

United States Department of State

ADVISORY COMMITTEE ON  
INTERNATIONAL POSTAL AND DELIVERY SERVICES

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1735 New York Avenue, NW, Washington, D.C.

# Draft Proposals for the UPU Istanbul Congress – Customs

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# Topics

- **The "Postal Customs Model" of the UPU**
- **Differences between Postal Customs Model and normal customs procedures**
- **Postal Customs Model 2.0 (proposed)**
- **Draft Proposals re Customs**

# The "Postal Customs Model" of the UPU

# UPU Convention: Customs duty and fees

## Article 20. Customs control. Customs duty and other fees

1. The designated operators of the countries of origin and destination shall be authorized to submit items to customs control, according to the legislation of those countries.
2. Items submitted to customs control may be subjected to a presentation- to-Customs charge, the guideline amount of which is set in the Regulations. This charge shall only be collected for the submission to Customs and customs clearance of items which have attracted customs charges or any other similar charge.
3. Designated operators which are authorized to clear items through the Customs on behalf of customers, whether in the name of the customer or of the designated operator of the destination country, may charge customers a customs clearance fee based on the actual costs. This fee may be charged for all items declared at Customs according to national legislation, including those exempt from customs duty. Customers shall be clearly informed in advance about the required fee.
4. 4 Designated operators shall be authorized to collect from the senders or addressees of items, as the case may be, the customs duty and all other fees which may be due.

# UPU Convention: Exemption from customs liability

## Article 24. Non-liability of member countries and designated operators

...

3. Member countries and designated operators shall accept no liability for customs declarations in whatever form these are made or for decisions taken by the Customs on examination of items submitted to customs control.

# POC Regs: CN 22 Customs Declaration

<b>CUSTOMS DECLARATION</b>		May be opened officially	<b>CN 22</b>
Designated operator		<b>Important!</b> See instructions on the back	
<input type="checkbox"/>	Gift	<input type="checkbox"/>	Commercial sample
<input type="checkbox"/>	Documents	<input type="checkbox"/>	Other
<i>Tick one or more boxes</i>			
Quantity and detailed description of contents (1)		Weight (in kg) (2)	Value (3)
<i>For commercial items only</i> If known, HS tariff number (4) and country of origin of goods (5)		Total weight (in kg) (6)	Total value (7)
I, the undersigned, whose name and address are given on the item, certify that the particulars given in this declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations Date and sender's signature (8)			

Letter Post, Doha 2012, art RL 156.1 –  
Size 74 x 105 mm, white or green

CN 22 (Back)

## Instructions

To accelerate customs clearance, fill in this form in English, French or in a language accepted by the destination country. If the value of the contents is over 300 SDR, you must use a CN 23 form. You **must** give the sender's full name and address on the front of the item.

(1) Give a detailed description, quantity and unit of measurement for each article, e.g. 2 men's cotton shirts, especially for articles subject to quarantine (plant, animal, food products, etc.).

(2), (3), (6) and (7) Give the weight and value of each article and the total weight and value of the item. Indicate the currency used, e.g. CHF for Swiss francs.

(4) and (5) The HS tariff number (6-digit) must be based on the Harmonized Commodity Description and Coding System developed by the World Customs Organization. Country of origin means the country where the goods originated, e.g. were produced, manufactured or assembled. It is recommended you supply this information and attach an invoice to the outside as this will assist Customs in processing the items.

(8) Your signature and the date confirm your liability for the item.

**Note.** – It is recommended that designated operators indicate the equivalent of 300 SDR in their national currency

# POC Regs: CN 22 Customs Declaration (proposed revision)

Original CN 22

<b>CUSTOMS DECLARATION</b>		May be opened officially	<b>CN 22</b>
Designated operator		<b>Important!</b> See instructions on the back	
<input type="checkbox"/> Gift	<input type="checkbox"/> Commercial sample	<i>Tick one or more boxes</i>	
<input type="checkbox"/> Documents	<input type="checkbox"/> Other		
Quantity and detailed description of contents (1)	Weight (in kg) (2)	Value (3)	
<i>For commercial items only</i> If known, HS tariff number (4) and country of origin of goods (5)	Total weight (in kg) (6)	Total value (7)	
I, the undersigned, whose name and address are given on the item, certify that the particulars given in this declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations Date and sender's signature (8)			

Size 74 x 105 mm, white or green

Mock up of proposed changes with barcode

 UL000000014CA			
<b>CUSTOMS DECLARATION</b>		May be opened officially	<b>CN 22</b>
Designated operator		<b>Important!</b> See instructions on the back	
<input type="checkbox"/> Gift	<input type="checkbox"/> Commercial sample	<i>*Tick one or more boxes</i>	
<input type="checkbox"/> Documents	<input type="checkbox"/> Other (please specify): _____		
<input type="checkbox"/> Sale of goods			
Quantity and detailed description of contents* (1)	Value and currency (2)	H S tariff number* (3)	Country of origin* (4)
Total value (5)	Total weight (in kg)* (6)		
I, the undersigned, whose name and address are given on the item, certify that the particulars given in this declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations Date and sender's signature*			

Size 74 x 105 mm, white or green

← Add "Sale of goods" as a reason for export

← Remove weight for each line item and only require total weight of the package

← Add columns here so that H.S. and Country of origin can be indicated per line item

