

## **Federal Advisory Committee on International Postal and Delivery Services**

*(1:00-5:00 p.m., 15 May 2012, Elliott School of International Affairs, 1957 E Street, NW, Washington, D.C.)*

### **Committee Members in Attendance**

- Charles Bravo, Bravo Consulting
- James Campbell, Self-Employed
- Jim Conway, Express Delivery and Logistics Association (XLA)
- Lea Emerson, International Postal Affairs, USPS
- Bruce Harsh, Department of Commerce
- Merry Law, WorldVu LLC
- Michael Mullen, Express Association of America
- Arthur Porwick, United States Chamber of Commerce
- Michael Regan, Former Director of International Postal Affairs, USPS
- Robert Reisner, Transformation Strategy
- Stephen Simchak, The Coalition of Service Industries
- Brad Smith, American Council of Life Insurers
- Paul Smith, United Parcel Service
- Nancy Sparks, FedEx
- Phil Warker, Department of Homeland Security (Customs and Border Protection)
- Rodolfo Wolniewitz, DHL
- Amanda Yarusso-Horan, United States Trade Representative

### **Representatives of the U.S. Department of State**

- Robert Downes, Executive Director
- Patricia Lacina, Director, Bureau of International Organization Affairs, Office of Global Systems
- Dennis Delehanty, Director for Postal Affairs, Bureau of International Organization Affairs, Office of Global Systems
- Carol Henninger, Deputy Director, Bureau of Economic and Business Affairs
- Helen Grove, Management Analyst, Bureau of International Organization Affairs, Office of Global Systems
- Jocelyn Jezierny, Intern, Bureau of International Organization Affairs, Office of Global Systems

### **Welcoming Remarks**

1. Executive Director for the Advisory Committee Robert Downes opened the Federal Advisory Committee on International Postal and Delivery Services with introductions of himself and Helen Grove, followed by members of the Department of State, members of the Committee, and members of the public. He then extended personal greetings from Assistant Secretary Dr. Esther Brimmer and Deputy Assistant Secretary Nerissa Cook, before reviewing the agenda items.

### **Minutes of March 20, 2012 Advisory Committee**

2. Mr. Downes brought the minutes from the March 20 Advisory Committee meeting to the attention of the Advisory Committee and other attendees, which have been posted to the Advisory Committee webpage. Mr. Downes specified that the minutes from the current meeting would be posted within 30 days.

### **Update on preparations for the Doha UPU Congress and review of 2012 regional postal meetings**

3. Dennis Delehanty called the Advisory Committee's attention to a letter received from the UPU's International Bureau (IB), which refers to the Congress timetable for the 2012 Doha Congress. Mr. Delehanty discussed the preparations regarding the 151 proposals that have already been received, stating that around 66 of these proposals are "proposals of a general nature", and that around 90% of the proposals were generated by the Postal Operations Council (POC) or the Council of Administration (CA). Some proposals recently received are from countries, primarily former Soviet republics, and deal mostly with designated operators. Mr. Delehanty reminded the Advisory Committee that the next deadline for submitting proposals to Congress is Wednesday, May 23, and that the proposing country must have at least two supporting countries. July 23 is the final deadline, and proposing countries must have at least eight countries supporting their proposal. The United States has not yet submitted any proposals.

Additionally, leading up to the UPU Congress, restricted unions in Latin America, Africa, Asia, and elsewhere, have been holding meetings to discuss major issues of the Doha Congress, as follows:

- The Postal Union of the Americas, Spain and Portugal, met in Montevideo in late March
- PostEurop met in Belgrade in late April
- The Asia-Pacific Postal Union is meeting this week in Hong Kong
- The "Postal Regulatory Dialogue" in Rio de Janeiro
- Caribbean Postal Union in San Juan
- The Conference on European Postal Regulators in Belgrade
- A preparatory Conference hosted by the U.S. Government on June 18-19
- Annual Pan-African Postal Union meeting in July in Addis Ababa

#### **Review of updated draft U.S. Strategic Plan for the UPU 2013-2016**

4. Mr. Downes brought up the updated version of the U.S. Strategic Plan for the UPU and asked for the comments of the Advisory Committee members and the public. Discussion of financial services as they relate to the Strategic Plan will be discussed toward the end of the meeting.

