Ordinance 3. Regulation on objects that mails, parcels and mail packages are not allowed to contain in Article 18 4. Cases not subject to the payment of post and mail-delivery service charges

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
						subsection 4 Article 32 of P&T Ordinance
V	Joint circular – 4 docs.					
31	26/07/1997	<i>Joint circular between General Department of Posts and Telecommunications, Ministry of Internal Affairs, Ministry of Finance and Ministry of Trade guiding inspection and handling violations related to merchandise mailed within the country</i>	05/TTLT	Decree	<i>This joint circular guides inspection and handling violations for goods for trading (merchandise) mailed within the country in the forms of parcels and packages</i>	<i>I. General provisions II. Regulations on the sending and delivery of parcels and packages containing merchandise III. Inspection and handling of violations IV. Organization of implementation V. Effect of implementation</i>
32	25/5/2004	<i>Joint circular between MPT and MOF guiding the coordination responsibilities and relationships in customs inspection and supervision of letters, postal matters and postal parcels exported and imported via postal service or mail dispatch service</i>	01/2004/TTLT-BCVT-TC	Decree	<i>This Joint circular is to guide the coordination responsibility and relationships in customs inspection and supervision of letters, postal matters and postal parcels exported and imported via postal service or mail dispatch service in order to ensure the State management work of each branch according to law provisions</i>	<i>1. General provisions 2. Coordination responsibility and relationships 3. Organization of implementation</i>
33	29/11/2004	Joint circular between MPT and MOF guiding the handling of unclaimed mail, postal items, parcels.	03/2004/TTLT-BCVT-BTC	Decree	This joint circular guides to handle unclaimed letters, postal items and parcels in Vietnam Post and unclaimed letters in courier service providers.	<i>1. General provisions 2. Procedure for handling of unclaimed mail, postal items, parcels 3. Finance management upon handling of unclaimed mail, postal items, parcels 4. Organization of implementation</i>

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
34	05/05/2006	<i>Joint circular between MPT and Ministry of Public Security guiding the opening and checking of mails and goods packages sent via public postal networks and delivery networks for the detecting drug-related crimes</i>	01/2006/TTLT-BCA-BBCVT	Decree	<i>This Joint Circular guides specifically the opening and checking of mails and goods packages which are sent domestically, from Vietnam abroad or from abroad into Vietnam via public postal networks or courier networks for the purpose of detecting drug-related crimes</i>	<ol style="list-style-type: none"> 1. General provisions 2. Bases for, and competence to decide on, the opening and checking of mails and sent goods 3. Order and procedures for opening and checking mails or sent goods 4. Organization of implementation
VI	Decision of the MPT – 9 docs					
35	15/05/2003	<i>Decision of the MPT's Minister promulgating the regulation on the issuance of commemorative postage stamp</i>	90/2003/QĐ-BBCVT	Decree	<i>This Decision (attached by Regulation) is promulgated to enhance the work of State management over the planning and formulation of topical programs for issuance of commemorative postal stamps and commemorative postal stamp prints; guide organizations and individuals in proposing themes for issuance of commemorative stamps; create conditions for Vietnam's Post Service to take initiative in activities related to postal stamps; and at the same time serve postal stamp users and collectors</i>	<ol style="list-style-type: none"> 1. General provisions 2. Commemorative stamp issuance themes 3. Time and frequency of issuance of commemorative stamps 4. Procedures for proposing the issuance of commemorative stamps 5. Organization of implementation
36	20/01/2004	Decision of the MPT's Minister on national post codes	05/2004/QĐ-BBCVT	Decree	This Decision stipulates establishment and management of	<ol style="list-style-type: none"> 1. General provisions 2. Regulations on postal codes

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
					national post codes used to serve activities of public postal network and postal services nationwide.	3. Implementation provisions
37	29/04/2005	<i>Decision of the MPT's Minister on management of postage stamp</i>	16/2005/QĐ-BBCVT	Decree	This Decision (attached by Regulations) governs all activities related to postage stamps	<ol style="list-style-type: none"> 1. General provisions 2. Stamp issuing programs, pattern designing and special marks. 3. Printing 4. Issuance 5. Publication suspension, stoppage, withdrawal, handling and destruction 6. Supply, trading and storage 7. Dossiers and time for submission, approval 8. Other provisions 9. Implementation provisions
38	12/06/2006	Decision of the MPT' Minister adjusting charge of international outbound parcel service provided by VNPT	18/2006/QĐ-BBCVT	Decree	The Decision is to permit VNPT to decide the charge payable by user for international outbound parcel service.	<ol style="list-style-type: none"> 1. Assignment 2. Service charge registration 3. Implementation
39	06/09/2006	<i>Decision of the MPT's Minister promulgating the regulation on management of the quality of post and telecommunications services</i>	33/2006/QĐ-BBCVT	Decree	<i>This regulation provides for management of the quality of post, delivery, express delivery and telecommunications services</i>	<ol style="list-style-type: none"> 1. General provisions 2. Announcement of the quality of post and telecommunication services 3. Reporting on quality of post and telecommunication services 4. Inspection of quality of post and telecommunication services 5. Monitoring of the quality of post and telecommunication services 6. Publication of information on quality of post and telecommunication services

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
						7. <i>Inspection, handling of violations and settlement of complaints and denunciations</i> 8. <i>Organization of implementation</i>
40	07/09/2006	Decision of the MPT' Minister modifying some articles of Regulations on management of postage stamp issued by Decision No. 16/2005/QĐ-BBCVT of the MPT's Minister on 29/04/2005.	39/2006/QĐ-BBCVT	Decree	The Decision is to modify some articles of Regulations on management of postage stamp issued by Decision No. 16/2005/QĐ-BBCVT of the MPT's Minister on 29/04/2005.	1. Modify subsection 2 Article 7 2. Modify Article 30 3. Implementation provisions
41	15/12/2006	Decision of the MPT' Minister promulgating regime on professional report for postal/telecommunication/IT businesses.	1141/2006/QĐ-BBCVT	Decree	The decision promulgates the contemporary report regime applied for enterprises, branches' enterprises that engage in providing postal/courier/telecommunication / internet/IT services	1. Report forms 2. Report periods 3. Report time-limit 4. Use of estimated data 5. Means of report (in writing on paper and electronic means)
42	30/01/2007	Decision of the MPT' Minister regulating the limits on compensative liability for postal and courier services	02/2007/QĐ-BBCVT	Decree	The Decision regulates the limits on compensative liability for postal and courier services	1. In case that items are lost or totally damage 2. In case that items are damage or partly lost 3. Regulations for insured services 4. Regulations on building up and publicizing the limits on compensative liability for service provided by business
43	5/4/2007	Decision of the MPT' Minister on handling complaint and guiding to treat disputes between services' users and	05/2007/QĐ-BBCVT	Decree	The Decision promulgates the regulations on process, procedures related to handling complaint and guiding to resolve	1. General provisions 2. Regulations on complaint and handling complaints service providers 3. Regulations on guiding to resolve

