



Advisory Committee on International Postal and Delivery Services

*Minutes of the Meeting of 1 November 2017 (1:00 p.m. – 5:00 p.m.)
American Institute of Architects, 1735 New York Avenue, NW, Washington, D.C.*

Committee Members in Attendance:

Mike Mullen—Express Association of America
Nancy Sparks—FedEx
Keith Kellison—UPS
Brian Palmer—Amazon
Charles Prescott—Global Address Data Alliance
Merry Law—WorldVU LLC
Kate Muth—International Mailers Advisory Group
Shoshana Grove—International Bridge
Michael Plunckett—Association for Postal Commerce (by teleconference)
John Callan (by teleconference)
Alan Elias—eBay Inc.
Lea Emerson—U.S. Postal Service (USPS)
Anne Fisher—U.S. Postal Regulatory Commission (By teleconference)

Designated Federal Officer: Joseph P. Murphy—U.S. Department of State

Other USG Participants:

Peter Chandler—U.S. Postal Service (by teleconference)
Allison Levy—U.S. Postal Regulatory Commission

Opening of the Meeting:

Mr. Murphy opened the meeting shortly after 1:00 and chaired based on the agenda, which was adopted as presented. The entire session was open to the public.

Update from the UPU Postal Operations Council (POC) and Council of Administration (CA) meetings:

Mr. Murphy reminded Committee members that, based on Istanbul Congress decision on governance, the POC and CA each now meet twice a year in back-to-back sessions. He reported that they had just concluded their first regular meetings of the new Congress cycle, and described these meetings as productive and eventful, with important outcomes in three areas: Advance Electronic Data (AED), the Integrated Product Plan (IPP), and Governance Reform.

Advance Electronic Data (AED): Mr. Murphy reported that one of the highlights of the POC meeting was the decision to move the M33 Item Attribute (ITMATT) data message standard, which provides an electronic version of the data conveyed in the CN23 postal customs declaration, to status 2 (stable). This action will allow the standard to be cited in regulations. When combined with the regulation adopted in February of 2016 on AED (known as Electronic Advance Data—EAD—at the UPU), this action means that it will be possible for member countries to begin to impose requirements for AED from January 1, 2018, when the EAD regulation comes into effect. He commented that this development

marks an important milestone on the EAD roadmap, particularly when combined with the IPP-mandated separation of mail into documents and goods and the requirement that all items containing goods have a UPU S10 barcode label affixed.

Mr. Mullen asked if the regulations/standard specify when data transmission is required. Mr. Murphy responded that it was primarily up to receiving countries to specify their requirements. USPS' Peter Chandler, who serves as the co-chair of the POC Committee on Supply Chain Integration, added that the Global Postal Model, which is guiding the development of regulations and standards for EAD exchange, presumes an eventual pre-loading requirement.

Ms. Sparks sought clarity on the scope of the application of the M33 standard, to which Mr. Murphy and Mr. Chandler explained that the standard is only intended only for the exchange of data between UPU designated operators, and is not intended to establish any requirement for non-designated operators.

Mr. Kellison asked if and when the UPU would pass regulations requiring AED. Mr. Murphy clarified that the UPU regulations allow individual member countries to impose their own requirements from January 1, subject to the important restriction that they must respect the capacity limitations of the network, including the ability of sending countries to provide it. He noted that there are countries that do not have any current ability to use or desire to receive this data. Consequently, he said, there is no current projected date for a global requirement for AED. He noted, however, that there is a common understanding that, as postal services transition to focus increasingly on e-commerce shipments, AED exchange will become the norm. So, depending on the evolution of the IPP, such requirements might be expected to emerge in the future, he said. Given the express industry's expectation for parity of customs treatment and other aspects of the issue that make it a priority, Mr. Kellison said he was worried that a universal requirement for AED could be 4 ½ years away, if such a requirement would be dependent on action at the next regular UPU Congress. He asked if there is some way the State Department can accelerate adoption of global requirements. Mr. Murphy responded that we cannot require something that we know to be impossible. Consequently, what needs acceleration is work to build out the network and increase country-level capacity for AED collection and exchange, Murphy said, adding that there are very significant efforts underway in this area. He specifically mentioned the launch of a new Quality of Service Fund (QSF) project (SECUREX) focused on AED and liberalized QSF regulations, which can now better accommodate security-focused projects, as well as the establishment of the new QSF Common Fund that will make substantial new resources available to support global and regional projects aimed at strengthening the network, including through expanded collection, exchange and use of AED. Mr. Chandler added that there is both a push and a pull element at work, since there has been outreach through the World Customs Union to stimulate interest in AED on the part of customs authorities to increase demand for it globally.

