



Advisory Committee on International Postal and Delivery Services

*2:00pm-5:00pm on March 14, 2019, American Institute of Architects' Board Room, 1735
New York Avenue, NW, Washington, DC 20037*

Committee Members in Attendance:

- Greg Stofko - FedEx
- Keith Kellison-UPS
- Merry Law-WorldVu LLC
- Paul Steidler -Lexington Institute
- Michael Mullen-Express Association of America
- Lea Emerson-U.S. Postal Service (USPS)
- Ann Fisher-U.S. Postal Regulatory Commission
- Peter Graeve – Military Postal Service Agency
- Todd Nissen – Office of the U.S. Trade Representative
- John Callan – Ursa Major
- Allan Elias – eBay
- Shea Felix – Stamps.com
- Shoshana Grove – International Bridge (by telephone)
- Patrick Hedren – National Association of Manufacturers
- Kate Muth – International Mailers Advisory Group (IMAG)
- Brian Palmer – Amazon
- Mike Plunkett – Association of Postal Commerce (PostCom)
- Robert Reisner - Pricewaterhouse Coopers
- Steve Simchak – American Insurance Association (by telephone)
- Tim Walsh—Pitney Bowes (by telephone)

Designated Federal Officer:

- Joseph P. Murphy-Department of State

Other Federal Government Participants:

- Stephen Anderson-Department of State
- Peter Chandler—U.S. Postal Service

Opening and Introduction to Agenda Item 3

Mr. Murphy chaired a meeting of the Department of State's Advisory Committee on International Postal and Delivery Services (IPoDS) in the American Institute of Architects' Board Room in Washington DC on the afternoon of March 14, 2019. The meeting commenced at approximately 2:00 P.M. and was open to the public. Mr. Murphy began the meeting with membership announcements and approval of the agenda. He then provided an overview of

recent international postal developments, in particular, the September 2018 UPU Extraordinary Congress in Addis Ababa, which was followed by the U.S. decision on October 17, 2018, to deliver its notice of withdrawal from the Universal Postal Union (UPU).

Mr. Murphy reported that, in response to the prospect of U.S. withdrawal, the UPU Council of Administration (CA) decided at its October 2018 meeting to accelerate development of proposals for an integrated remuneration plan (IRP). The POC and CA had originally planned to work over the remainder of the regular Congress cycle to have IRP proposals ready for consideration at the World Postal Congress in August of 2020, as instructed by the Addis Ababa Congress. The CA's October decision, however, established a new goal of developing remuneration proposals for small packets for consideration by the April 2019 sessions of the Postal Operations Council (POC) and CA. This new goal required an intensive effort by the POC's Remuneration Integration Group (RIG), which undertook the bulk of this work. The RIG, with the support of the UPU International Bureau (IB) developed five options. Three options represented modifications to the schedule of rates agreed to at the Istanbul Congress in 2016. A fourth option represented a complicated revision of terminal dues that would be calculated with reference to domestic rates. A fifth option was for self-declaration of terminal dues, which was the option supported by the United States. These options were winnowed down to two at meetings of the RIG in January and February.

These two options, termed Options A and B, call for either an acceleration of the rate increases agreed in Istanbul (Option A) or self-declared rates subject to certain business rules (Option B), which is the United States' preferred option. Mr. Murphy explained that the RIG was expected to recommend either one or both options to the CA's April 2019 meeting. He reported that Canada had been very helpful by, for example, leading the process that formulated the business rules for implementation of Option B. He related that the U.S. delegation had accepted responsibility for converting the substance of Option B and its business rules into UPU Convention text. Mr. Murphy said that approximately 30 countries were actively supporting the U.S. position in favor of Option B, while a roughly equal number claim to support Option A. Mr. Murphy told the Committee that the IB has encouraged a so-called "Remuneration Convergence Discussion Group" to work informally outside the POC structure to try to bring the two options closer together, agreeing on principles that would satisfy the mandate adopted in Addis Ababa, as well as the United States' insistence on implementing self-declared rates. Murphy reported that the discussion group would hold its first face-to-face meeting in Bern, March 19-20 to follow-up on telephonic consultations that had taken place over the past few weeks.