← Remove this field

← Optional

# POC Regs: CN 23 Customs Declaration (p. 1)

CUSTOMS DECLARATION				CN 23			
(Designated operator)				<b>Important!</b> See instructions on the back			
<b>From</b>	Name		Sender's customs reference (if any)			No. of item (barcode, if any)   <b>May be opened officially</b>	
	Business						
	Street						
	Postcode	City					
	Country						
<b>To</b>	Name		Importer's reference (if any) (tax code/VAT No./importer code) (optional)				
	Business						
	Street						
	Postcode	City					
	Country						
Detailed description of contents (1)		Quantity (2)	Net weight (in kg) (3)	Value (5)	<u>For commercial items only</u>		
					HS tariff number (7)	Country of origin of goods (8)	
			Total gross weight (4)	Total value (6)	Postal charges/Fees (9)		
Category of item (10)		Commercial sample	Explanation:		Office of origin/Date of posting		
<input type="checkbox"/> Gift		Returned goods					
<input type="checkbox"/> Documents		Other					
Comments (11): (e.g.: goods subject to quarantine, sanitary/phytosanitary inspection or other restrictions)						I certify that the particulars given in this customs declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations	
<input type="checkbox"/> Licence (12)		<input type="checkbox"/> Certificate (13)		<input type="checkbox"/> Invoice (14)			
No(s). of licence(s)		No(s). of certificate(s)		No. of invoice			
						Date and sender's signature (15)	

# POC Regs: CN 23 Customs Declaration (p. 2)

CN 23 (back)

## Instructions

You should attach this Customs declaration and accompanying documents securely to the outside of the item, preferably in an adhesive transparent envelope. If the declaration is not clearly visible on the outside, or if you prefer to enclose it inside the item, you must fix a label to the outside indicating the presence of a customs declaration.

To accelerate customs clearance, complete this declaration in English, French or in a language accepted in the destination country.

To clear your item, the Customs in the country of destination need to know exactly what the contents are. You must therefore complete your declaration fully and legibly; otherwise, delay and inconvenience may result for the addressee. A false or misleading declaration may lead to a fine or to seizure of the item.

Your goods may be subject to restrictions. It is your responsibility to enquire into import and export regulations (prohibitions, restrictions such as quarantine, pharmaceutical restrictions, etc.) and to find out what documents, if any (commercial invoice, certificate of origin, health certificate, licence, authorization for goods subject to quarantine (plant, animal, food products, etc.) are required in the destination country.

Commercial item means any goods exported/imported in the course of a business transaction, whether or not they are sold for money or exchanged.

- (1) Give a detailed description of each article in the item, e.g. "men's cotton shirts". General descriptions, e.g. "spare parts", "samples" or "food products" are not permitted.
- (2) Give the quantity of each article and the unit of measurement used.
- (3) and (4) Give the net weight of each article (in kg). Give the total weight of the item (in kg), including packaging, which corresponds to the weight used to calculate the postage.
- (5) and (6) Give the value of each article and the total, indicating the currency used (e.g. CHF for Swiss francs).
- (7) and (8) The HS tariff number (6-digit) must be based on the Harmonized Commodity Description and Coding System developed by the World Customs Organization. "Country of origin" means the country where the goods originated, e.g. were produced/manufactured or assembled. Senders of commercial items are advised to supply this information as it will assist Customs in processing the items.
- (9) Give the amount of postage paid to the Post for the item. Specify separately any other charges, e.g. insurance.
- (10) Tick the box or boxes specifying the category of item.
- (11) Provide details if the contents are subject to quarantine (plant, animal, food products, etc.) or other restrictions.
- (12), (13) and (14) If your item is accompanied by a licence or a certificate, tick the appropriate box and state the number. You should attach an invoice for all commercial items.
- (15) Your signature and the date confirm your liability for the item.

# POC Regs: Use of CN 22/23

## Article RL 156. Items subject to customs control

1. Items to be submitted to customs control shall bear on the front a CN 22 customs declaration, or be provided with a tie-on label in the same form....
3. The use of the data from the paper CN 22 or CN 23 customs declarations provided for in paragraph 2 above shall be restricted to processes relating to the exchange of mail and customs formalities in respect of the export or import of postal items and may not be used for any other purpose....
5. If the value of the contents declared by the sender exceeds 300 SDR, or if the sender prefers, the items shall also be accompanied by the prescribed number of separate CN 23 customs declarations....
8. Small packets shall always be provided with a customs declaration, which shall be either the CN 22 customs declaration or the CN 23 customs declaration as prescribed [above]....
10. The absence of a CN 22 or CN 23 customs declaration shall not, in any circumstances, involve the return to the office of origin of consignments of printed papers, serums, vaccines, infectious substances, radioactive materials and urgently required medicines ....
12. Designated operators shall accept no liability for the customs declarations. Completion of customs declarations shall be the responsibility of the sender alone. However, designated operators shall take all reasonable steps to inform their customers on how to comply ....

# EMS Cooperative: CN23 EMS Customs Declaration (1)

- **What is the EMS Cooperative?**
  - "EMS is an international postal Express Mail Service, for documents and merchandise offered by postal operators of the Universal Postal Union (UPU).
  - "The EMS Cooperative was created in 1998 within the framework of the UPU. Its [sic] main objective is to promote cooperation between members to allow them to provide customers with a high quality, competitive EMS service worldwide."
- **EMS Cooperative issued its own customs declaration in 2013:**
  - "As part of its customs improvement activities, the EMS Cooperative revised the EMS label to comply with the required data in customs declarations CN 22 and CN 23. The new EMS label (E 1)/customs declaration (CN 23), attached as Annex 1, has been developed based on an analysis of the UPU forms for labels, manifests and customs declarations, and of the EMS labels used by countries. The new label has been annexed to the EMS Standard Agreement and Procedures for 2013, approved by members of the EMS Cooperative."

*Source:* First bullet is quoted from <http://www.ems.post>. Second bullet quoted from POC C 1 CG 2013.1–Doc 8d.Add 1.

# EMS Cooperative: CN23 EMS Customs Declaration (2)



UNIVERSAL  
POSTAL  
UNION

**EMS** (1) (2) EE 000 000 456

Name of designated operator/country of origin – National name of the service – Website  
Nom de l'opérateur désigné/pays d'origine – Nom du service – Site Web

EMS Label (E1)/Customs Declaration (CN 23) / Etiquette EMS (E1)/Déclaration Douanière (CN23)

Unlike letter post and parcel post, EMS is not directly governed by the UPU and not part of the universal service obligation defined by UPU.

