



## **HIGH LEVEL GROUP (HLG) ON THE FUTURE DEVELOPMENT OF THE UPU**

### **Subgroup 2 "Structure and composition of the UPU"**

(Berne, 13 July 2000)

### **Results of the SG 2 brainstorming in select groups on 12 May 2000. Some possible alternative models for the UPU's organizational structure**

#### **Discussion paper by SG 2 Coordinator**

<b>1 Subject</b>	<b>References/Paragraphs</b>
Presentation of the background and of five alternative models for the structure of the UPU	§§ 1 to 36
<b>2 Decision expected</b>	
Subgroup 2 may decide to single out one or more of the models to serve as the basis for the structure to be proposed	

#### **I. Background**

1 The UPU is an intergovernmental organization, but most of its activities are operational. Where these operational activities serve to facilitate the free flow of mail between countries and to maintain the single postal territory, they are supported by all members. However, public Post Offices increasingly face competition from private sector distribution companies, particularly for cross-border traffic. As a result, Post Offices are becoming more competitive and are doing business not only on the basis of former alliances but also by making new contractual arrangements, whether with other Posts or other companies. Many Post Offices are also developing new, value-added products and services outside their traditional role and, again, these may be competing with the private sector. At the same time, in some member countries, Post Offices are even struggling to maintain those traditional services.

2 In this increasingly complex market, there is a lack of clarity and no clear consensus about exactly what the UPU is seeking to achieve. Is it a club for Post Offices and, as such, should it try to be involved in everything that Post Offices might do? Or should it be representative of the postal or distribution market as a whole (including the private sector) and provide a forum covering all that sector's interests? Perhaps it should address only the interests of governments in permitting the free flow of mail or, alternatively, perhaps it should define much more precisely

what "single postal territory" and "universal service" means in a UPU context and work in a more focused way to bring it about.

## **II. Roles and responsibilities of governments and operators**

3 Governments are responsible for the "Treaty" aspects including any legislative and regulatory obligations it imposes – ie, ensuring uninterrupted flow of mail, privacy of communications, universal service – are obligations on governments rather than on postal operators. Governments determine the extent to which they are prepared to bind themselves to the Treaty and who will provide the services needed to meet the obligations. Governments are also concerned about the broader development agenda.

4 The treaty should only seek to regulate those matters that Governments agree need to be regulated to ensure that treaty provisions are met. Governments reserve the right, for example, to define their own standards of universal service appropriate to their own needs. A Treaty commitment to the principle of universal service need not and should not bind a government to adopting standards it considers unnecessary for its circumstances.

5 Postal operators who deliver a universal service are responsible for the day-to-day provision of services, standards, and contracts within the broader framework of the international treaty and their respective domestic legislative obligations. Operators may choose to adopt standards, establish cooperative arrangements or make contractual undertakings and these should be seen as binding on the operators themselves but not on governments.

6 However, the widening scope of modern postal communications underlines the need for an "umbrella forum" to address issues relevant to a wider range of postal business beyond the universal service. It is also increasingly important that decisions, whether taken by governments on regulatory matters or by operators on standards, operating agreements, etc, can only be enhanced if they are taken in the context of all relevant interests.

## **III. Some models for the UPU to reflect this greater complexity**

7 Subgroup 1 of the High Level Group is addressing the role of the UPU and the outcome of its work will impact on the deliberations on structure. However, without pre-judging those results it is possible to consider a number of possible models for the UPU and consider how these might reflect the current reality.

8 The models set out below have been constructed to stimulate a discussion of possible options and, in particular, to address the view that there must be clearer separation between governmental and operational issues and that there must be a more structured forum for wider participation of other stakeholders. The elements of models are not necessarily mutually exclusive and members of the High Level Group might want to "mix and match" different elements. It is difficult to explore structural models in isolation from the mission or without considering how decisions are made or how the organization is financed. So what follows is not the whole story.

9 The purpose of this paper is not necessarily to have members of the High Level Group opt for one model or another but to have them identify those elements which they consider interesting and worth further exploration.

### *Model one: complete separation of governmental and operational issues into separate organizations*

10 This is a model adopted for airline industry issues, when ICAO represents the interests of governments and IATA the interests of the industry. The two bodies, whilst having close links, are

completely separate. They have separate membership, separate secretariats and separate programmes of activity.

11 Translated into UPU terms this would mean that the intergovernmental part of the organization would be confined only to:

- governmental issues;
- regulatory issues;
- promoting technical cooperation;

12 The "intergovernmental body" would have responsibility for treaty issues. It is likely that its focus would be primarily "legal" and "diplomatic" and it would certainly have an interest in the "development" dimension. Its role would be to ensure that the framework was in place to ensure the exchange of international mail but not become involved in the detail of how that happens. It would also have to examine the treaty or other legal/diplomatic implications of any international agreements made between operators in their own organization. Membership (and contributions) would be member governments, probably represented by their foreign affairs ministries or by ministries with responsibility for communication issues. It would probably meet only periodically to revisit the treaty and would require only a simple structure and a small secretariat. The "operations organization" would be likely to have observer status and be entitled to attend meetings and have access to papers produced by the "intergovernmental body". Similar status might also be accorded to other interested representative bodies.

13 The "operators' organization" would be a nongovernmental organization and membership might be open to either:

- all public postal operators;
- all universal service providers;
- all postal and courier companies;

14 The organization would be financed by members' subscriptions and would probably operate on more commercial lines than can the current UPU. Its structure and operations would be determined by its members in the light of their interests and resources. Similarly, the size and composition of the permanent secretariat would reflect members' requirements.

15 Whilst the numbers of operators' organization could agree standards or procedures between themselves, these would not be legally binding on member states unless endorsed by the intergovernmental body. It is likely therefore that there would be regular interaction between the two organizations on issues of mutual interest.