Mr. Palmer asked, who determines what is possible under the UPU's AED/EAD regulation? If one country imposes a requirement for AED, and some country says they cannot comply, who decides? Mr. Murphy noted that there are arbitration procedures at the UPU but that these are rarely used. Since the system of global mail exchange is based on reciprocity and good will, dialog would be the key to resolving any such disagreement, and it is therefore up to each country to act in good faith to meet its obligations. Mr. Murphy noted that the countries that are most invested in sending e-commerce items through the mail are also the countries with the greatest capacity to provide AED, since they have business reasons to anticipate future requirements from customs authorities and other supply chain partners such as airlines, as well as operational incentives to better meet the demands of customers for timely and predictable delivery. There may come a day, he said, when we have to decide what to do

about countries that lag far behind but, as Ms. Emerson noted earlier in the discussion, these countries also tend to be ones that send “miniscule” volumes of mail to the United States.

Mr. Prescott inquired about the possibility that the liberalized QSF rules might make funds available for projects related to addressing. Ms. Emerson commented that QSF Common Fund resources were supposed to be used for projects that implement the Istanbul Business Plan and are subject to the same prioritization as regular budget resources. Mr. Murphy added that, while traditional QSF funds continued to be allocated to projects proposed by the countries to which the funds belonged, the amount of money in any one country’s allocation is, in most cases, too small to support an addressing effort. Nevertheless, the International Bureau would be the best source of information and advice on this matter, he advised.

Integrated Product Plan: Mr. Murphy also reported that the POC had adopted a framework for the IPP’s new product matrix. He commended that the work to date on the development of “Phase 2” of the IPP reflected what, in his view, is a lack of ambition by on the part of participants in the POC process. He said that their work so far might even be seen as regressive, since the new framework retains a “small packet” product within the category of items containing goods. The implications of this decision would not become clear, he said, until the Product Matrix is further elucidated. It is not promising, he observed, that the framework also retains the current terminology of letters and parcels. Mr. Murphy noted that some POC members were speaking about a possible IPP Phase 3 and 4, suggesting that they were still invested in the vision of the IPP but intending to move deliberately in realizing it. He concluded that, although the IPP had delivered clear benefits for the acceleration of AED exchange, effectively ending debate on the necessity of providing AED for all items containing goods, reform of the remuneration system looked likely to continue to be a sticking point going forward.

Mr. Kellison said it sounded like the IPP had stalled. He remarked that his understanding of the IPP, as it was proposed, is that it was intended to ensure commercial treatment of merchandise in the mail. He asked if what Mr. Murphy described amounted to an exemption from such commercial treatment for small packets. Mr. Murphy noted that the IPP had evolved as it developed, so the retention of a small package product as a sub-category of items containing goods should not be seen as an “exemption” but rather as an indication that the POC was scaling back the reform anticipated for Phase 2 by proponents of the IPP.

Ms. Muth commented that many International Mailers’ Advisory Group (IMAG) members rely heavily on the small packet product and are concerned that they not lose it. Mr. Murphy responded that he understood many mailers use this product but worried that its growth might be founded on an unsustainable pricing model.

Mr. Palmer said the timeline for reform of the rates applied to small packets is a concern, since the growth in international small packet volume is “truly startling.” Calling it a competitiveness issue for Amazon, he asked what options are on the table to address the influx of e-commerce items from Asia into the U.S. and other markets. Mr. Murphy responded that the reforms adopted in Istanbul would not come into force until January 1 of 2018, and it is difficult to determine what further reforms may be required before those already adopted come into effect. Inbound small packet volume growth, and USPS losses associated with it, would certainly be greater in 2017 than they were in 2016, he acknowledged, while emphasizing that the important thing will be to see the effects of Istanbul reforms in 2018. He expressed the view that the imposition of separate, significantly higher rates for small packets relative to letters and flats in 2018, and substantial annual increases in the cap rates applicable to them after that should, at least as far as USPS is concerned, provide full cost coverage. Mr. Murphy

commented that the UPU will not enact further reform of the remuneration systems until the 2020 Congress, and we will have to see how much appetite there is for major change, including consideration of self-declared rates, as the preparatory work for that congress gets underway. He conceded that earlier action is possible but said he did not see it as very realistic given the reality the Istanbul Convention will be in force until 2022. Ms. Emerson elaborated on Mr. Murphy's remarks, saying that the separate small packet rates agreed in Istanbul together with other rate increases, such as the increase in the fee for registered items and tracking, means that the problem of USPS' losses on inbound delivery of international mail is going away. Consideration of further adjustments to the remuneration systems, necessarily has to await further elucidation of the product matrix, she said.