SENDER / EXPÉDITEUR				ADDRESSEE / DESTINATAIRE			
Name / Nom (4)				Name / Nom (12)			
Contact number / Téléphone (5)	Email / Courrier électronique (6)	Ref. exporter / Réf. exportateur (7)		Contact number / Téléphone (13)	Email / Courrier électronique (14)	Ref. importer / Réf. importateur (15)	
Address / Adresse (8)				Address / Adresse (16)			
Postcode / Code postal (9)				Postcode / Code postal (17)			
City / Ville (10)		Country / Pays (11)		City / Ville (18)		Country / Pays (19)	
CUSTOMS DECLARATION / DÉCLARATION DOUANIÈRE						ACCEPTANCE INFORMATION / PRISE EN CHARGE	
<input type="checkbox"/> Contents / Contenu (20) <input type="checkbox"/> Doc. / Doc. <input type="checkbox"/> Met. / March. <input type="checkbox"/> Samples / Echantillons <input type="checkbox"/> Gift / Cadeau <input type="checkbox"/> Ret. goods / Ret. produits		<input type="checkbox"/> Ret. goods / Ret. produits		<input type="checkbox"/> Doc. attached / Doc. annexés (21) <input type="checkbox"/> Invoice / Facture <input type="checkbox"/> Certif. / Certif. <input type="checkbox"/> License / Permis		Item weight (kg) / Poids (kg) (29)	
Detailed description of each piece / Description détaillée du contenu (22)		Quantity / Quantité (23)	Value (currency) / Valeur (monnaie) (24)	Weight (kg) / Poids (kg) (25)	HS (code) (26)	Country of origin / Pays d'origine (27)	
						Postal fees / Taxes postales (30)	
						Total / Total (32)	
						Office / Bureau (33)	
						Date / Date (34)	
						DELIVERY INFORMATION / INFORMATION DE LIVRAISON	
						Date / Date (36)	
						Person name / Nom (38)	
						Signature / Signature (39)	
						Date / Date (41)	
						Signature / Signature (42)	
I certify that the particulars given in this custom declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations. (40) Je certifie que les renseignements donnés dans la présente déclaration en douane sont exacts et que cet envoi ne contient aucun objet dangereux ou interdit par la législation ou la réglementation postale ou douanière.							

Customs declaration including all customs mandatory fields

# **Differences between Postal Customs Model and normal customs procedures**

# Differences in customs data provided (EU)

↓ DO entry

↓ Non DO entry

	Postal and Express Consignments		Ship and Aircraft Supplies	Road Mode of Transport	Rail Mode of Transport	Air, Sea, Inland Waterways and Other Modes of Transport not Referred in Previous Columns		Reduced Data Requirements for AEO	
	Exit	Entry	Exit	Entry	Entry	Exit	Entry	Exit	Entry
Number of Items									
Unique Consignment Reference Number									
Transport Document Number									
Consignor									
Person Lodging the Summary Declaration									
Consignee									
Carrier									
Notify Party									
Identity and Nationality of Active Means of Transport Crossing the Border									
Conveyance Reference Number									
First Place of Arrival Code									
Date and Time of Arrival at First Place of Arrival in Customs Territory									
Country(ies) of Routing Codes									
Customs Office of Exit									
Location of Goods									
Place of Loading									
Place of Unloading Code									
Goods Description									
Type of Packages (Code)									
Number of Packages									
Shipping Marks									
Equipment Identification Number, if Containerised									
Goods Item Number									
Commodity Code									
Gross Mass (kg)									
UN Dangerous Goods Code									
Seal Number									
Transport Charges Method of Payment Code									
Declaration Date									
Signature / Authentication									
Other Specific Circumstance Indicator									

## Differences in customs data provided

- "[In the EU], data elements for cargo are larger than the current CN 23 document. Examples of elements that are not on the CN 23:
  - information on the carrier,
  - country routing codes,
  - customs office of exit,
  - location of goods,
  - place of unloading code,
  - UN dangerous goods code,
  - transport charges and
  - method of payment code."
- "For the USA, as regards posts, data required consists of that on CN 22, CN 23, and CP 72 as provided by the origin post/sender, with the transport data being provided by the carrier."

# Differences in implementation: declarations (1)

## Impacts



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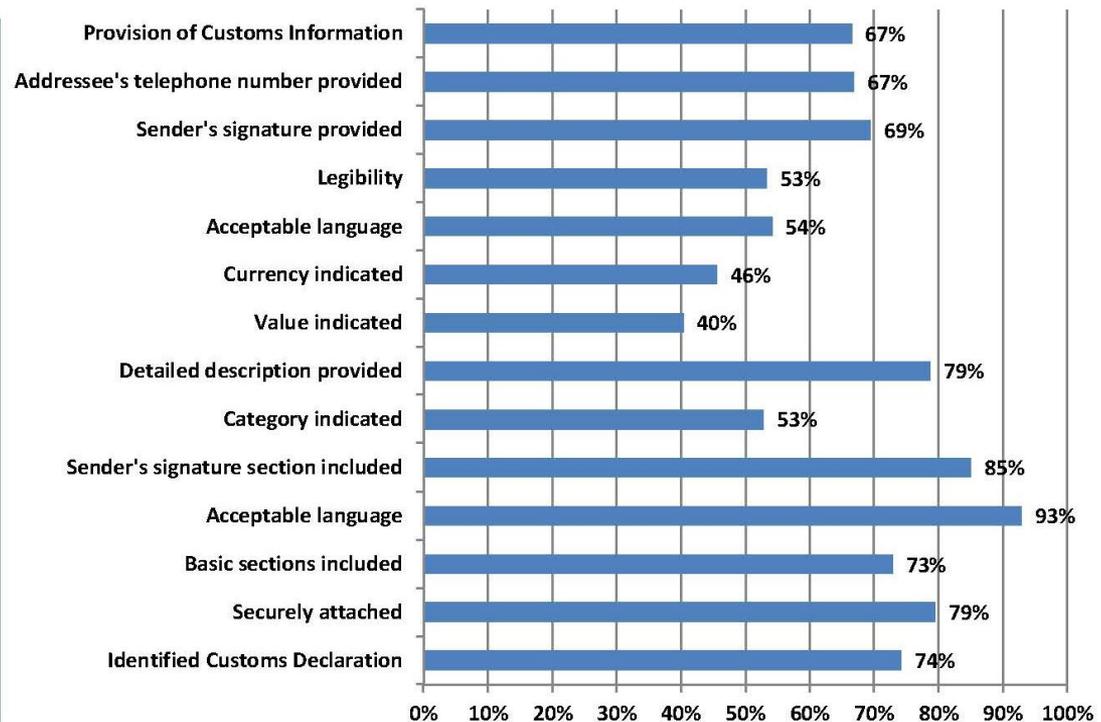
# Differences in implementation : declarations (2)