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
		postal/courier/telecommunications/Internet providers			disputes over contract implementation between user and service providers	disputes applied for regulator 4. Implementation provisions
VII	Decision of other Ministries – 1 doc.					
44	29/12/2000	<i>Decision of the MOF's Minister issuing the post and telecommunication operation licensing fee levels</i>	215/2000/QĐ-BTC	Decree	<i>The Decision fixes the post and telecommunication (PT) operation licensing fee levels that are applied by organizations and individuals granted post and telecommunication operation licenses in Vietnam</i>	<i>1.</i> <i>6. Fee for granting of licenses to open new postal services</i> <i>7. Fee for granting of licenses to test postal services</i> <i>.....</i> <i>10. Fee for granting of licenses to practice postal stamp printing</i> <i>.....</i> <i>18. Fee for granting of licenses to establish postal networks and provide postal services</i> <i>.....</i> <i>20. A special kind of fee associated with national sovereignty (permits to be granted for once, with a duration specified therein)</i>
VIII	Directive of MPT – 3 docs.					
45	07/05/2004	<i>Directive of The MPT's Minister on intensifying the assurance of safety and security for post, telecommunication and internet information in the new situation</i>	06/2004/CT-BBCVT	Decree	<i>This Directive is to intensify the assurance of information safety and security in service of the State management over the provision and use of postal, telecommunication and Internet</i>	<i>All stakeholders (P&T enterprises, units of MPT) have to strictly observe the legislation and have the responsibility to assure information security in P&T and internet activities</i>

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
					<i>services, the use of radio transmitter and receivers nationwide</i>	
46	16/09/2005	Directive of the MPT's Minister promoting the application of information technology to postal and courier services	08/2005/CT-BBCVT	Decree	This Directive is to promote the application of information technology to postal and courier services in Vietnam	1. Overview 2. Directions: + Vietnam Post + Courier services providers + Attached MPT's Dept., P&T Services
47	22/09/2005	Directive of the MPT's Minister on the implementation of the Bucharest World Postal Strategy, the 2005-2008 period	09/2005/CT-BBCVT	Decree	The implementation of World Post Strategy is the necessary remedy for postal innovation and development; for sustaining of universal service obligation and quality improvement with the purpose to meet the management requirement and customer expectation.	1. Orientation 2. Implementation + Universal service + Services' quality and efficiency of public postal network + Postal innovation and development
IX	Standards – 2 docs.					
48	23/9/1995	TCVN Standards on correspondence envelopes	TCVN 1449: 1995	Standard	This standard is applied to correspondence envelopes sent by post. It is not applied to envelopes that are used in professional or specific purpose or special structure envelopes.	1. Scope 2. Interpretation of terms 3. Designs and sizes 4. Specifications 5. Examination methods 6. Packaging, labelling, conveyance and preservation
49	23/9/1995	TCVN Standards on postage stamp	TCVN 6055: 1995	Standard	This standard is applied to postage stamps that are issued by General Department of Posts and Telecommunications; are used as	1. Scope 2. Classification 3. Basic shapes and sizes 4. Specifications

No.	Date of adoption	Full Title	Reference No.	Nature of the Act	Scope	Summary
					pre-paid postage means and collective items.	5. Examination methods 6. Packaging, labelling, conveyance and preservation

Note:

- The legal documents in italic letter are available in English version.

Annex 3: Main provisions set out in the Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service

Article	Content
<p>Universal service (Article 3)</p>	<p>Users are entitled to enjoy the right to a universal service involving:</p> <ul style="list-style-type: none"> ➤ The permanent provision of a postal service of specified quality ➤ at all points in their territory ➤ at affordable prices for all users. <p>The MS shall take steps to ensure that the density of the points of contact and of the access points takes account of the needs of users.</p> <p>Universal service provider(s) guarantee(s) every working day and not less than five days a week, a minimum:</p> <ul style="list-style-type: none"> - one clearance, - one delivery to the home or premises of every natural or legal person or, by way of derogation, under conditions at the discretion of the national regulatory authority, one delivery to appropriate installations. <p>Exception exists and shall be accepted national regulatory authorities, as</p> <p>Universal service includes the following minimum facilities:</p> <ul style="list-style-type: none"> - the clearance, sorting, transport and distribution of postal items up to two kilograms, - the clearance, sorting, transport and distribution of postal packages up to 10 kilograms, - services for registered items and insured items. <p>National regulatory authorities may increase the weight limit of <u>universal service coverage</u> for postal packages to any weight <u>not</u></p>

	<p><u>exceeding 20 kilograms</u> and may lay down special arrangements for the door-to-door delivery of such packages.</p> <p>The minimum and maximum dimensions for the postal items in question shall be those laid down in the Convention and the Agreement concerning Postal Parcels adopted by the Universal Postal Union.</p>
<p>Requirements of Universal Service (Article 5)</p> <p>(Article 6)</p>	<p>7. Universal service provision shall meet the following requirements:</p> <p>8. it shall offer a service guaranteeing compliance with the essential requirements,</p> <p>9. it shall offer an identical service to users under comparable conditions,</p> <p>10. it shall be made available without any form of discrimination whatsoever, especially without discrimination arising from political, religious or ideological considerations,</p> <p>11. it shall not be interrupted or stopped except in cases of force majeure,</p> <p>12. it shall evolve in response to the technical, economic and social environment and to the needs of users.</p> <p>However, provisions under universal service shall not present any obstacle to the need to preserve public morality, public security, including criminal investigations, and public policy.</p> <p>Member States shall take steps to ensure that users are regularly given sufficiently detailed and up-to-date information by the universal service provider(s) regarding general conditions of access etc. as well as on prices and quality standard levels.</p> <p>This information shall be published in an appropriate manner.</p>
<p>Reserved services</p> <p>Universal service covers (Article 7):</p>	<ul style="list-style-type: none"> - <i>Clearance, sorting, transport and delivery of items of domestic correspondence,</i> - <i>Whether by accelerated delivery or not,</i> - <i>The price of which is less than five times the public tariff for an item of correspondence in the first weight step of the fastest standard category where such category exists, provided that they weigh less than 350 grams.</i> <p>The way for gradual liberalization can be the review of the price and weight limits.</p> <p>Document exchange may not be reserved.</p>

<p>Conditions governing the provision of non-reserved services and access to the network</p> <p>Article 9</p>	<p>Non-reserved services which are outside the scope of the universal service can be granted <u>general authorisations</u> to the extent necessary in order to guarantee compliance with the essential requirements.</p> <p>For non-reserved services which are within the scope of the universal service can be granted authorisation procedures, including individual licences, to the extent necessary in order to <u>guarantee compliance with the essential requirements and to safeguard the universal service.</u></p> <p>The granting of authorisations may:</p> <ol style="list-style-type: none"> 4. where appropriate, be made subject to universal service obligations, 5. if necessary, impose requirements concerning the quality, availability and performance of the relevant services, 6. be made subject to the obligation not to infringe the exclusive or special rights granted to the universal service provider(s) for the reserved postal services. <p>Authorisation procedures shall be transparent, non-discriminatory, and proportionate and based on objective criteria.</p> <p>Reasons for refusing an authorisation in whole or in part are communicated to the applicant and must establish an appeal procedure.</p> <p>In order to ensure that the universal service is safeguarded, where an universal service obligation represent an unfair financial burden for the universal service provider, it may establish a <u>compensation fund</u> administered for this purpose by a <u>body independent</u> of the beneficiary or beneficiaries.</p> <p>In this case, it may make the granting of authorisation subject to an obligation to make a financial contribution to that fund.</p> <p>Principles of transparency, non-discrimination and proportionality are respected in establishing the compensation fund and when fixing the level of the financial contributions. Only the following services may be financed in this way:</p> <p><i>Universal service provider(s) guarantee(s) every working day and not less than five days a week, a minimum:</i></p>
--	--