Mr. Kellison and Mr. Mullen asked about how, practically, we can improve the situation as we head toward the Extraordinary Congress in Addis Ababa in 2018. Mr. Murphy said that the most important way to make further progress was to defend the original vision of the IPP by trying to ensure the final product matrix does not create big differences between the treatment of small packets and other items containing goods (i.e. have small packets are retained as a product mostly as a marketing device).

Noting that "simplicity is not always the answer," and that choice and customizations are important, Ms. Muth suggested that individual postal operators could still offer their customers a range of products. Mr. Murphy confirmed that the arrangements governing how postal operators exchange items among themselves are distinct from the products postal operators offer to mailers, reiterating that the relationship of postal operators to one another is distinct from their relationships with their customers.

Ms. Sparks asked for a sense of the room in Bern when the decision was made to retain a small packet product category, which, she said, appears to be an attempt to avoid enacting some of the reforms agreed in Istanbul. Mr. Murphy replied that there were clearly some voices that had undermining reform as their goal. He related that a number of countries remain opposed to the IPP, which was only narrowly adopted in Istanbul. Some of these countries continue to work to slow its progress or to reverse the progress that has been made. Mr. Murphy said that supporters of the IPP have been very successful in some areas, such as progress toward AED exchange, that appear to be irreversible. In other areas, however, Mr. Murphy said he had less optimism. Commenting that some IPP elements were adopted in anticipation of changes in the system of remuneration, Mr. Murphy observed that it is these changes that are now being contested. Mr. Murphy reminded members that the IPP represents a big change, and that the early phase of discussion was radical. Many postal operators, however, have a very conservative outlook, Murphy said, commenting the some resistance can be attributed to this instinctive conservatism. Nevertheless, he continued, it is clear that some operators have a strong desire to cling to practices that are not sound. Mr. Murphy promised that U.S. delegations would continue to work for further progress but urged member not to lose sight of the fact that the UPU has come a long way in a very short period of time. Returning to Ms. Sparks specific question, Mr. Murphy said that the United States and Canada got very little support for their position on small packets, which was met by outright hostility in some quarters. Consequently, we should, he said, anticipate a fight over remuneration once the product matrix is final.

(Mr. Murphy noted that a member of the public had asked to address the Committee and invited Jayme Smaldone, CEO of Mighty Mug, to speak. Mr. Smaldone said that his patented mugs, which he imports from China, are undersold on e-commerce platforms by products that infringe on his intellectual property rights. He expressed outrage that these counterfeit products arrive in the United States through the international mail with free shipping at a retail price of only \$6, which he said was less than \$2 over production cost. He expressed the view that this was made possible by terminal dues, which he

said allowed a Chinese shipper to send the item to the United States for only \$1, while it cost him \$6.39 to send it across the street, which, he argued, allowed foreign competitors to provide the product and the shipping for less than his cost of shipping. He asked that e-commerce shipments be separated out from the rest of the mail and that delivery prices be set fairly for these items at the UPU. He also called for termination of the USPS-China Post agreement covering ePackets, describing it “un-American,” subsequently asking that the agreement be made public. Shifting to USPS outbound rates, Mr. Smaldone commented on the disparity between inbound and outbound rates, complaining that for the same item a Chinese shipper can have delivered in the U.S. for a dollar, USPS charges \$62.50.

Mr. Murphy thanked Mr. Smaldone for his presentation, which he said made concrete for the Committee issues that it usually discusses only in the abstract. Responding to Mr. Smaldone’s statement, Mr. Murphy clarified that terminal dues is only meant to compensate USPS for delivery of the item after it arrives in the United States. It should not, he said, be confused with shipping costs or postage. Terminal dues does not cover intake costs or international transport, Mr. Murphy said, suggesting that the picture is more complex than presented. He commented that terminal dues do not determine the postage China Post charges mailers or the share of that postage the shipper elects to pass on to customers. Likewise, he said, the UPU does not set the rates USPS charges its customers for outbound international mail, which is a competitive product that is pieced accordingly. Mr. Murphy explained that terminal dues represent a cost for all sending postal operators. This cost is not market based but negotiated at the UPU, he said, adding that to the extent it is a subsidy, it subsidizes outbound mail generally. Mr. Murphy stated that the China ePacket agreement is a strictly commercial agreement, and the U.S. Government is not in a position to tell USPS that they need to publish it.