*Model two: complete separation of governmental and operational functions to create two distinct functions within the UPU*

16 A modified version of Model 1 might provide for two quite separately managed functions within a single UPU. This would require a much clearer separation of powers and funding.

17 Essentially, the framework would be as if there were two institutions (as above) each with its own managing body and permanent secretariat. There might be separate financial contributions with one part being attributed to the "intergovernmental" function and the other to the "operational" function. All members would be required to contribute to the "intergovernmental" element that might have similar role and functions as Model 1 (ie, a focus on legal/diplomatic and development issues).

18 Membership of the "operational" function might be completely (or partly) selective with members opting to participate as relevant to their needs (and obligations under the treaty) and with contributions being attributed to areas of participation. For example, there might be different groups such as, "Letter Post", "Parcels", "Financial Services", each electing a Council to manage

its work and supported by a secretariat team. Members to opt in only to those groups that directly concerned them. This structure would lend itself to the type of "cooperative" framework that currently exists for EMS. As above, whilst members of the operators organization could agree on standards or procedures between themselves, these would not be legally binding on member states unless endorsed by the intergovernmental body to which all would belong.

19 In this scenario, participation in the operational element might be open to all postal and courier companies, which would represent their institutions not their governments. So, for example, public post offices and other universal service providers would be likely to be the predominant members of a "Letter Post Committee", whereas other committees might have a wider range of representation.

20 Interested nongovernmental organizations/representative bodies might have observer status within the "intergovernmental" function. Representation in the operational function might be on a subscription basis.

21 Under this model, "Congress" would deal only with "intergovernmental" issues. An "all operators" meeting might be held in parallel or in association with Congress and prepare measures to put to Congress, but the meetings might have a quite different status and purpose.

*Model three: maintaining a single UPU but with a hierarchical structure separating governmental and operational issues*

22 This model assumes that the governmental and operational elements of the UPU are retained within one organizational structure. However, there is a clearer separation of powers, issues and responsibilities. This is reflected in a more hierarchical structure.

23 Between Congresses, the UPU might be managed by a Management Board, or Governing Council, that would represent governmental interests and oversee the treaty obligations of members and also consider administrative, diplomatic and development issues.

24 This model assumes that there would also be a number of operational groups established to deal with specific issues – as in the above example these might include "Letter Post", "Parcel Post", and "Financial Services". These operational groups might agree and publish standards or procedures to apply between themselves but these would not be regarded as binding on governments unless endorsed by the Governing Council (or Congress). However, except where government endorsement was specifically required, such issues would not normally be referred to the Governing Council or to Congress. They might have the status of technical agreements.

25 As above, there might be some element of self-selection in members' involvement in the operational groups and the appropriate earmarking of contributions/subscriptions. Similarly, there might be a specific IB team in support of each group and accountable to it. Some groups would operate on a cooperative basis.

26 Again Congress might be much more differentiated with a clear distinction between intergovernmental elements and operational issues and with a different status accorded to each element.

27 In this model, interested nongovernmental organizations or representative bodies might have observer status within the "intergovernmental" function. Representation in the operational groups might be from those public or private operators nominated by their governments. Representation of multinational companies in their own right, rather than as part of delegations, would have to be on a subscription basis.

*Model four: maintain two councils but with greater separation of powers and responsibilities*

28 This model assumes the continuation of the two Councils but each should have a more clearly defined role. The CA would oversee legislative, diplomatic, development and administrative issues and its membership would be drawn from government representatives. The POC would be responsible for overseeing operational issues concerning the universal service and its membership would normally include any universal service providers, whether public or private sector, although members would be able to nominate non universal providers as representatives, where appropriate to their national situation.

29 Each Council would have a more distinct identity/status and greater autonomy. This might be re-enforced by each having an allocated IB support team accountable to the Council. There might also be separate budget allocations for the two Councils. Whilst the POC members might agree and publish standards or procedures to apply between themselves, these would not be regarded as binding on member governments. Measures requiring government endorsement would be referred to the Council of Administration.

30 Congress might be much more differentiated with a greater distinction between intergovernmental elements and operational issues and with appropriate status accorded to each.

31 In this model, interested nongovernmental organizations or representative bodies might have observer status within the Council of Administration and appropriate deliberations at Congress. Representation in the operational groups might be from those public or private operators nominated by their governments. Participation in the POC by multinational companies in their own right, rather than as part of delegations, would have to be on a subscription basis and would be decided by the POC. Similarly observership or other participation in their own right by non-governmental organizations or representative bodies would be determined by the POC.

32 At regular intervals (at each Council?) – there would be a one (two?) day forum open to all interested parties – to discuss issues of common interest and review current activities and invite representations.

*Model five: continue to refine and develop the responsibilities of the councils but also develop a third dimension through an expanded advisory council*

33 Under this model, the CA would focus more on regulatory and administrative issues. The POC would be expanded to become more commercial in its functions and its membership would include any universal service providers whether public or private sector or any other operator nominated by members.

34 In addition, the Advisory Group would be expanded and would become almost a third Council. This would have membership from national and international associations of interested parties and representation from the CA and the POC. This membership might be nominated by individual governments or by the Councils. There would be a separate subscription for such membership and support from the IB. As with the Councils the Advisory Group could establish specialist subgroups. It would work on issues, have access to UPU documentation and have the right to make proposals to the Councils. One of its primary objectives would be to strengthen the communication and links with all stakeholders (including organizations, companies, Restricted Unions, etc).

35 Where appropriate, the two Councils and the Advisory Group would work on joint projects.

36 The organization of the IB would be restructured to reflect this new tripartite organization – as would Congress and the UPU timetable.

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