#### **Review of selected major proposals for consideration by the Doha Congress and Draft Proposals for possible submission to the Doha Congress suggested by Advisory Committee members**

5. Mr. Downes introduced the list of selected major proposals for consideration by the Doha Congress that were thought to be of specific interest to the Committee Members. Mr. Downes stressed that this was not an exhaustive list of all proposals of interest, but that these proposals were particularly pertinent to U.S. interests of the 151 proposals that have been published thus far. After a brief discussion among the Committee members, it was decided that agenda items 5 (Review of selected major proposals for consideration by the Doha Congress) and 6 (Draft proposals for possible submission to the Doha Congress suggested by Advisory Committee members) would be combined, for the purpose of facilitating dialogue on these proposals.

6. *Comments by Advisory Committee members:* Jim Campbell stated that reorganization of the proposals according to subject matter would make for more orderly discussion, and that it would be most effective to examine these proposals in terms of the four major topics with which the Advisory Committee has been primarily concerned: terminal dues/ETOE's, customs, financial services, and the structural/functional issues of the UPU. Arthur Porwick agreed with Mr. Campbell that it would make sense to deal with the issues together.

7. Mr. Campbell suggested that POC proposals regarding terminal dues and ETOE's were not consistent with U.S. law, which ultimately led to him putting forward his own proposals. He then asked the USPS to speak on comments made at the most recent Advisory Committee in March. Lea Emerson of USPS stated that Committee members were briefed on the deliberations of the UPU councils, setting forth the major results of the POC and CA, and that USPS gave oral comments on the proposals submitted by Mr. Campbell at the last Committee meeting which were later put in writing. Mr. Campbell commented on agenda item 6a, the USPS's comments on his proposals. Mr. Campbell stated that after consultations with Commerce last month, he revised his proposals and the comments of the USPS might not still be relevant. The USPS had stated that, by supporting terminal dues amongst industrialized countries, the United States would be taking a step backwards to the 1999 UPU system. Mr. Campbell argued that his proposals would have no effect on the UPU plan to move to an individual country shared system of cost-based terminal dues. Starting in 2014, the most industrialized countries should put in place country-specific and cost-based terminal dues systems, and in doing this, most industrialized countries would arrive at the target at which they have been aiming. Essentially, these countries would be applying the same cost-based rate-making principle that they have been applying to domestic to international mail, and under this system, the USPS quotes a 118% cost increase for industrialized countries. A 2001 study found the Postal Service would earn more on inbound rates and that inbound and outbound would offset each other. The study found the possibility of a 7.4% rate increase for international mail for the Postal Service to maintain the same revenues, though Mr. Campbell argued that a more accurate possibility would be around a 5.5% rate increase, or more if concentrated on industrialized countries.

8. Mr. Campbell's revised proposal would maintain the POC proposal almost exactly as it is, but the floor and cap would be eliminated for the 25 most industrialized countries. The proposal would have no effect on POC efforts to gradually encompass the transitional countries into one terminal dues system. The Postal Regulatory Commission should be asked to update the 2001 study on terminal dues, because without this analysis, there cannot be an accurate estimation of the financial effects of the terminal dues proposal. The current POC proposal is incompatible with U.S. law because it would give USPS a cost advantage over other American carriers and gives foreign postal operators an advantage over American delivery companies who are competing with them on the inbound side. The POC proposal would result in distortions affecting global carriers and American companies trying to do business internationally. Mr. Campbell inquired as to what State can do to make the proposals consistent with U.S. law. Jim Conway of XLA stated that he remembered the 2001 study and that quantifying the economics of the situation was very important, otherwise the United States, and the UPU, is operating in a vacuum. This is not a matter of policy as much as it is a matter of law. XLA's working group, for the past three years, using the PAEA section 407 looking at undue and unreasonable preferences, clearly saw that a level playing field would be a reflection of law in policy, and supported looking at a cost analysis again.

