

Work Group 3 Report

IPODS Meeting
March 11, 2010

Changing Int'l Postal/Delivery Markets

- Expansion of new players in the market
 - Multiple public and private operators
 - Global as well as national operators
- New laws in US (2006) and EU (2008) that place more emphasis on fair competition
- Increasing use of electronic alternatives to paper communications
- UPU efforts to support diversification of public postal operators into parcels, EMS, logistics, financial services
- UPU studies since 1992 documenting changing markets

Basic Approach of WG3

1. Review of prior initiatives at the UPU to reflect changing market conditions, in particular:
 - Proposal 33 - US proposal at Beijing Congress in 1999
 - UPU High Level Group 2000 report on options for UPU reform
2. Review U.S. international postal policies set out in PAEA (39 USC 407) and predecessor acts
3. Problem: to develop a simple, effective means to move forward in a manner consistent with U.S. law and policy
4. Proposed solution: A U.S. statement of policy that captures the spirit of Proposal 33 but updated to reflect new developments and preparations for 2012 Congress

US Proposal 33 - UPU Beijing Cong. 1999

UNITED STATES OF AMERICA

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Resolution

Continuation after the Beijing Congress of the study on the mission, structure and management of the Union's work

Congress,

In view of the report submitted by the Council of Administration on improving the management of the Union's work (Congrès-Doc 69),

Noting the amendment of the wording of the UPU's mission to include the right to a universal postal service (resolution CA 10/1998),

Considering the recommendations on the functioning of the Councils (proposals 020 and 024),

Considering also the recommendations on the status of members (proposals 15. 106.91, 15. 102.5 and 19. 5.1) and on increased participation of interested parties in the Union's work - government policies on postal issues (proposal 018),

Noting as well the progress in improving the programme and budget system and the continuing interest in alternative means for financing non-mandatory activities,

Recognizing the fundamental changes occurring in the postal and related physical delivery service sectors, such as the continuing liberalization of postal services, the increasing exposure of international postal services to competition, the new relationships emerging between postal and private delivery operators, and the opening of domestic markets to foreign service suppliers in accordance with principles derived from the World Trade Organization and the General Agreement on Trade in Services,

Convinced of the need to continue the review process and take new measures on an urgent basis, prior to the next Congress if necessary,

Instructs

the Council of Administration, in consultation with the Postal Operations Council and the International Bureau, to:

- i continue seeking, as a matter of priority, ways of improving all aspects of the Union's structure and of the management of its work;
- ii continue reviewing the Union and its activities in a transparent manner, particularly as regards:
 - a the Union's mission, including its foundation in the universal service obligation and the single postal territory, and whether and to what extent it could be expanded to include promoting and encouraging communications between peoples by the efficient operation of the service of all operators, public and private, for cultural social and economic purposes;
 - b the governmental and operational roles and responsibilities of the bodies of the Union with respect to the provision of international postal services and whether and how they could be further clarified, distinguished and separately carried out;
 - c the UPU Secretariat and how the support it gives to the bodies of the Union could better reflect the differences between the governmental and operational responsibilities of the UPU and better serve the different needs of the two Councils;
 - d the UPU Acts and whether and how they could be further revised to reflect an expanded role for the UPU with respect to the activities of all operators, public and private, while continuing to provide a basis for member countries to ensure the provision of a universal service on a global scale;
 - e the system of financing the different types of Union activities and the possibilities for attracting new sources of revenue through optional financing arrangements;
 - f cooperation with the World Customs Organization, including the possibilities for extending simplified postal customs clearance procedures to similar shipments carried by all operators, public or private, and for revising the Kyoto Convention accordingly;
 - g competition between and among postal administrations and private delivery operators and how to ensure that the UPU can continue to support the provision of a universal postal service and the needs of developing countries while not giving undue or unreasonable preference to any group of operators;
- iii in a process open to input from the public and private sectors, formulate proposals for further reform based on the work described above:
 - a for implementation as soon as possible and prior to the next Congress, as appropriate;
 - b for submission to the next Congress for approval;
- iv invite member countries to convene an Extraordinary Congress in 2001, if necessary and appropriate, in order to implement reforms as soon as possible;
- v see to it that all UPU members wishing to do so have the opportunity to participate effectively in the work described above;
- vi ensure that other interested parties, including organizations representing users of postal services and private operators, are also consulted and given an opportunity to contribute.