	<ul style="list-style-type: none"> - one clearance, - one delivery to the home or premises of every natural or legal person or, by way of derogation, under conditions at the discretion of the national regulatory authority, one delivery to appropriate installations. <p><i>Universal service includes the following minimum facilities:</i></p> <ul style="list-style-type: none"> - the clearance, sorting, transport and distribution of postal items up to two kilograms, - the clearance, sorting, transport and distribution of postal packages up to 10 kilograms, - services for registered items and insured items.
<p>Tariff principles and transparency of accounts</p> <p>Article 12</p>	<p>Tariffs for each of the services forming part of the provision of the universal service comply with the following principles:</p> <ol style="list-style-type: none"> 5. prices must be affordable and must be such that all users have access to the services provided, 6. prices must be geared to costs, a uniform tariff should be applied throughout their national territory, 7. the application of a uniform tariff does not exclude the right of the universal service provider(s) to conclude individual agreements on prices with customers, 8. tariffs must be transparent and non-discriminatory.
<p>Accounting</p> <p>Article 14.</p>	<p>The universal service providers shall <u>keep separate accounts</u> within their internal accounting systems at least for each of the services within the reserved sector on the one hand and for the non-reserved services on the other.</p> <p>The accounts for the non-reserved services should clearly distinguish between services which are part of the universal service and services which are not.</p> <p>The accounting systems shall allocate costs to each of the reserved and to the non-reserved services respectively in the following manner:</p>

	<p>(a) costs which can be directly assigned to a particular service shall be so assigned;</p> <p>(b) common costs, that is costs which cannot be directly assigned to a particular service, shall be allocated as follows:</p> <p style="padding-left: 40px;">(i) whenever possible, common costs shall be allocated on the basis of direct analysis of the origin of the costs themselves;</p> <p style="padding-left: 40px;">(ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost structures;</p> <p style="padding-left: 40px;">(iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the reserved services and, on the other hand, to the other services.</p>
Article 15	The financial accounts of all universal service providers shall be drawn up, submitted to audit by an independent auditor and published.
Quality of services Article 16	<p>Quality-of-service standards are set and published in relation to universal service in order to guarantee a postal service of good quality.</p> <p>Quality standards shall focus, in particular, on routing times and on the regularity and reliability of services.</p>
Users' complaint Article 19	<p>Transparent, simple and inexpensive procedures are drawn up for dealing with users' complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards.</p> <p>Member States shall adopt measures to ensure that those procedures enable disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement and/or compensation.</p>

	<p>Users, acting individually or, where permitted by national law, jointly with organisations representing the interests of users and/or consumers, may bring before the competent national authority cases where users' complaints to the universal service provider have not been satisfactory resolved.</p>
<p>The national regulatory authority</p>	<p>Each Member State shall designate one or more national regulatory authorities for the postal sector that are <u>legally separate from and operationally independent of the postal operators</u>.</p> <p>The national regulatory authorities may also be charged with ensuring compliance with competition rules in the postal sector.</p>

Annex 4: Summary of the main items comprised in the People’s Republic of China on Postal Services (Revision of January 6, 2006)

<p>CHAPTER I – GENERAL PROVISIONS</p>	<p>Article 1</p>	<p>This Law is formulated to in accordance with the Constitution of the People’s Republic of China to protect the freedom and confidentiality of correspondence, ensure the provision of universal postal services, secure postal communications, improve postal service quality and level, and enhance the economic development and the overall progress of the society.</p>	<p>Scope of the law Explanation of the reasons <u>where & who (China)</u> <u>why</u> the law has been drafted and <u>What</u> it is about</p>
	<p>Article 2</p>	<p>Postal services are an important part of the country’s public utilities, and postal networks are the country’s important communications infrastructure facilities.</p>	<p>Scope of the Law Expose the reasons why</p>
	<p>Article 3</p>	<p>The <u>State guarantees the provision of universal postal services</u> within the territory of the People’s Republic of China; the Postal Service Enterprises shall undertake the obligation for provision of such universal postal services.</p> <p>“<u>Universal postal services</u>” as used herein shall refer to the general postal services to be provided continuously at reasonable rates in compliance with the State regulated service standards to all users within the territory of the People’s Republic of China.</p> <p>The <u>standards</u> for universal postal services shall be formulated by the State postal service regulatory authority (“State PRA”) in conjunction with other relevant authorities.</p>	<p><u>Universal Service</u> Role of the State Scope of Universal services Applications texts or authority in charge (State PRA)</p>
	<p>Article 4</p>	<p>The State shall formulate relevant policies and measures to support the provision of universal postal services by Postal Service Enterprises.</p>	<p>Universal Service Role of the provinces,</p>

		<p>Each of the <u>provinces, autonomous regions and municipalities</u> shall, based on the actual circumstances in their respective regions, <u>formulate</u> appropriate preferential policies and measures regarding the provision of universal postal services by Postal Service Enterprises.</p> <p>People's governments at all levels and the <u>relevant departments</u> shall extend support to and create good environment and conditions for the provision of universal postal services by Postal Service Enterprises.</p>	autonomous regions and municipalities
	Article 5	The Postal Service Enterprises shall set up postal service outlets in the principles of meeting the need of the society for universal postal services and pursuant to the standards set forth by the State PRA.	Role of enterprises for Universal Services
	Article 6	The Postal Service Enterprises shall adopt various means to heed to the opinions of <u>the customers</u> , accept supervision by the society and constantly <u>improve the quality and performance of their universal postal services</u>	Customers' role for the quality of postal services
	Article 7	<p>The freedom and <u>confidentiality of correspondence</u> are protected by the <u>law</u>.</p> <p>No organization or individual may use any excuse to infringe upon the freedom and confidentiality of another party's correspondence, <u>unless this is necessary for the security of the State</u> or the pursuit of the investigation of a criminal offence, in which case public security, <u>state security</u> or <u>procuratorate</u> may examine correspondence in accordance with procedures as stipulated by law.</p>	Protection of the confidentiality of correspondence Exceptions
	Article 8	Postal articles, money orders and savings deposits sent through the post by customers shall be protected by the law.	Protection of the Postal articles, money orders and savings deposits

		<p>No <u>organization or individual may examine or withhold such items, unless the law provides otherwise.</u></p> <p>Postal Service Enterprises and <u>employees</u> engaged in postal service operations <u>may not provide information</u> on the use of postal services by their customers to any organization or individual, unless the law provides otherwise.</p>	sent
	Article 9	A postal article shall be the property of the sender prior to the delivery to the recipient.	Property and ownership of postal articles
	Article 10	<p>The delivery services of addressed letters shall be under <u>monopoly of the Postal Service Enterprises</u>, with <u>exception</u>, however, to the <u>express delivery</u> of addressed international letters and express delivery of addressed domestic letters weighing singly more than 350 grams.</p> <p>The State Council may, based on the requirements of social and economic development, <u>adjust the scope of postal monopoly</u> by the Postal Service Enterprises.</p> <p>The State exercises a <u>licensing system for enterprises other than the Postal Service Enterprises</u> (hereinafter referred to as the “Other Enterprises”) seeking to undertake the business of express delivery of addressed letters.</p>	<p>Monopoly of Postal services enterprises</p> <p>Exceptions for express delivery</p> <p>Exception to monopolistic situation under state supervisions</p> <p>Licensing of postal activities outside of the monopole</p>
	Article 11	With respect to <u>the delivery services</u> of addressed letters under monopoly of the Postal Service Enterprises, if a customer raises any reasonable requirement regarding time limit or delivery, the Postal Service Enterprise shall meet such requirement.	Delivery time limit requirements
	Article	The <u>State PRA</u> shall implement	Share of powers –