9. At the mention of a suggested Nordic proposal which would eliminate caps, discussed by Mr. Campbell and Mr. Downes, Ms. Emerson stated that this is not an official proposal but was proposed throughout the four-year cycle of terminal dues work. The proposal did not meet any support from any POC or CA member countries. U.S. law also includes a cap, so the United States needs to be consistent in this respect. Regardless, it seems unlikely that the Nordic countries will gain further support for their proposal. Nancy Sparks of FedEx ask where in U.S. law a cap is mentioned, and whether the Nordic proposal mentioned the removal of a floor in addition to the cap. Ms. Emerson stated that she would need to consult with an attorney regarding the U.S. law, and that she is unsure of whether the Nordic proposal pertains to the removal of a floor. However, if it does, there are 35 new "target" (or developing) countries that have joined the UPU on the basis that there will be a floor to protect their revenues. Ms. Emerson also added that the cap referred to in U.S. law specifies that price increases of market dominant products cannot be more than the rate of inflation. Ms. Sparks then asked if this would or would not apply to international mail.

10. Mr. Conway stressed that, since the report referenced in 6a (Comments by USPS) was from 2001, the economics of the situation have vastly changed, and the report may not still be relevant. Speaking solely from his sector of industry, Mr. Conway is seeing tremendous growth in fulfillment of currency conversions, among growth in other areas. The growth potential as evident from company reports and graphs of fulfillment of international business mail has changed the dynamic since the 2001 survey.

11. With regards to Ms. Emerson's characterization of the possibilities of reform, Mr. Campbell stated that the possibility of getting the majority of the 25 most developed countries to support an amendment that affects only them seems very high if the United States helps garner their support. The rest of the UPU countries have the ability to vote on what rates industrialized countries charge each other. Aside from politics, there is congressional mandate of unrestricted and undistorted trade, and as the current POC proposal creates an undue or unreasonable preference, the United States is obliged to advocate a sound system, even if the chances of winning are not particularly high.

12. Mr. Campbell also wanted to emphasize customs issues. In his original proposal dealing with customs issues, the Department of Homeland Security (DHS) seemed to be on board with his first two points, relating to Express Mail Service (EMS) and parcel post. Regulations regarding these two points are stricter because DHS is still required to provide special UPU customs treatment for processing noncommercial parcel post and EMS. When testing competitive goods, bulk outbound products are competitive products under the Postal Accountability and Enforcement Act (PAEA). With inbound mail, it is difficult to apply the test to foreign competitive products from foreign post offices. The UPU estimates that small packets make up around 800 million parcels, whereas EMS and parcel post only handle about 50 million each. Commercial imports via small packet services are of growing significance, and the United States cannot agree with UPU principles that prevent DHS from implementing PAEA provisions. The international rule defining the customs treatment of American carriers by foreign customs enforcers gives

immunity to designated operators within that country. Under U.S. law, referring to competitive products, the Secretary of State cannot allow preference for one American carrier to occur. Allowing a committee of 40 postal operators to write their own law distorts and restricts trade, and gives them unreasonable preference. Mr. Campbell argued that his proposal says that regulatory authority over a four-year period is limited to documents not related to commercial products.