## Factors – the posts' experience

**EMS  
Customs'  
declarations  
sampling at  
the Office of  
Exchange:**

- 64 DOs
- 143 EMS items

Source: EMS Unit – 2012Q2



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## Differences in implementation: duties (3)

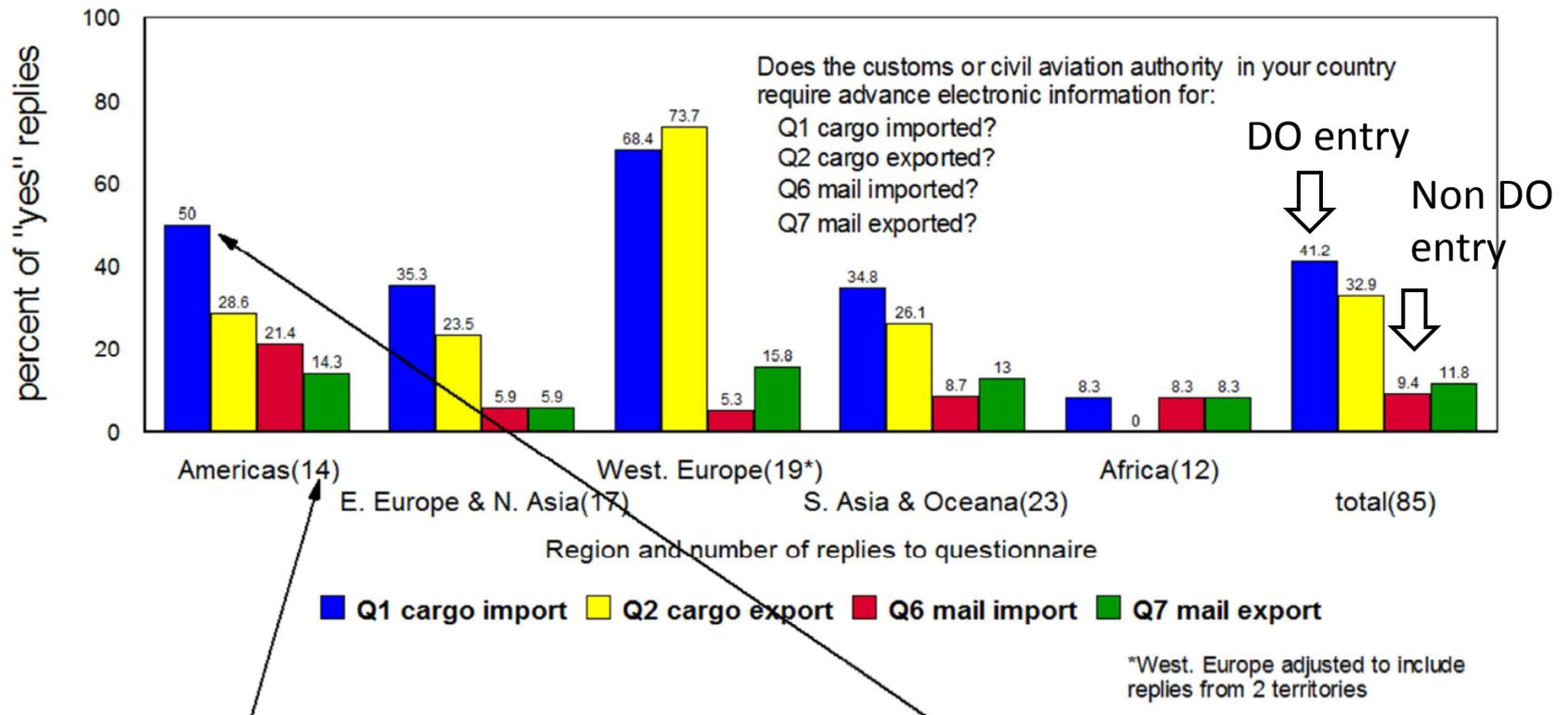
- **Wirthlin Worldwide survey for FedEx/UPS (1999)**

- 90 dutiable packages sent to US from 10 European countries via FedEx or UPS.
- 90 identical dutiable packages via the express mail service provided by foreign postal administrations with transfer either to the USPS (63 packages) or to express carriers (“independent contractors”) (27 packages).

Carriers	Formal entries	Informal entries	Total entries	No entries filed
Express (90)	42.2%	46.7%	88.9%	11.1%
USPS (63)	0.0%	6.3%	6.3%	93.7%
Contractors (27)	7.4%	63.0%	70.4%	29.6%

# Differences in advance data requirements (1)

Questions 1,2,6,7  
Advance info required?  
Cargo versus mail; import versus export



## Differences in advance data requirements (2)

- **Summary conclusion (by UPU)**

- "The majority of the replies show that advance electronic information is being provided to customs or civil aviation authorities for goods imported (41.2 %) / exported (32.9 %) as cargo. However, for postal traffic, the replies indicate only a minority has such requirements (9.4% imported /11.8% exported) for postal traffic. In most cases, postal traffic conveyed under the UPU acts is exempted."