	12	<p>supervision and administration of postal services and express delivery of addressed letters pursuant to the law.</p> <p>The <u>postal regulatory authority</u> of each province, autonomous region and municipality shall be responsible to carry out supervision and regulation of postal services and express delivery of addressed letters in its own region.</p> <p><u>Industry and commerce administrations, the Customs, public security and state security organs</u> shall, pursuant to this Law and relevant laws and regulations, carry out <u>supervision</u> and regulation of postal services and express delivery of addressed letters within the scope of their own respective responsibilities.</p>	<p>institutional level Role of the State PRA</p> <p>Role of the provincial regulatory authorities</p> <p>Industry and commerce administrations, the Customs, public security and state security organs</p>
CHAPTER II – POSTAL FACILITIES	Article 13	<p>The <u>local governments</u> of various levels shall include the construction and <u>renovation plans of postal facilities</u> as part of their local civic construction plan, and give necessary financial assistance to ensure that the construction and renovation of postal facilities meet the needs of universal postal services.</p> <p>In constructing <u>new urban and township districts</u>, independent industrial or mining areas, development area, residential areas or renovation of old urban areas or redevelopment of large blocks, postal facilities shall be planned and completed along with such construction and renovation work.</p>	Renovation and construction of postal facilities
	Article 14	The Postal Service Enterprises shall set up postal service premises and outlets, mail handling facilities, postal boxes (mail boxes), postal news stands and other postal	Requirements for postal facilities, premises, outlets, mail boxes.

		facilities in accordance with the standards set forth by the State PRA.	
	Article 15	<p><u>Post offices</u> shall be established at relatively large railway stations, airports, ports and hotels to provide postal services.</p> <p>Government agencies and public institutions and businesses shall establish offices for incoming and outgoing mails.</p> <p><u>Mail/news boxes up to State standards</u> shall be installed in urban residential buildings for the receipt of postal articles by the residential households.</p>	<p>Setting up of post offices</p> <p>Standards for Mail/news boxes up to State standards</p>
	Article 16	The <u>land</u> used for <u>construction of postal facilities</u> , subject to government approval according to law, shall be obtained in the form of allocation.	<p>Land used for construction of postal facilities,</p> <p><i>Land law?</i></p>
	Article 17	Any <u>removal of postal service premises</u> and outlets or mail handling facilities required by any organization in urban construction shall be subject to approval by PRA and consulted with the relevant local Postal Service Enterprises in accordance with the relevant laws and regulations on urban house removal, and such postal service premises and outlets or mail handling facilities <u>shall be reconstructed at their original sites or moved to places convenient to the customers in the principle of completing construction before move</u> . The cost of such new building or rebuilding shall be borne by the relevant organisation initiating the removal	<p>Removal and construction of postal services premises</p> <p><i>Expropriation?</i></p> <p><i>Land law?</i></p>
	Article 18	<p>The Postal Service Enterprises shall implement <u>regular maintenance and repairs to postal facilities</u> to secure the normal use of the postal facilities.</p> <p>No organization or individual shall</p>	<p>Regular maintenance and repairs to postal facilities</p> <p>Protection of postal</p>

		destroy postal facilities, nor shall damage or move without permission any postal boxes or mail boxes, nor shall put any inflammable, explosive, poisonous, corrosive or other dangerous article into any postal boxes or mail boxes, nor shall open without permission postal boxes or mailboxes of others, nor scribble or post advertisements, documents or labels on any postal box or mailbox	facilities <i>Sanctions?</i> <i>Administrative law?</i> <i>Criminal law?</i>
CHAPTER III – BUSINESS OF POSTAL SERVICE ENTERPRISES AND POSTAL CHARGES	Article 19	The <u>Postal Service Enterprises</u> may undertake the following services: <ul style="list-style-type: none"> (1) the sending and delivery of domestic and international postal articles; (2) the distribution of domestic newspapers, books and publications, audio and video products, electronic publications and other publications; (3) the provision of taking deposits, money orders and other financial services permitted by the State; (4) stamp collection; and (5) other businesses stipulated by the State PRA. 	Functions of the Postal services enterprises
	Article 20	The Postal Service Enterprises must provide universal postal service for the delivery of addressed letters, any addressed printed matter weighing singly no more than 5 kilograms and any parcel weighing singly no more than 10 kilograms.	Duties of Postal Service Enterprises in providing universal postal service
	Article 21	The <u>Postal Service Enterprises</u> must <u>undertake the free delivery of ordinary addressed letters from compulsory serviceman</u> , reading materials for the blind and remains of revolutionary martyrs and shall	Free delivery services for certain category of citizens

		undertake such special services as the distribution of State secret communications as well as newspapers and publications in accordance with the relevant stipulations of the State.	
	Article 22	Without <u>approval by the State PRA</u> , no Postal Service Enterprise may discontinue or cut back any universal postal services or special services on its own free will. Should any Postal Service Enterprise be forced to discontinue or cut back such universal postal services or special services by any <u>force majeure</u> event, it shall <u>notify</u> the customers in a timely manner and shall make proper arrangements and report to PRA.	Continuity of postal services Role of PRA
	Article 23	The State provides <u>compensation for reasonable losses incurred by the Postal Service Enterprises</u> in the provision of universal postal services and special services. The methods of compensation shall be drawn up by the State Council department in charge of finance and the State PRA in conjunction with the relevant authorities, and be submitted to the State Council for approval before implementation. The State shall set up a <u>universal postal service fund</u> . The detailed administrative measures for the collection and usage of the fund shall be drawn up by the State Council department in charge of finance in conjunction with the relevant authorities, and be submitted to the State Council for approval before implementation.	Compensation for Postal Service Enterprises providing universal postal service Universal service fund
	Article 24	The Postal Service Enterprise shall enjoy <u>exemption of business tax in conducting universal postal services</u> and special services, and necessary deductions or exemptions of other taxes. The detailed measures shall be drawn up by the State Council	Exemption / business tax in conducting universal postal services

		department in charge of finance in conjunction with the State Council tax authority, and be submitted to the State Council for approval before implementation.	
	Article 25	<p>Government pricing shall be exercised for <u>tariffs for universal postal services</u>, business under monopoly of the Postal Service Enterprises and State secret communications as well as tariffs for the distribution of press and publications stipulated by the State. The detailed standards for such tariffs shall be drawn up by the State Council department in charge of finance in conjunction with the State PRA.</p> <p>With respect to other businesses operated by the Postal Service Enterprises, the tariffs shall be determined by the Postal Service Enterprises on their own based on market situation.</p>	<p>Tariffs</p> <p>Standards for tariffs</p>
	Article 26	<p>In the process of formulating the tariffs for universal postal services, the relevant departments shall <u>solicit opinions of the Postal Service Enterprises</u>, customers as well as other relevant parties.</p> <p>The Postal Service Enterprises shall, at the request of the State Council department in charge of prices and the State PRA, provide accurate and <u>complete data</u> on business cost and other relevant materials.</p>	<p>Procedures for tariffs formation</p>
	Article 27	<p>Postage receipts, post-paid marks on postal articles or payment voucher shall constitute <u>postage payment certification</u>.</p> <p>Postage receipts include stamps; postal charge marks as well as images of stamps printed on post-paid envelopes, post-paid postcards, post-paid aerogram and post-paid</p>	<p>Postage payment certification</p>