13. Phil Warker of DHS commented that DHS is not making a distinction between commercial and noncommercial packages, but rather wants data on all packages. Customs requirements should be up to national authorities, not the UPU, and the resolution calls for the UPU to help member countries to meet these customs and security requirements. The EU would like to amend Article IX of the Convention to tell all UPU member states that, if there are advanced data requirements on mail for whatever reason, then they must comply with these requirements. DHS would support this amendment, though they do not see it as necessary. Mr. Campbell then emphasized that the Convention is relied upon to create different customs treatment all over the world, which affects postal carriers globally. The United States should not subscribe to a convention that dictates that national administrations can treat their own postal operators better than commercial carriers, as this is unfair and anticompetitive.

14. Paul Smith of UPS wanted to give support to Mr. Campbell and the product of Work Group 3 over which it had labored for about 3 years. At the 2008 Geneva Conference, the United States engaged in a national discussion culminating in PAEA, which will be the basis of U.S. positions in the new CA, providing an ongoing consistent position regarding the distortion of competition.

15. Ms. Sparks referred to the terminal dues system as a symptom of a problem that the UPU continues to operate as a closed system while the global economy is becoming more open with a greater number of participants. This is a problem in Asia, where small packets pose a problem, and Japan Post, China Post, and Malaysi Post get special treatment for their state enterprises. The UPU recognizes growth, though it is entering an era of competitive neutrality for state-owned enterprises. The UPU needs to advocate an end to special customs treatment, and the three-level phase-in of Mr. Campbell's proposals an help accomplish this while avoiding striking at the traditional and social aspects of the UPU. Mr. Warker added that some regional blocs may simply not apply UPU provisions as seen fit.

16. Mr. Conway inquired as to what the policy of the Department of State is against ETOEs here and ETOE treatment overseas, and whether this would be addressed at the Congress and elsewhere. Mr. Campbell stated that ETOE remail issues are a large part of the terminal dues problem, as there is no justification for applying these kinds of restrictions among industrialized countries. The United States, pursuant to PAEA 407, should not support these restrictions. The proper solution is to not support restrictions on ETOEs and remail among industrialized countries while, on an interim basis, allowing restrictions among industrializing countries. Mr. Campbell gave an example of Citibank and Deutsche Post, and the example of a Belgian ETOE in Paris that collected mail from French mailers and sent it to the United States for processing. The USPS would not accept this mail because of unequal customs treatment, and will not deliver it for terminal dues. The USPS is thereby imposing a market allocation scheme on Europe that Europeans do not agree with. Americans, by virtue of anti-ETOE provisions, are thereby hindering European ability of mailing to the United States, inconsistent with 407.

17. Mr. Campbell reintroduced the issue of the separation of governmental and operational functions within the UPU, stating that this problem is deeply embedded in the UPU legal structure. Mr. Campbell's proposals would more clearly define the functions of the UPU in this way, though this is an issue for the long-term that deserves more attention. Mr. Downes stated that the U.S. government agrees with this and that there is no disagreement in the general goal of where the United States would like to be in this issue in the long run. Mike Mullen of the Express Association of America offered a possible approach to the issue, in which the U.S. Strategic Plan takes a harder stance on this issue in its outline of U.S. priorities.

18. Mr. Delehanty gave some background on the issue, describing the efforts of a reform group of the UPU led by Belgium during the current UPU Congress cycle, which has been responsible for the issue of the separation of governmental/regulatory and operational functions of the UPU. Norway has led a subgroup, the ad hoc group, in which the United States has been an active member. Since no one

volunteered to spearhead the initiative of separation of functions, no progress was made of this issue. The U.S. delegation did, however, study the structural model of ICAO (International Civil Aviation Organization) and IATA (International Air Transport Association) and gave a presentation on this subject in Bern last year. The issue of separation of functions is mentioned in proposal numbers 2 and 18, and these proposals introduce a plan to start or pursue a study during the next cycle. The remaining issue is who will take on this project. Mr. Campbell stated that France and Germany had asked that there be no designated operators on committees or subcommittees of the CA, which is a very small step, and even still could not garner U.S. support for this. Unless the United States makes an effort to put proposals on the table, nothing will happen. A proposal in line with the Europeans at the next Congress would be a worthwhile step in furthering the policies mandated by 407.