UPU HLG Group Report 2000

Five models for reform of the UPU

1. Complete separation of governmental and operational issues into separate organizations
2. Complete separation of governmental and operational functions to create two distinct functions within the UPU
3. Maintaining a single UPU but with a hierarchical structure separating governmental and operational issues
4. Maintain two councils but with greater separation of powers and responsibilities
5. Refine and develop the responsibilities of the councils but also develop expanded advisory council

Background for PAEA's Int'l Provisions

In 1998 appropriations act Congress --

- Shifted authority to negotiate and conclude UPU Convention from USPS to Dept of State
- Added postal and delivery services to trade statutes administered by Dept of Commerce and USTR
- Adopted sense of Congress resolution:
 “It is the sense of Congress that any treaty, convention or amendment . . . should not grant any undue or unreasonable preference to the Postal Service, a private provider of postal services, or any other person.”

U.S. International Postal Policy (PAEA)

- Subsection 407(a): to promote and encourage --
 - communications between peoples by efficient operation of international postal services and other international delivery services ...
 - unrestricted and undistorted competition in the provision of international postal services and other international delivery services [outside U.S. postal monopoly]
 - a clear distinction between governmental and operational responsibilities
- Subsection 407(b): no agreement providing unfair competition in competitive products
- Section 407(e): equal treatment for competitive products under customs and import/export laws

Proposed US Statement

- Preamble summarizing need for reform
- 8 points highlighting key principles
 - UPU's legal mission should be to promote exchange of documents and parcels and promote competition outside reserved areas
 - UPU's legal mission does not include non-postal activities
 - Governmental and operation roles should be separated
 - Financing should follow separation of functions
 - UPU should work towards equal customs treatment
 - UPU should not create preferences for any competing operator
 - UPU should not undermine international financial regulations
 - Revisions must respect national sovereignty

Preamble

In the last two decades, fundamental changes have taken place, and are continuing to unfold, in international postal services and other international delivery services. These changes include the continuing liberalization of postal services, the increasing exposure of international postal services to competition, the new relationships emerging between public and private delivery operators, and the opening of domestic markets to foreign service suppliers.

The [United States] believes that there is an urgent need to develop fundamental revisions in the international legal framework for international postal services and other international delivery services and that such measures should be ready for adoption by member countries by the next general congress of the Universal Postal Union in 2012. Among the most urgent revisions are measures that will make clear that financial services provided by public postal operators must comply with international standards relating to financial stability and anti-money laundering.

1. Governmental Role: documents & parcels

The governmental mission of the Union and the goal of a single postal territory should be defined as the promotion and encouragement of the exchange of physical documents and parcels among peoples of the world for cultural, social, and economic purposes by means of the activities of all international postal services and other international delivery services. The Union should promote and encourage unrestricted and undistorted competition in the provision of such services, except where specifically reserved to a public postal operator by national law.

2. Governmental Role: not other services

The governmental functions of the Union should not be enlisted to promote or regulate the activities of international postal services and other international delivery services which do not involve the exchange of physical documents and parcels. When providing services unrelated to the exchange of physical documents and parcels providers of international postal services and/or other international delivery services should abide by the same rules and regulations, and be subject to the same supervision and oversight, as other providers of such unrelated services.

3. Separate govt and operational roles

The governmental and operational roles and responsibilities of the Union and its bodies — and the roles of the administrative support staff — should be clarified, distinguished, and reorganized in a manner that enforces a clear distinction between governmental functions, on the one hand, and operational activities, on the other hand. Approaches that should be seriously considered include models one and two of the [2000 HLG report]

- Model one: separate organizations - e.g., ICAO/IATA
- Model two: wholly separation units within one organization

4. Separate finances

The system of financing Union activities should reflect the clear distinction between governmental and operational responsibilities set out above.

5. Equal customs treatment

The Union should work with the World Customs Organization to develop, as soon as possible, customs procedures which are applicable in the same manner to similar shipments when conveyed by international postal services and other international delivery services, while maintaining, where appropriate, distinctions in the customs treatment of commercial and non-commercial shipments.

6. No preferences among competitors

The Union should adopt no measures which create an undue or unreasonable preference in favor of any international postal service or other international delivery service with respect to any activities which may be lawfully provided by more than one service provider.

7. Respect international financial regulations

The Union should refrain from policies that may undermine the international financial services regulatory infrastructure (FSB, BIS, IOSCO, IAIS).

8. No infringement on sovereignty

The revisions and clarifications of the Acts of the Union called for above should in no respect prejudice the right of any nation (A) to define and ensure a universal postal service suited to the needs of its people and (B) to define and enforce a public monopoly over basic letter post services for the purpose of supporting such universal postal service.

Conclusion

- We urge the full IPODS advisory group to recommend the proposed U.S. statement of position on UPU reform to the Department of State
- And encourage the Department to implement the statement of position by --
 - Submitting the position in a timely manner to the UPU Reform of the Union Project Group and to other appropriate UPU bodies
 - Following up with consistent proposals and statements in preparations for Nairobi Strategy Conference
 - Reconsidering the U.S. Strategic Plan for the UPU from 2009 to 2012 and other postal policy statements