		letter cards.	
	Article 28	<p>No organisation or individual shall forge or transact the forged postage receipt, nor shall forge and reprint stamp designs.</p> <p>The measures for regulating the forging and reprinting of stamp designs shall be formulated by the State PRA.</p>	<p>Forging and reprinting of stamp designs</p> <p>Role of the State PRA</p>
	Article 29	<p>The stamps, post-paid envelopes, post-paid postcards, post-paid aerogram and post-paid letter cards shall be issued by the Postal Service Enterprises.</p> <p>The State PRA shall be responsible for determination of topics and examination of design patterns of J-stamps. The annual issuance plan of J-stamps and T-stamps shall be proposed by the Postal Service Enterprises and determined by the State PRA.</p>	<p>Monopoly on post-paid postcards, post-paid aerogram and post-paid letter cards by postal services enterprises</p>
	Article 30	The Postal Service Enterprises shall sell stamps based on the par value, except the stamp collection business.	Stamps selling
	Article 31	<p>No sold stamps may be redeemed by the holder for cash at a Postal Service Enterprise.</p> <p>Where the use of a postage receipt is to be discontinued, the State PRA shall, 90 days prior to the discontinuance, issue a public notice and cease sales of such postage receipt. Holders of the said postage receipts may exchange such postage receipts at a Postal Service Enterprise for postage receipts of equal value within 180 days of such notice.</p>	Stamps
	Article 32	<p>The following types of postage receipt may not be used:</p> <p>(1) those declared invalid by the Postal Service Enterprises;</p>	Postage receipt

		<p>(2) those cancelled with a seal or crossed line;</p> <p>(3) those scribbled or covered by other articles;</p> <p>(4) those that are stained, incomplete, faded, discoloured or illegible; or</p> <p>(5) drawings of stamps cut from post-paid envelopes, postcards, and aerogram or letter cards.</p>	
	Article 33	If a Postal Service Enterprise is engaged by a publishing unit to distribute publications, a distribution contract shall be entered into between the parties.	Publications
CHAPTER IV – DELIVERY OF POSTAL ARTICLES AND SECURITY	Article 34	<p><u>Customers of postal articles shall conform to the packaging guidelines</u> and writing format prescribed by the State PRA, correctly state the name, address and postal code of the recipient and sender.</p> <p>The mail envelopes shall meet State-prescribed standards and shall be printed under the supervision of the State PRA.</p> <p>The postal codebook shall be compiled by the State PRA.</p>	<p>Customers and postal articles - packaging guidelines</p> <p>Supervision of the State PRA</p>
	Article 35	<p>It is forbidden to send or include any explosives, inflammables, corrosives, radioactive, poisonous and other dangerous articles, as well as articles prohibited by laws and regulations and the relevant departments of the State Council for mailing.</p> <p>No addressed letter shall be contained in a parcel, or posted in the form of a parcel.</p>	Security and restrictions on mailing
	Article 36	The Postal Service Enterprises shall establish and strictly implement <u>the mail safety inspection system</u> . Postal articles other than addressed letters handed	Mail safety inspection system

		in by customers shall be examined on the spot by the Postal Service Enterprises. Postal articles shall not be accepted if the customer refuses to allow such an examination. The address letters handed in by customers must conform to the contents approved for postage, and when deemed necessary, a Postal Service Enterprise may request the customer to open for examination a letter.	
	Article 37	The Postal Service Enterprises shall secure business hours of no less than 6 days each week, and no less than one collection/pickup and delivery of postal articles each day for urban areas; and no less than 3 days each week, and no less than 3 collections/pickups and deliveries each week for township areas; and the business hours and frequency of collection/deliveries for areas smaller than town and very far remote areas shall be stipulated separately by the State PRA based on the actual circumstances.	Working hours of Postal Services Enterprises
	Article 38	Postal articles shall be delivered per address or via pickup by customer, or upon agreement with customer. The detailed <u>standards for delivery per address</u> will be formulated by the State PRA.	Standards for delivery per address
	Article 39	The Postal Service Enterprises and their working staff shall deliver postal articles in accordance with the time limit stipulated by the State PRA and comply with the service specifications for delivery. The time limit and service specifications for delivery shall be published. The working staff of the Postal Service Enterprises shall wear uniforms with postal service insignia when delivering postal articles and shall wear a badge with their employee numbers. The relevant	Standards for delivery Working staff

		organizations and individuals shall provide convenience for them.	
	Article 40	The Postal Service Enterprises and their working staff shall be responsible to protect the postal articles they receive and shall not open, conceal, destroy or abandon any such postal articles.	Postal Service Enterprises and their working staff's duties
	Article 41	<p>Personnel in charge of postal articles pick-up and drop-off or personnel entrusted with the task of forwarding postal articles shall carefully examine receipted postal articles and seal and/or sign the relevant records.</p> <p>The aforementioned individuals shall be responsible to protect various postal articles and transfer them in a timely manner, and shall not open, conceal, destroy or abandon any such postal articles.</p>	Staff's duties
	Article 42	<p>Postal articles that are unable to be delivered shall be returned to the sender.</p> <p>Letters that are unable to be delivered or returned, and are not claimed within six months, shall be destroyed by the PRA of each province, autonomous region or municipality.</p> <p>Postal articles sent from abroad that are unable to be delivered or returned shall be handled by the Customs in accordance with the relevant provisions of the "Customs Law of the People's Republic of China".</p> <p>Measures for handling other postal articles that are unable to be delivered or returned shall be made by the State PRA.</p>	Return to the sender
	Article 43	The recipient of a <u>money order</u> shall, within 60 days of receiving notice of the order, pick up the money at a Postal Service Enterprise by	Money orders

		<p>producing valid ID card.</p> <p><u>Money orders</u> remain uncollected after two months shall be returned to the remitting party by the Postal Service Enterprise. A money order which is unable to be returned to the remitting party within two years or which the remitting party has not collected within two years of the notice of its return shall be handed over to the State Treasury.</p> <p>A <u>customer may, within one year of remitting money,</u> make an enquiry to the Postal Service Enterprise receiving such money about the status of remittance by producing the remittance receipt. The Postal Service Enterprise shall inform the customer about the enquiry result within 30 days.</p>	
	Article 44	<p>Rail, road, waterway, air transport and other transportation enterprises shall ensure dispatch priority for postal articles within the scope of universal postal services.</p> <p>Without the authorization of the Postal Service Enterprise, no organization or individual may engage in the delivery of addressed letters under monopoly of the Postal Service Enterprises.</p>	Dispatch priority for postal articles
	Article 45	<p>Where postal articles are forwarded through railway stations, airports and ports, the transportation entities concerned shall arrange a loading and unloading area and access thoroughfares to facilitate the centralized handling of such articles.</p>	Dispatch priority for postal articles
	Article 46	<p><u>Priority shall be given to postal service vehicles and vessels</u> with exclusive postal service insignia and to employees of Postal Service Enterprises when they enter or leave a port or a ferry crossing. Vehicles with exclusive postal service</p>	Postal service vehicles and vessels