19. Paul Smith expressed the need for the U.S. Strategic Plan for the UPU to reconcile priorities and goals more, as point 2 under goals and point 4 under priorities both refer to undistorted competition but there seems to be a move in language from *promotion* to more passive *support*, and the close-out under the goal seems to be flipped into priorities in only the cases where free-market mechanisms apply.

#### **Draft proposals for submission to the Doha Congress generated by USG agencies**

20. Mr. Downes introduced three draft proposals for Congress that came from different agencies and were cleared by the interagency for discussion, though they are not finalized proposals.

21. *Comments by Advisory Committee members:* With regards to the first proposal on disclosure of audit reports of UPU projects, activities, and finances, Merry Law stated that any transparency into greater disclosure by the UPU is welcome.

#### **Private Sector Advisors on US delegation to the Doha Congress**

22. Mr. Downes recalled suggestions that were previously made by the Advisory Committee that it would be useful for the official U.S. delegation to the Doha Congress to include some representatives of the private sector, which last occurred at the 1999 Beijing Congress. This could encompass a broad group of people, including academics, technicians, and certain types of government contractors, and would give members of the Advisory Committee and the public a greater chance to comment on these proposals. If there is a decision to include such "private sector advisors," then it will be a fairly limited number, perhaps one or two, based on private sector advisor participation in various international conferences in the past. Additionally, the Department of State Office for the Legal Advisor has clear restrictions on what the role of these private sector advisors can be.

23. *Comments by Advisory Committee members:* Paul Smith and Nancy Sparks put forward the idea of an industry shared seat, with one delegate representing private sector carriers. If the government is looking for criteria to use to limit the consideration of a private sector advisor, he would offer membership on IPoDS itself and sector relevance as factors for consideration, as well as past participation as private sector advisors and experience in the Beijing Congress. Steve Simchack of CSI and Mr. Porwick also support the inclusion of the private sector in the delegation. Amanda Horan of USTR recognized that the Department of State hasn't yet made its final decision, but posed the question of whether private sector advisors would be cleared advisors. While this is a time consuming process, it provides the opportunity for the advisor to have more access to information. Regardless of State's decision, it would be useful for everyone to have a fuller understanding of what stakeholder participation is.

24. Mr. Campbell stated that when Congress granted the statute, the idea in consultation section 407b was that the Department of State would first consult with other government agencies, and then secondly maintain the appropriate liaison for representatives of the Postal Service, private carriers, and others. The Postal Service was intended to be treated more as a player in the game and less as government. Ms. Sparks referenced private enterprise involvement in ICAO. There is not a national champion in civil aviation, and the private sector is a useful instrument for avoiding positions that would undermine the U.S. government. The private sector goal in seeking to be a part of the delegation is very different from the role of a Consultative Committee (CC) member because they want to provide for the U.S. government, not the UPU as a whole. Mr. Downes responded that, should the senior leadership of State decide to make this decision, it will be done in a way that supplements rather than conflicts with CC. The United States would

look to have robust interaction with those who are there, whether they are on the delegation or not, and the private sector could have a very positive effect on procedures. Mr. Downes wanted to reiterate that, as the government is limited by minimal resources, it will likely be that State has only a small number of private sector advisors on the delegation.

#### **Draft Proposals for possible submission to the Doha Congress relating to financial services**

25. *Comments by Advisory Committee members:* Brad Smith of the American Council of Life Insurers (ACLI) thanked Mr. Downes and the Department of State for taking U.S. financial services companies seriously. U.S. life insurers face competition in Korea and Japan, where their national postal providers are their largest insurance companies. The U.S. government has promoted neutrality over many years regarding postal financial services. Currently, there is a proposal to create a user group (or cooperative) to coordinate financial services amongst postal providers, but there is no mention of abiding by international standards or of anticompetitive issues. The main issues with this are:

- The Joint CA-POC Subcommittee for UPU Strategy Draft Doha Business Plan 2013-2016 items 9-16 should be worded more strongly.
- Regarding item 12, the policy of the U.S. government is to only support remittances within the postal financial system. There is a clear distinction made in items 12 and 15 where “postal payments services” (remittances) is clearly stated and later, under a separate title, “postal financial services” is stated, which could include such services as savings, which is not a remittance. Brad Smith had asked the U.S. government and State to put forward a proposal to bring all financial services and remittance services into strict compliance with international supervisory standards as laid out by the International Association of Insurance Providers, to promote financial inclusion throughout the postal network.

26. Amanda Yarusso-Horan of USTR stated that it seemed that there was an inconsistency between Committee 3 and POC regarding the transferring of language agreed upon during the plenary session. There is confusion about who presented this Strategic Plan and what their relationship is with the committees, as much of what was done by the committees seems to be missing from this Strategic Plan. Mr. Campbell then stated that the Strategic Plan is basically finished, but is called a “draft” as there are still pieces being written by the chairman of POC 4. The Doha Postal Strategy is a broad statement of goals and objectives that essentially authorize the POC and CA to go forward and promote the various activities being mentioned. Control over the UPU seems to come more from regulations than the Congress itself.

27. Brad Smith then asked if, with regards to U.S. proposals or submissions to Congress, there is a vehicle where blanket language can be included to amend the mandate of the Financial Services Committee as it currently exists to keep it consistent with anti-money laundering and terrorism financing. Bruce Harsh replied that some language had been included but he would have to check how specific it was. Brad Smith stated that the objective to bring financial services in line with anti-money laundering had been unsuccessful. Additionally, Mr. Smith recommended amending the draft U.S. Strategic Plan for the UPU 2013-16 to include an addition to 5e stating “U.S. policy as it relates to trade and financial services standards,” and the addition of “as long as they are consistent with U.S. law and policy with regards to trade and financial services” to 6d, 6e, and 7b.

28. Carol Henninger stated that, in terms of the Financial Services Cooperative proposal, it is looked at favorably because it reduces the UPU budget when looked at on a case by case basis, though the UPU has not yet released the document from the last meeting. Ms. Sparks voiced one of FedEx’s concerns about the question of cooperatives and the UPU budget, and the greater UPU—the creation of special advantages. When a cooperative regarding financial services is created, there is a decline in the visibility of the creation of special privileges, and the risk is particularly strong because the United States is not interested in participating in a financial services cooperative. At the 2010 Nairobi Strategy Conference, the pressure by developing country postal operators to have better involved postal financial services was put on the UPU because of France, Italy, and Japan, among others, making a reasonable profit from financial services. Patricia Lacina of the Department of State stressed that cooperatives such as EMS and .post have taken off because a specific country has been interested and has taken the lead. Unless countries step forward, little will happen.

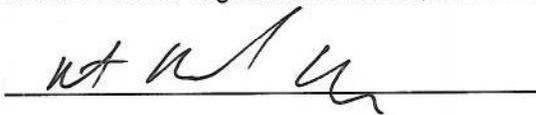
**Other Business**

29. Nancy Sparks stated that security is an important issue and an important part of 407 when it talks about customs and other agencies. Ms. Lacina stated that the UPU is working on universal standards for security, but was unsure of where they are in that process.

30. Mr. Downes closed the meeting of the Advisory Committee by stating that it is U.S. policy throughout the multilateral system to devote resources to make clear opinions on financial services, and that the United States is vigorously moving forward to keep broader financial services out of postal issues.

Meeting minutes prepared by Jocelyn Jezierny, Bureau of International Organization Affairs, Office of Global Systems.

Certified by Designated Federal Officer Robert Downes  
this 2nd day of July, 2012.

A handwritten signature in black ink, appearing to read "R Downes", is written over a horizontal line.