- **Australia: example of same requirements for postal traffic and cargo**

- "Post is subject to same control for imported items like cargo. For import, post records the information at a receptacle level given by airlines and ground handlers. For export, airlines provide the information at a receptacle level to the Australian Customs and Border Protection."

# Postal Customs Model 2.0 (proposed)

## Motivation for Postal Customs Model 2.0

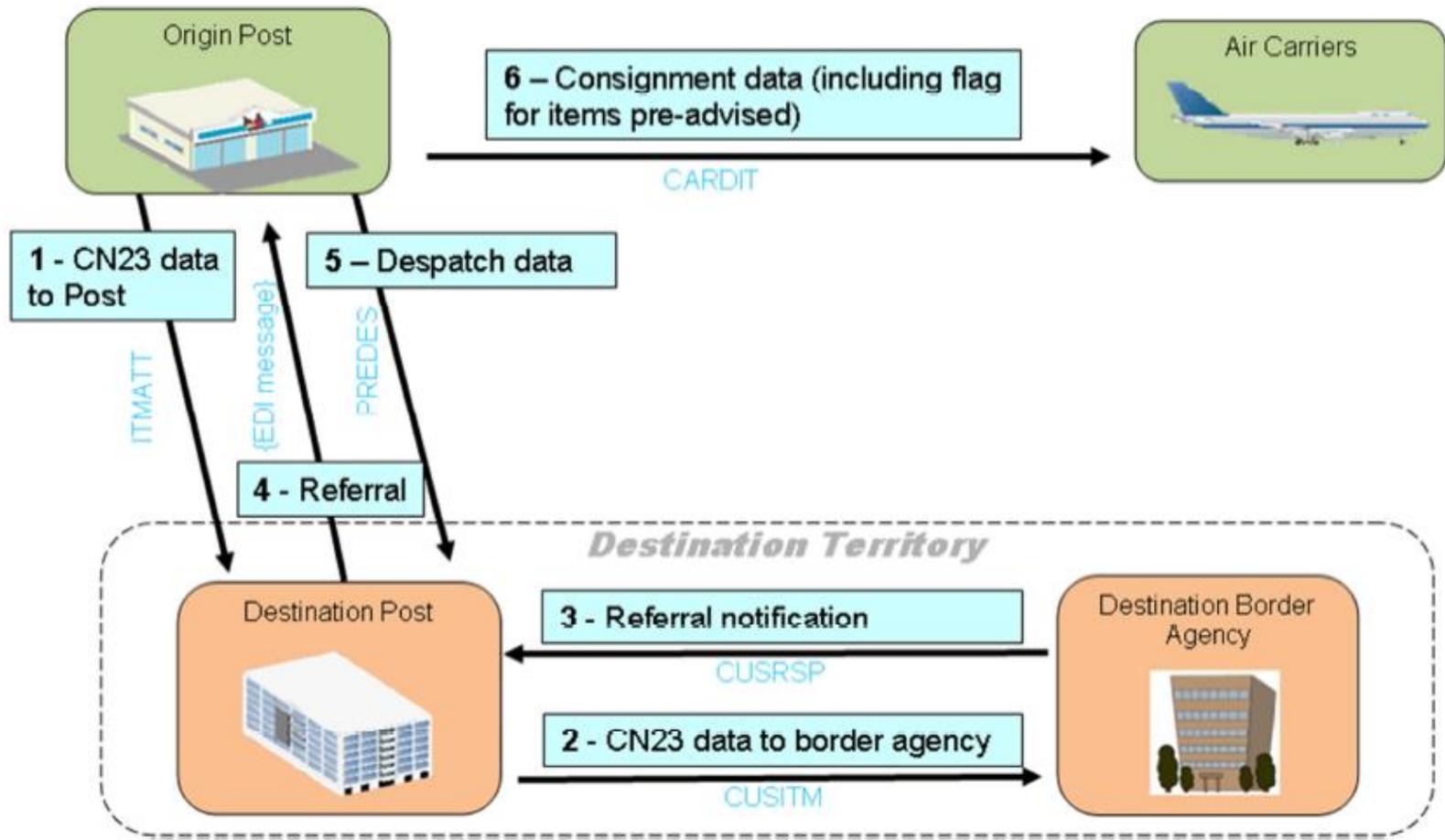
"Traditionally, postal operators benefited from simplified customs procedures based on the UPU regulations. These exemptions not only relied on a historical situation linked to administrative status of posts and on the universal service obligation but also on specificities of the sector: low priced postal items, nonintegrated operators, large volumes. With the development of international trade via postal networks and the increased focus on security, derogations are now questioned in all parts of the world."

"Many countries and regions intend to require advance data on postal items, notably packets and parcels, in the near future because this is seen as critical to enhancing the security of the postal supply chain."

"The primary focus of the "postal model" discussed further in this report is therefore on the use of advance item-level information for the purpose of risk-based security analysis prior to departure from origin. However it must be noted that since the same information from the Customs declaration and shipping label is applicable to both security risk analysis and Customs duty assessment and clearance, the "postal model" has the potential to support both pre-departure security risk analysis ... as well as pre-arrival Customs clearance and fiscal assessment."

# Postal Customs Model 2.0: an electronic CN 23

Conceptual image of the advance data flowchart (postal model)



## Goal: recognition of "postal supply chain and its specificities"

"The intent is to have a Standard Postal model for advance information recognised by the UPU and international bodies such as the WCO, IATA and ICAO as the model appropriate to the postal supply chain."

"The UPU should pre-emptively propose solutions around what the postal model can offer and use its venues (inter-organization, regional, and by posts at the national level) to promote acceptance of it as the standard. The wider among the global community that a standard has been accepted, the better its chance for acceptance by those countries who had been seeking slightly different arrangements. "

**The aim of the discussions with international organizations is to confirm recognition of the postal supply chain and its specificities,** to obtain confirmation that the proposed postal model meets the objectives of WCO and ICAO and have it included in the standards and recommended practices that these bodies develop and promote."