		<p>insignia which require access through a closed road or parking in a no-parking area shall be granted access or parking privilege.</p> <p>The Postal Service Enterprises may not lease or use vehicles with exclusive postal service insignia for transportation of non-postal articles for operating purpose.</p>	
	Article 47	Postal articles sent by sea are not obliged to share any general average.	Postal articles sent by Sea
	Article 48	The entry into and exit from the PRC of international postal articles or postal bags shall be subject to <u>Customs supervision</u> pursuant to the “Customs Law of the People’s Republic of China”.	Customs supervision
	Article 49	Postal articles subject to <u>health quarantine</u> or <u>animal and plant quarantine</u> in accordance with the law shall be separated and placed under quarantine by the border quarantine department or port animal and plant quarantine department	Postal articles subject to health quarantine or animal and plant quarantine
	Article 50	<p>No organization or individual shall commit any of the following:</p> <p>(1) cause disturbance on the premises of any Postal Service Enterprise;</p> <p>(2) interfere with the lawful delivery of postal articles by staff of Postal Service Enterprise;</p> <p>(3) unlawfully hijack or force entry into vehicles with exclusive postal service insignia;</p> <p>(4) fraudulently act in the name of a Postal Service Enterprise, or fraudulently use the marks exclusively for use in postal service operations; or</p>	Forbidding actions

		(5) other activities interfering with the normal operations of any Postal Service Enterprise or its branch.	
	Article 51	<p>No organization or individual may use postal articles to disseminate information containing any of the following:</p> <ol style="list-style-type: none"> 1) content that endanger State security, disclose State secrets, overturn the government or undermine State unification; 2) content that promote cult and superstitions or disseminate rumors that disrupt social orders or undermine social stability; 3) content involving pornography, gambling, violence, murder, terror or inducing crimes; or 4) other content forbidden by laws and administrative regulations. 	Information forbidden to be sent disseminated through the Postal Services
	Article 52	The State security organs shall have the powers to examine postal articles for the sake of national security and to withhold postal articles deemed detrimental to national security. The relevant organizations and the Postal Service Enterprises shall provide cooperation and keep the relevant information confidential.	State security organs powers to examine postal
CHAPTER V – INDEMNIFICATION FOR LOSS OR DAMAGE	Article 53	The provisions of this Law shall apply to <u>indemnification for loss or damage incurred to postal articles</u> within the scope of universal postal services and special services. With respect to any matter not addressed herein, the relevant civil laws shall apply.	Indemnification for loss or damage incurred to postal articles
	Article 54	<p>Compensation for loss or damage to postal articles by the Postal Service Enterprise shall be limited to the following:</p> <ol style="list-style-type: none"> 1) loss of postal articles; 	Compensation for loss or damage to postal articles

		<p>2) partial loss of postal articles; or</p> <p>3) partial loss of contents of postal articles.</p>	
	Article 55	<p>No <u>compensation will be offered for loss of ordinary postal articles.</u> However, if evidences show that such loss is caused as a result of willful misconduct or gross negligence of the Postal Service Enterprise, the Postal Service Enterprise shall award compensation at three times of the charged tariff for delivery of such postal articles.</p>	Compensation offered for loss of ordinary postal articles
	Article 56	<p>In case of any loss or damage incurred to receipted postal articles, the Postal Service Enterprises shall award compensation in accordance with the following provisions:</p> <ol style="list-style-type: none"> 1) Compensation for insured postal articles which are lost or completely destroyed shall be made based on the insured value, and where there is a partial loss or damage of contents, compensation shall be made in accordance with the proportional value of the lost or damaged contents to the insured value of the whole postal article. 2) Compensation for uninsured postal articles shall be made based on the actual losses, but the maximum amount of compensation shall be no more than three times of the charged tariff. Compensation for registered letters shall be three times of the charged tariff. <p>Postal articles delivered to the recipient with no damage mark on the appearance of the postal article, and no obvious change on the shape</p>	Compensation for loss or damage of articles

		and weight when postal articles shall be deemed as no-loss articles, to which Postal Service Enterprises shall not be liable for compensation, with exception, however, to the circumstance where any loss or damage to postal articles or partial loss of contents is identified by the recipient through on-the-spot examination.	
	Article 57	<p>Postal Service Enterprises shall not be responsible for compensation if any loss or damage to postal articles is caused by any of the following:</p> <ol style="list-style-type: none"> 1) Due to the fault of the customer 2) Due to the natural property, quality or deficiencies of the article itself; or 3) force majeure. <p>The provisions of foregoing Subsection (3) shall not apply to loss, damage or partial loss of contents of insured postal articles.</p>	Exemptions for compensation for loss or damage of articles
	Article 58	<p>Where a customer sends a <u>receipted postal article</u>, he/she may make an enquiry to the Postal Service Enterprise within 6 months from the date of sending by producing the relevant receipt.</p> <p>The Postal Service Enterprise shall inform the customer about the enquiry result within 30 days. Where no result is offered upon expiration of the said time limit, the customer may demand indemnification from the Postal Service Enterprise. And the Postal Service Enterprise shall indemnify in accordance with the provisions of Article 56 hereof.</p> <p>Where the customer of a receipted postal article fails to make an enquiry within 6 months of sending the article, the Postal Service Enterprise shall no longer assume</p>	Receipted postal article

		indemnification liability.	
CHAPTER VI – SPECIAL PROVISIONS REGARDING EXPRESS DELIVERY OF ADDRESSED LETTERS BY OTHER ENTERPRISES	Article 59	<p>Any Other Enterprise seeking to undertake the business of express delivery of addressed letters shall obtain its license for conducting such delivery service according to the stipulations of this Law. Failing to obtain such a licence, no Other Enterprise shall undertake the business of express delivery of addressed letters.</p> <p>No individual shall undertake the business of express delivery of addressed letters.</p>	Licensing for express delivery services
	Article 60	<p>Any Other Enterprise to obtain a licence for the business of express delivery of addressed letters shall meet the following conditions:</p> <ol style="list-style-type: none"> 1) It possesses a corporate legal person status; 2) If such business is operated within a province, autonomous region or municipality, it shall have a registered capital of more than RMB500,000; if such business is operated across different provinces, autonomous regions or municipalities, it shall have a registered capital of more than RMB1,000,000; for international express delivery of addressed letters, it shall have a registered capital of more than RMB2,000,000; 3) It shall have the service capacity adequate for conducting the business of express delivery of addressed letters in the specified region; 4) Its staff shall possess the service capacity adequate for conducting the business of express delivery of addressed letters; 5) It has established clear and complete specifications for 	Conditions for licensing for express delivery services