Members of the Committee also responded. Ms. Emerson questioned Mr. Smaldone’s figures, adding that the China ePacket agreement has been re-negotiated every year and that this agreement is approved by the Postal Regulatory Commission (PRC). The PRC’s Allison Levy elaborated on the criteria employed by the Commission in evaluating such agreements, explaining that the ePacket agreement must be found either to cover the Postal Service’s costs or to improve its net financial position. Ms. Levy noted that the PRC has not said which test the ePacket agreement passed but Ms. Emerson volunteered that it covers its costs. Mr. Smaldone expressed his view that the fast delivery time of the ePacket product incentivizes its use and exacerbates the challenge that low international shipping rates pose for domestic retailers. Mr. Palmer said that he felt the issue is not cost coverage but the disparity between what foreign shippers and American shippers pay. Mr. Murphy observed that it is impossible to compare the terms of the various commercial arrangements USPS and foreign postal operators enter into with their customers and one another. Although Mr. Palmer expressed the opinion that an American company could not get the rate China Post gets to have an item delivered domestically, even taking workshare elements into account. Mr. Murphy commented on the difficulty of trying to determine if China Post’s non-public agreement with USPS is better than Amazon’s non-public agreement.)

Returning to the subject of the IPP, Ms. Law asked if there would be forthcoming commentary in the UPU Convention Manuel elaborating of the definition of goods. Ms. Levy, who had participated in the discussion of this matter in Bern, reported that a small expert group has been established to look at the issue. Ms. Law reiterated that detailed definitions do not exist, and expressed her concern that different postal operators would adopt differing definitions particularly with regard to books and periodicals. She said that she understood some postal operators had announced that books, periodicals and newspapers are always documents and never goods while others, including USPS, will treat these items as goods if they are merchandise rather than gifts. Different postal operators defining the same items into

different categories can create significant problems, she said. Mr. Murphy acknowledged the concern but expressed the view that it is unlikely to be addressed in the near term. Ms. Emerson added that USPS is participating in the expert group looking at the question.

Governance Reform: As a final item of business, Mr. Murphy outlined what he said he expected to be a durable resolution of the governance issue. He reported that the U.S. participated in the Ad Hoc Group established by the Istanbul Congress decision and a ten-country team assembled by the chair (China). Despite deep divisions in the large and unwieldy Ad Hoc Group, the small team very quickly isolated the composition of the POC as the key issue. Mr. Murphy related that the underrepresentation of developing countries in the body is seen as an issue of fairness. He related that the U.S. view is that this concern threatens the integrity and legitimacy of the POC as an institution and, therefore, the durability of proposals it submits to Congress. Also, he explained, the U.S. delegation perceives that resolution of the question of POC composition will close the door on further discussion of a single council to replace the POC and CA. The team's recommendation, which the United States strongly supported, was adopted by the Ad Hoc Group and the CA and will be put forward to Congress in Addis Ababa. Mr. Murphy said that the proposal is to expand membership in the POC from 40 to 48 seats with 4 new seats for Africa, 2 for Asia, and one each for the Western Hemisphere and Eastern Europe. In addition, the election procedures will be simplified. Mr. Murphy related that Western European countries, whose influence would be diminished by this proposal, have linked their support to a favorable resolution to the discussions on reform of the contribution system, since they collectively pay over half of the dues that sustain the Union. (Mr. Murphy noted the need for reform of this system, which is inherently unstable and faces a real danger of collapse.)

Ms. Muth asked about developments affecting the Consultative Committee (CC). Mr. Murphy related that the United States had tried to bring CC revitalization into the governance discussion at an early stage in the discussion but did not get much support. He explained that, while there is recognition of the need to expand outreach to mailers and supply chain partners, there is deep suspicion of the CC arising from the participation of competitors in the body. As a result, Mr. Murphy said, the body continues to atrophy despite the strong contributions of some individual members, such as Mr. Prescott.

Following a final discussion under "other business" focused on possible formation of an IPP working group, which Mr. Murphy said it wanted to form before the start of the holidays, the meeting was adjourned.