## Issues raised by Postal Customs Model 2.0

- **There are no apparent "postal specificities" relevant to enforcement of customs and security laws.**
  - Relevant distinctions, equally applicable to all operators, might include:
    - Known shipper v. unknown shipper.
    - Document (envelope) v. small package v. large package.
    - Expertise/track record of the carrier or carrier network.
    - Low value v. high value.
    - Commercial v. non-commercial shipments.
- **Postal Customs Model 2.0 would preserve commercially significant distinctions between treatment of similar shipments.**
  - Liability, implementation, data elements, uniformity.
- **Inconsistent with postal, trade, and competition law in US and the EU.**
  - Legal treatment based solely on "designation" or non-designated by government is inherently distortive and anti-competitive.
- **No evidence that special customs/security treatment is needed.**
  - Collection and transmission can be contracted out if not provided in-house.

# Draft Proposals re customs



To Part II

# Draft Proposals re customs



To Part I

# Proposed amendments to the Convention

## 2012 Convention

- 20 Customs control. Customs duty and other fees
- 24 Non-liability of member countries and designated operators

## Draft Proposal

- 20 Customs control. Customs duty and other fees

### **20bis Customs control. Clearance procedures.**

- 24 Non-liability of member countries and designated operators\*

\* Delete para (3) – moved to new 20bis.

# Customs proposals

- **C1. New Convention Article 20bis on customs clearance rules**
  - **Mail sent between Industrialized Countries**
    - Beginning in 2018, apply customs rules in the same manner to similar shipments by Posts and private companies.
    - UPU to work with World Customs Organization to retain uniform and simple customs procedures for all low value packages.
  - **Mail to, from, between Developing Countries**
    - No change from current procedures for most mail.
    - Reasonable limits on customs privileges for certain mail (1) large shipments of commercial packages, (2) remail, and (3) ETOE mail.
- **C2. Congress resolution re global plan for customs clearance of packages**
  - **Require CA to develop a reform plan for 2020 Congress**
    - Develop plan with WCO
    - Extend customs reforms to all countries after 2022.
    - Preserve “single postal territory”
    - May include simplified customs procedures for documents, low value packages, and all social mail.

## ***Draft Proposal C1***

**New Convention article 20bis establishing custom clearance procedures, mandating non-discriminatory procedures for shipments between industrialized countries, continuing UPU customs procedures for shipments to or from developing countries, and allowing countries to decline to apply UPU customs procedures to large shipments of commercial packages**

Convention – Proposal

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### **UNITED STATES OF AMERICA**

Add a new article as follows [boldface indicates new text]:

#### **Article 20bis**

**Customs control. Clearance procedures.**

1. In this article, the following definitions apply.
  - 1.1 The term “document” means any item suitable for conveyance by a designated operator or non-designated operator that (1) conforms to size and weight limits for small letters (P) or for large letters (G) established by the Postal Operations Council and (2) has a value of less than or equal to 300 SDR.
  - 1.2 The term “package” means any item that is not a document and that is otherwise suitable for conveyance by a designated operator by letter post or parcel post and to similar items suitable for conveyance by a non-designated operator.
  - 1.3 The term “commercial”, referring to a document or package, means a document or package which is exported or imported in the course of a business transaction, whether or not they are sold for money or exchanged.
  - 1.4 The terms “industrialized country” and “developing country” shall be defined by resolution adopted by Congress or, in the absence of action by Congress, by the Council of Administration.
- 2 For letter post and parcel post items conveyed between industrialized countries by designated operators, member countries shall apply customs laws and other laws relating to import or export in accordance with the following provisions.
  - 2.1 Member countries shall ensure that customs laws and other laws relating to import or export, including liabilities for infractions thereof, shall be applied in the same manner to documents and packages conveyed by designated operators and by non-designated

- operators. Similarity of items shall be assessed based upon objective criteria relevant to enforcement of customs laws and other laws relating to the import or export and shall not create an undue or unreasonable preference or competitive advantage for any operator or class of operators.
- 2.2 Paragraph 2.1 shall not prohibit member countries from adopting simplified or special rules for application of customs laws and other laws relating to the import or export of (1) documents; (2) documents and packages valued less than a specified amount; and/or (3) non-commercial documents and packages; provided that the principle set out in paragraph 2.1 of similar treatment for similar items conveyed by designated operators and non-designated operators is maintained.
- 2.3 The Council of Administration, acting in consultation with the Postal Operations Council and the Consultative Committee, shall collaborate with World Customs Organization and the International Civil Aviation Organization to encourage the industrialized countries to apply customs laws and other laws relating to the import or export of documents and packages in a manner that is as uniform among countries and as efficient and economical as practicable consistent with protection of the security and revenue of member countries.
3. For letter post and parcel post items conveyed to or from developing countries, member countries shall apply customs laws and other laws relating to import or export in accordance with the following provisions.
- 3.1 Customs declarations and accompanying documentation shall not be required for documents unless specifically subject to customs declaration by the country of destination.
- 3.2 Customs declarations and accompanying documentation shall be required for packages unless specifically exempt from customs declaration by the country of destination.
- 3.3 The Postal Operations Council is authorized to adopt Regulations prescribing standard customs declarations and accompanying documentation to be completed by senders for presentation to customs authorities either physically or electronically in connection with the import or export of letter post items and parcel post items. Such Regulations shall be developed in consultation with the Council of Administration and shall be approved by that Council of Administration before becoming effective.
- 3.3.1 Designated operators shall take all reasonable steps to inform their customers on how to comply with customs formalities, and specifically to ensure that customs declarations are completed in full and that all information provided is correct.
- 3.3.2 Member countries shall apply customs laws and other laws relating to import or export based upon the documentation prescribed under paragraph 3.3, when all the