		<p>the provision of its services, and has implemented complete internal rules and regulations that safeguard the communication safety and confidence.</p>	
	Article 61	<p>For business to be operated within a province, autonomous region or municipality, the application shall be submitted to the PRA at the provincial, autonomous regional or municipal level; for business to be operated across different provinces, autonomous regions or municipalities, or international business, the application shall be made to the State PRA. The applicant shall provide the relevant materials to prove that it has met the conditions set forth in Article 60 hereof. The PRA shall, within 20 working days of the receipt of application, complete the examination work and grant license to those meeting the conditions set forth in this Law; where no license is granted, the PRA shall serve written notice to the applicant and explain the reasons therefor.</p> <p>The PRA, during its examination of the application for a licence to undertake the business of express delivery of addressed letters shall take into considerations such factors as the national security, policies governing the development and competitions of the express delivery market of addressed letters.</p>	<p>Licensing Conditions for express delivery services</p>
	Article 62	<p>Where any Other Enterprise having obtained the licence to undertake the business of express delivery of addressed letters sets up branches for undertaking the business of express delivery of addressed letters shall file with the PRA which originally granted the licence.</p> <p>The PRA shall inform the national</p>	<p>Licensing Conditions for express delivery services</p>

		security organs of any Other Enterprise having obtained the licence to undertake the business of express delivery of addressed letters and the branches it has established.	
	Article 63	Other Enterprises licensed to undertake the business of express delivery of addressed letters shall abide by the laws and regulations as well as the guidelines on business ethics, and shall not commit any act that infringes upon communications confidence or other lawful rights and interests of the customers, or leads to unfair competition, or threatens the national security.	Licensing Conditions for express delivery services
	Article 64	Other Enterprises licensed to undertake the business of express delivery of addressed letters shall mark the wording of “addressed letters” in a prominent position on the envelope or the cover of the wrapped article, and indicate the enterprise’s name, address and collection time.	Licensing Conditions for express delivery services
	Article 65	Other Enterprises licensed to undertake the business of express delivery of addressed letters shall not collect, transport and deliver government documents and letters addressed to State government agencies.	Licensing Conditions for express delivery services
	Article 67	The provisions of Articles 8(2), 35, 36, 40, 48, 49, 51 and 52 regarding the Other Enterprises and their working staff and delivery of postal articles shall apply to Other Enterprises and their working staff engaged in the business of express delivery of addressed letters.	Conditions for express delivery services
CHAPTER VII REGULATION AND ADMINISTRATIO N	Article 68	The PRA, in accordance with the stipulations of this Law, implements regulation and inspection over the Universal Postal Service as provided by Postal Service Enterprises, the express delivery of addressed letters as conducted by Other Enterprises, the secured postal monopoly granted to Postal Service Enterprises, the guarantee of freedom and	Role of the PRA

		confidentiality of correspondence, the protection of postal facilities as well as other issues stipulated hereunder.	
	Article 69	<p>The PRA may exercise the following functions and powers in the implementation of regulation and inspection:</p> <ol style="list-style-type: none"> 1) access to Postal Service Enterprises and Other Enterprises for inspection; 2) access to and duplicate relevant information and vouchers; 3) obtaining information from the relevant entities and individuals; 4) subject to the approval by the head of the PRA in the province, autonomous region or the municipality directly under the control by the State, sealing and detaining articles and transportation tools that are evidenced to be used for illegal delivery business of addressed letters, and opening/unwrapping the containers that hold such suspected articles; and 5) to correct on the spot any acts in violation of the laws found in such inspection or cause the same to be corrected within a specified time period; to make decisions of meting out administrative penalties, where necessary, in accordance with this Law and other relevant laws and regulations. 	Functions of the PRA
	Article 70	The PRA may require the Postal Service Enterprises and Other Enterprises having obtained the licence to undertake the business of express delivery of addressed letters to report their business status on a	

		regular basis.	
	Article 71	Employees of the PRA shall present valid identification documents for supervision and law enforcement in performing their regulation and inspection duties. The inspected entities and individuals shall support and facilitate the PRA in their implementation of regulation and inspection duties pursuant to the law, and may not refuse or obstruct the employees of the PRA to perform their supervision and inspection duties.	Employees of the PRA
	Article 72	Employees of the PRA shall keep confidential all technical and business secrets obtained thereby in the process of performing their supervision and inspection duties.	Confidentiality duties of the PRA Staff
	Article 73	Any entity and individual shall have the right to report to the PRA any act in violation of this Law. Upon receipt of the report, the PRA shall investigate and prosecute the case according to the law in a timely manner.	Report to the PRA
CHAPTER VIII – LEGAL LIABILITIES	Article 74	<p>Employees of the PRA shall be subject to administrative disciplinary actions under the law ranging from demotion to discharge if they commit any of the following, or be pursued for criminal liability if their acts constitute a crime:</p> <ol style="list-style-type: none"> (1) Grant license to Other Enterprises to undertake the business of express delivery of addressed letters, which fail to meet the conditions set forth herein; (2) Fail to prosecute pursuant to the law any illegal act as discovered, or fail to investigate and prosecute the case according to the law upon the receipt of a report on any illegal act; 	Sanctions to PRA Staff

		(3) Disclose any technical or business secrets obtained from inspections.	
	Article 76	<p>Where any Postal Service Enterprise and its working staff, in violation of the provisions of this Law, commit any of the following, the PRA shall cause them to make corrections, and confiscate any of their illegal gains, and may impose a fine of less than 100,000; and the persons directly in charge of it and other persons directly responsible for it shall be subject to disciplinary actions pursuant to the law:</p> <ol style="list-style-type: none"> 1) illegally provide any information regarding the use of postal services by customers; 2) suspend or cut back any Universal Postal Service and special service business operations; 3) fail to sell stamps as per par value; 4) rent any vehicle carrying dedicated postal service marks or uses any vehicle carrying dedicated postal service marks for transportation of non-postal articles for operating purpose; 5) unilaterally change the tariff standard stipulated by the State. 6) Where any Other Enterprise having obtained the licence to undertake the business of express delivery of addressed letters illegally provides any information regarding the use of postal services by customers, the PRA shall cause it to make corrections, and confiscate any of their illegal gains, and may impose a fine of less than 	Sanctions and fines

		100,000; and if the case is serious, the licence granted for the business of express delivery of addressed letters shall be revoked by the original PRA that issued the licence.	
	Article 77	Where a postal service employee deliberately delays delivery of postal articles, he shall be given disciplinary actions from lowering position to discharge; where his acts constitute a crime, he shall be pursued for criminal liabilities according to law.	Disciplinary actions against employees of the PRA
	Article 78	Postal service employees who unilaterally open, conceal or destroy postal articles shall be pursued for criminal liability according to law.	Disciplinary actions against employees of the PRA
	Article 79	Where any Postal Service Enterprise or any Other Enterprise having obtained the licence to undertake the business of express delivery of addressed letters fails to perform its duty for safety examination as required under this Law, and accepts and delivers legally forbidden postal articles, the PRA shall cause it to make corrections; and if the case is serious, in case of a Postal Service Enterprise, the persons directly in charge of it and other persons directly responsible for it shall be given disciplinary actions from lowering position to discharge; in case of any Other Enterprise, it shall be shut down for rectification, or its licence granted for the business of express delivery of addressed letters shall be revoked; criminal liabilities shall be pursued according to law if his/her act constitutes a crime; where any personal injury or property damage is incurred as a result of such act, the Other Enterprise shall be held liable for damages under the law.	Sanctions against Postal Service Enterprise or any Other Enterprise having obtained the licence to undertake the business of express delivery of addressed letters

	Article 80	Where any enterprise is engaged in express delivery service of addressed letters without due license in violation of this Law, the industry and commerce administration department shall cause it to stop such illegal business activities, have its illegal gains confiscated and impose an additional fine between RMB50,000 and RMB500,000; criminal liabilities shall be pursued according to law if its acts constitute a crime.	Sanctions against enterprises exercising without licence
	Article 81	Where any enterprise is engaged in business under monopoly of the Postal Service Enterprises in violation of this Law, the PRA or industry and commerce administration department shall cause it to stop such illegal business activities, have its illegal gains confiscated and impose an additional fine between RMB50,000 and RMB500,000; provided that no administrative penalty of fines shall be given more than twice on the same one illegal act; criminal liabilities shall be pursued according to law if its acts constitute a crime.	Sanctions against illegal business activities
	Article 82	Where any Postal Service Enterprise or any Other Enterprise having obtained the licence to undertake the business of express delivery of addressed letters, during its course of postal delivery or express delivery of addressed letters, constitutes an act endangering the State security, in case of a Postal Service Enterprise, the persons directly in charge of it and other persons directly responsible for it shall be discharged pursuant to the law; in case of any Other Enterprise, its licence granted for the business of express delivery of addressed letters shall be revoked; and criminal liabilities shall be pursued against the persons held responsible if such an act constitutes a crime.	Threat to the State security
	Article	Where any sender delivers or to	

	83	conceal any forbidden item inside the postal article, he/she shall be handed over to the relevant department and dealt with according to law; criminal liabilities shall be pursued according to law if his/her acts constitute a crime; where any personal injury or property damage is incurred as a result of such acts, the sender shall be held liable for damages.	Criminal liability
	Article 84	With respect to forging or illegal sale of forged or resold postage receipts, the PRA shall confiscate all forged postage receipts and illegal earnings, and impose a fine equal to 1 to 5 times the par value of the forged postage receipts; criminal liabilities shall be pursued according to law if such acts constitute a crime.	Sanctions against forging or illegal sale of forged or resold postage receipts
	Article 85	With respect to any person who, in violation of this Law, commits any of the following, the PRA shall cause it to make corrections, have its illegal gains and the relevant articles confiscated, and impose a fine between RMB10,000 and RMB100,000: <ol style="list-style-type: none"> 1) fraudulently use the name of Postal Service Enterprises, and the dedicated postal service marks; 2) forge the marks, uniforms or articles which are exclusively for use in postal service operations; 3) produce envelopes not printed under the supervision of the PRA. 	Sanctions
	Article 86	Any person who conceals, destroys or unlawfully opens another's letters, thereby infringing upon a citizen's right to freedom of correspondence shall be pursued for criminal liability in accordance with the law; if the case does not warrant criminal punishment, penalties are to be carried out in accordance with the	Sanctions

		provisions of the Regulations of the People's Republic of China on Security Administration and Punishment. In case of employees of any Other Enterprise having obtained the licence to undertake the business of express delivery of addressed letters who commit any of the foregoing acts, its licence granted for the business of express delivery of addressed letters shall be revoked where the case is serious.	
	Article 87	In case of any person who intentionally causes damage to post boxes and other postal facilities, removes, uses or opens without permission postal boxes or mail boxes of others, or puts inflammables, explosives, corrosive, toxic or other dangerous objects into any postal box, the PRA shall cause such person to make corrections and to restore such facilities to their original state; where a crime is constituted, such person shall be pursued for criminal liabilities according to law; where any damage is caused to properties, such person shall be held liable for indemnification according to law.	Sanctions
	Article 88	With respect to any person who, in violation of this Law, commits any of the following, he/she shall be pursued for criminal liability in accordance with the law; if the case does not warrant criminal punishment, penalties are to be carried out in accordance with the provisions of the Regulations of the People's Republic of China on Security Administration and Punishment: 1) obstruct or prevent PRA staff from performance of their duties; 2) cause disturbance on the premises of any Postal Service Enterprise; 3) interfere with the lawful delivery of postal articles by postal	Sanctions

		<p>workers;</p> <p>4) unlawfully hijack or force entry into postal transportation vehicles;</p> <p>5) other activities interfering with the normal operations of any Postal Service Enterprise or its branch.</p>	
	Article 89	<p>Where any Other Enterprise having obtained the licence to undertake express delivery service of addressed letters is deprived of its licence for conducting such letter delivery service as a result of any violation of this Law, such Other Enterprise shall undergo procedures for alteration of its registration with the industry and commerce administration department pursuant to the law, or have its business licence revoked by the industry and commerce administration department; no application may be made for express delivery of addressed letters within three years from the date of revocation of its business license of addressed letters.</p>	Revocation of Licence
CHAPTER IX – SUPPLEMENTARY PROVISIONS	Article 90	<p>The following terms shall have the meanings attributed hereunder for purposes of this Law:</p> <p>“Postal Service Enterprise” refers to China Post Group Corporation and its wholly owned subsidiaries, holding companies, branches and service outlets.</p> <p>“Postal article” shall mean addressed letters, parcels, printed matters, money orders, newspapers and magazines, and other printed matters that are sent and delivered through Postal Service Enterprises.</p> <p>“Addressed letter” shall refer to letters and postcards. “Letters” shall refer to any media of information in the form of sealed paper or magnet mailed to any specific entity or</p>	Definitions

	<p>individual. “Postal Card” shall refer to any media of information mailed in the form of open card.</p> <p>“Parcel” shall refer to packed items for mail weighing no more than 50 kilograms, with name and address on its outer package, and the dimension of either side not exceeding 150cm and the aggregate of length, width and height not exceeding 300cm.</p> <p>“Ordinary postal article” shall refer to postal articles for which no receipts are issued upon acceptance by Postal Service Enterprises and their branches and signatures of recipients are not required upon delivery.</p> <p>“Receipted postal article” shall refer to postal articles for which receipts are issued upon acceptance by Postal Service Enterprises and their branches and signatures of recipients are required upon delivery.</p> <p>“Insured postal article” shall refer to postal articles for which the sender declares their value and pays an insurance premium to the Postal Service Enterprise at the time of posting. In the event of loss, damage or missing content to such postal articles, the Postal Service Enterprise shall make compensation as per the insured amount or in a certain proportion of the insured amount.</p> <p>“Articles for exclusive use by Postal Service Enterprises” shall refer to postal date marks, post payment certification machines, postal service receipts, sealing clamps, postbags and other postal article containers.</p> <p>“Postal facilities” shall refer to the operation premises, postal boxes/mail boxes, postal stands, mail/news boxes and other facilities</p>	
--	--	--

		<p>used by the Postal Service Enterprises for providing universal postal services.</p> <p>“International Postal Article” shall refer to printed matters and parcels that are sent and delivered by customers between the People’s Republic of China and other countries and regions.</p> <p>“Express delivery service of addressed letters” shall refer to the delivery service of addressed letters to be collected by person, and delivered directly to the recipient within a time frame no lower than that stipulated by the State PRA.</p>	
	Article 91	<p>Any enterprise which has obtained its qualification for conducting such letter delivery service in accordance with the relevant stipulations of the State prior to the effect of this Law, in virtue of the valid approval document, shall be issued a licence by the PRA for conducting the express delivery service of addressed letters.</p> <p>No foreign invested enterprise shall undertake the delivery service of addressed letters, printed matters and parcels inside the People’s Republic of China except in the form of express delivery service.</p>	Practical conditions for express delivery services
	Article 92	<p>To the extent an <u>international treaty</u> concluded by or acceded to by PRC that relates to international postal services differs from the provisions of this Law, the said treaty shall apply, except with respect to those clauses of such treaty expressly reserved by the PRC.</p>	Precedence of International treaties provisions to which China is part of
	Article 93	<p>This Law is effective from _____.</p>	Effectiveness