**information required by customs authorities is available from such documentation.**

- 3.3.3** The absence of a customs declaration prescribed pursuant to paragraph 3.3 shall not, in any circumstances, involve the return to the office of origin of consignments of printed papers, serums, vaccines, infectious substances, radioactive materials and urgently required medicines which are difficult to obtain.
- 3.4** Member countries and designated operators shall accept no liability for customs declarations for letter post and parcel post items in whatever form these are made or for decisions taken by the Customs on examination of items submitted to customs control.
- 3.5** A member country may decline to apply paragraph 3 and subparagraphs 3.1 through 3.4 to large quantities of commercial packages. At least six months before implementing this paragraph, the member country shall adopt measures which provide for application in an objective, impartial, and transparent manner and shall notify such measures to the International Bureau.
- 3.6** The provisions of paragraph 3 and subparagraphs 3.1 through 3.4 do not apply to the import or export of letter post items and parcel post dispatched by an extra-territorial office of exchange of a designated operator.
- 4** The Postal Operations Council is authorized to adopt Regulations prescribing standard forms, electronic message formats, and other documentation relating to the customs control of a postal items in the country of origin or the country of destination (1) for use by senders in providing information to designated operators and (2) for use by designated operators in exchanging information with other designated operators
- 5.** Notwithstanding any provision of this article, each member country retains the right to take such steps as it considers necessary and proper to protect its national revenue and security in extraordinary circumstances.

#### Conforming amendments

- 1) This article replaces Convention Article 24(3), granting designated operators immunity from liability under customs laws, which should be deleted.
- 2) This article replaces the customs provisions in anti-ETOE resolutions of Congress, which should be deleted.

#### Notes

- 1) *Definitions*

Paragraph 1 defines the terms “document” and “package” for clarity. The corresponding

UPU terms are difficult to use because (1) “letter post” and “parcel post” refer only to items conveyed by designated operator and (2) “letter post” includes small packages as well as documents. Paragraph 1 also distinguishes commercial from non-commercial documents and packages based on the definition of “commercial item” in current UPU regulations (form CN 23).

Paragraph 1 also authorizes the Congress, or if Congress does not act, the Council of Administration to define the term “industrialized country” and “developing country” for purposes of this Article. In the 2012 Doha Congress, the UPU classified 29 countries as “industrialized.”

## 2) *Postal shipments between industrialized countries*

Paragraph 2 establishes the principle of non-discriminatory customs treatment for shipments conveyed *between industrialized countries*.

Paragraph 2.1 states the principle of non-discrimination. It provides that “customs laws and other laws relating to import or export shall be applied in the same manner to documents and packages conveyed by designated operators and by non-designated operators.” This principle is derived from the corresponding PAEA provision, 39 USC 407(e)(2). Unlike the current Convention, the proposed article subjects designated operators to liability for violations of customs laws.

Paragraph 2.1 also defines the concept of similar shipments. It is derived from the PAEA prohibition against US participation in postal agreements that create an undue or unreasonable preference for any operator. See 39 USC 407(b)(1). Specifically, this paragraph clarifies that “similarity” of items for purposes of this Article refers to similarity with respect to the enforcement of customs and other import/export laws. This clarification appears necessary because of oft-repeated claims by some designated operators that shipments conveyed by designated operators are per se dissimilar to shipments conveyed by non-designated operators because designated operators are different from non-designated operators.

Paragraph 2.2 allows, but does not require, member countries to establish simplified customs processing for (1) documents, (2) low value goods, and (3) “social mail” or non-commercial mail. It is derived from Article 139(6) of the EU Union Customs Code which provides for the possibility of special customs procedures for “traffic of negligible economic importance such as letters, postcards and printed matter and their electronic equivalents held on other media or to goods carried by travellers, provided that customs supervision and customs control possibilities are not thereby jeopardised.” The EU provision has been expanded to include the concept of special rules for low value goods (found in most customs codes) and social mail (a major concern of postal operators).

Paragraph 2.3 instructs the Council of Administration to work cooperatively with the World Customs Organization and International Civil Aviation Organization to promote uniform and simplified customs procedures for shipments between industrialized countries. UPU

available” from UPU customs forms. Although Annex J2 has been ratified by very few countries, the suggested language is clearer, and therefore preferable, to an unwritten general practice.

Paragraph 3.3.3 provides that member countries may not reject and return certain types of postal items. This extraordinary direction to national customs officials is set out in the POC Letter Post Regulations Art. RL156(10); Because this provision limits the authority of governments, it is preferable to include in the Convention.

Paragraph 3.4 continues the DOs’ immunity from liability under customs laws set out in the current Convention Art. 24(3).

Paragraph 3.5 authorizes member countries (not DOs) to refuse simplified UPU customs clearance to large quantities of commercial packages. “Packages” refers to small packets (in the letter post) as well as parcel post. Definition of the term “large quantities” is left to be decided by the destination country.

Paragraph 3.6 provides that the special POC customs rules for developing countries are not available to ETOEs (extraterritorial offices of exchange). Although complete liberalization of ETOEs would be substantially more pro-competitive than the current acts of the UPU, if relations between industrialized countries are appropriately reformed, then ETOEs become primarily a means of allowing DOs from developing countries to compete unfairly against DOs of industrialized countries.

4) *POC authority to set standards from communications between designated operators relating to customs*

For clarity, paragraph 4 authorizes the POC to prescribe standard forms, electronic message formats, and other documentation relating to the customs control (1) for use by senders in providing information to designated operators and (2) for use by DOs in exchanging information with other designated operators. Although the POC already adopts such Regulations, the purpose of this paragraph is to clarify what authority is delegated to the POC with respect to custom-related documentation and to clarify the distinction between operational documents, such as airwaybills and manifests, and customs declarations.

5) *Reservation of national powers in extraordinary circumstances*

Paragraph 5 reserves the right of each member country, in extraordinary circumstances, to take such steps as it considers necessary and proper to protect its national revenue and security. While this appears to be the current practice, it seems better to conform the acts to practice.

## ***Draft Proposal C2***

**Congress resolution instructing the Council of Administration to work with the World Customs Organization to develop impartial, non-discriminatory, transparent, simplified, and efficient customs procedures**

Proposal of a general nature

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### **UNITED STATES OF AMERICA**

**Resolution** [boldface indicates new text]

#### **Towards a new global framework for customs processing of international packages**

Congress,

Congress,

In view of

the rapidly changing postal markets and business environment influenced by globalization, market liberalization, regulation, and more sophisticated customer demands, [C9/2012]

Noting

a general decline in letter volumes [C44/2012] and, at the same time, the growth potential of UPU lightweight package services and the importance of security, transport and customs to the performance and competitiveness of those services, [C32/2012]

Considering

that the 21st century is the information society era, in which various forms of Internet-based economic activities are developing at unprecedented speed, and that the explosive development of e-commerce is changing people's way of life, [C33/2012]

Considering also

that demand for cross-border e-commerce transactions is increasing significantly as a result of the rapid development of e-commerce, and that there is huge potential for developing markets and increasing profit margins and that Posts are actively exploring ways of becoming main providers of cross-border e-commerce solutions, [C33/2012]

Bearing in mind

that the international postal market is increasingly characterized by liberalization, deregulation, and rising customer expectations, in addition to growing competition from technological substitution and private competitors, as well as between the public operators of member countries, [UPU Postal Operators Statement of Values]

Bearing in mind also

that many member countries are transforming their old designated operators into commercial entities, and introducing competition into the letter-post market, [C38/2012]

Bearing in mind also

that in liberalized markets, designated operators may find it advantageous to collaborate with, and use the services of, private sector commercial operators for the delivery of postal items, [C56/2008]

Bearing in mind also

that the fast-changing internal and external environment, which has led member countries to accelerate postal reform in recent years, and prompted an increasing separation of regulatory and operational functions [C13/2012]

Recognizing,

that customs processes form an integral and important part of the postal supply chain which facilitates free and secure global trade, [C55/2012]

Recognizing also

that governments of many Union member countries are liberalizing their postal markets, as a result of which possible differences between customs clearance procedures for designated operators and integrators **have** come under increasing scrutiny, [C56/2008]

Recognizing also

that expanded use of EDI messages to transmit customs data on postal items can create the conditions under which the customs clearance regulations are applied in the same manner to both postal shipments and similar shipments carried by private sector delivery firms, [C56/2008]

Recognizing also

that the use of electronic transmission of item-level information on postal items can benefit designated operators and customs or other security authorities by improving operations, expediting the flow of legitimate mail, reducing administrative costs and facilitating assessment procedures, while securing the international postal supply chain and enhancing the safety and

security of international mail exchanges, [C49/2012]

Recognizing also

the close cooperation between the UPU and the World Customs Organization and others to support the secure importation and exportation of mail by developing global EDI messaging standards and protocols consistent with the guidelines outlined in the Framework of Standards to Secure and Facilitate Global Trade, [C49/2012]

Concludes

that the primary commercial focus of designated operators and other providers of international delivery services in the future will be provision of delivery services for international packages, and in particular, for e-commerce products;

Concludes further

that the supply of international package delivery services will be characterized by vigorous competition among designated operators and between designated operators and other providers of international delivery services, as well as mutually beneficial collaboration between specific designated operators and/or providers of international delivery services,

Concludes further

that customs clearance procedures, which are critical to the provision of efficient and economical international package services, must become better adapted to the needs of the 21st century by ensuring that customs clearance procedures, consistent with the requirements for revenue and security of each member country:

- treat packages conveyed by designated operators and non-designated operator in accordance with the principles of impartiality, non-discrimination, and transparency;
- provide customs clearance in a manner that is as simple, rapid, and economical as possible, with no or minimal customs processing for items valued less than “de minimis” values that are as inclusive as possible;
- are standardized and uniform among countries, building upon and extending the benefits of the uniform global customs forms developed by the Universal Postal Union in the 20th century;
- make appropriate use of of electronic data conveyed to customs authorities in the countries of export and import to expedite customs clearance procedures while enhancing security and revenue protection;

Concludes further

that the increasingly competitive nature of the supply of international package delivery

services and the principle of separation of regulatory and operational functions requires the World Customs Organization to take the leading role in further modernization of customs procedures for international package delivery services;

#### Instructs

##### the Council of Administration

- to develop, in cooperation with the Postal Operations Council and the Consultative Committee, a proposal for presentation to the World Customs Organization for development of impartial, non-discriminatory, transparent, simplified, and efficient customs procedures for international package delivery services suited to the needs of the twenty-first century and, in particular, to the needs of international e-commerce;
- to work closely with the World Customs Organization, the Postal Operations Council, the Consultative Committee, and other stakeholders to prepare the way for implementation of appropriate guidelines and agreements to accomplish modernization of the customs procedures for international package delivery services as rapidly as possible.

#### Notes

- 1) The initial observations (to the last “bearing in mind”) recognize the changing market conditions and legal framework and, in particular, the increasing focus of designated operators on providing competitive international package delivery services. These observations are copied substantially verbatim from resolutions adopted by the 2012 Doha Congress or, in few cases, earlier congresses. References to the original resolutions are provided in brackets.
- 2) The “recognizing” clauses relate more particularly to modernization of customs procedures. These are also copied substantially verbatim from resolutions adopted by the 2012 Doha Congress or, in few cases, earlier congresses. References to the original resolutions are provided in brackets.
- 3) The “concluding” clauses are new text embodying conclusions that appear to follow from the preceding observations.
- 4) The “instructs” clauses instruct the Council of Administration to work with the World Customs Organization to develop a twenty-first century approach towards customs clearance of international packages that is impartial, non-discriminatory, transparent, efficient, and economical.