Mr. Murphy explained that, in its April meetings, the POC will consider the work of the RIG and can be expected to make a recommendation to the CA, which has the power to put the question to members prior to the 2020 Abidjan Congress. The CA could decide to recommend an Extraordinary Congress, which would require two-thirds of the 192 members to agree to call it through a postal ballot. Such an Extraordinary Congress, should it happen, would take place before the October meetings of the POC and CA. Presumably, he said, an Extraordinary

Congress would discuss Options A and B, which would be subject to amendments from the floor and could be approved by a simple majority. In the alternative, Mr. Murphy explained that the CA could present one or both of the options directly to member states for their consideration, again through a postal ballot. Members would have 45 days to comment on proposed measures, cast as Convention amendments, and another 45 days to vote for or against each measure. To take effect in this way, one half of the membership with the right to vote would have to participate in the ballot and a successful measure would then require the support of two-thirds of members voting. If both measures received two-thirds support, then, under UPU rules, the measure furthest from the *status quo* (Option B) would prevail.

Discussion of Agenda Item 3:

Responding to a question by Kate Muth from IMAG, Mr. Murphy said that Option B includes business rules that ensure that self-determined rates are not a free-for-all. The goal of these rules, he said, is to provide order and predictability. For example, there is a business rule that is analogous to the most favored nation provision of global trade agreements, ensuring that countries make the same rate available to all. Under Option B, adopting self-declared rates is optional for each postal operator, but operators have no option but to honor the rates declared by their partners. Further, there is a ceiling on terminal dues that is established by the level of domestic rates in the receiving country.

Brian Palmer of Amazon asked whether there were not really three options in play, including the *status quo*, should UPU members fail to agree on either Option A or B. Mr. Murphy replied that neither the *status quo* nor Option A were really options for the United States, which could only accept Option B.

The representative of FedEx (Greg Stofko) noted that the Presidential Memorandum of August 2018 mentions the principle of non-discrimination between Designated Operators (DOs) and non-designated operators and asked if self-declared rates would be available to non-designated operators under Option B. Mr. Murphy said that Option B is only applicable to DOs, since those are the entities with the responsibility for discharging obligations under the Acts of the Universal Postal Union (the Acts).

Responding to a request from Mike Mullen of the Express Association of America, Mr. Murphy clarified that the Acts provide for only two possible means to amend the Convention between regular Congresses. One is to convene an Extraordinary Congress, and the other is to use the formal process of intersessional amendment by written ballot, as previously explained.

When asked by the UPS representative, Keith Kellison, how the public can better understand the various proposals and express their opinions, given the short timeframe, Mr. Murphy answered that the proposals under consideration were neither final nor public documents. Accordingly, the U.S. Government is not at liberty to publicize them, remarking that the current meeting is the venue where the Department is seeking comment and input on the options as they had been described. He took the opportunity, to expand on the business rules for Option B and to add what he described as an important point: the business rules would exempt from self-declared

rates countries with very small annual flows of international mail, preliminarily defined as under 50 metric tons.

In response to a telephone query (Tim Walsh, Pitney Bowes), Lea Emerson (USPS) said that the Postal Service has not finalized its proposed increases in outbound rates. Mr. Walsh expressed his concern about the potential impact of rate increases on outbound international mailers.

Ms. Muth advocated for a ceiling to any such rate increases to minimize price shocks, since high rates could adversely affect exporters. She said that, given the current uncertainty, IMAG member companies are unable to make contingency plans and have huge concerns. Merry Law (WorldVu) said that many mailers are not yet aware of the threat of UPU withdrawal and the possibility of rate increases, commenting that there is very little time for planning. Ms. Law said that the 15 companies she works with expect significant increases and plan to move their shipping business to e-platforms outside the United States. Once mail leaves the system, she warned, it is not coming back. Mr. Murphy acknowledged that the uncertainty of this process affects mailers around the world.

UPS' Kellison commented that the August 2018 Presidential Memorandum says self-declared rates should be based on domestic rates, therefore the establishment of rates should be a non-issue. Murphy responded that the basis of the Presidential Memorandum is equivalent rates for equivalent services. It is not readily apparent what constitutes an equivalent service, he said.

Mr. Stofko remarked that self-declared rates is not the only issue, recalling that the Presidential Memorandum contains other issues, including non-discrimination and advance electronic data. Mr. Murphy agreed these represent areas where the State Department and others will continue to work but explained that it is only the ability to self-declare rates that is specifically tied to U.S. withdrawal.

Responding to Jessica Lawrence, a member of the public employed by UPS, Stephen Anderson, the Department of State Bureau of International Organization Affairs' Office of Specialized and Technical Agencies director said that, should Option B fail, the United States will self-declare its terminal dues rates no later than January 1, 2020, whether inside the UPU or outside of it. The goal for now, he said, is to find ways to self-declare our rates while staying in the UPU.

Answering Brian Palmer's (Amazon) question about why some countries, other than major exporters like China, would prefer Option A, Mr. Murphy explained that many DOs feared that rapid price increases would lead to a collapse in volumes and that this collapse could threaten the viability of the entire network.

Mr. Walsh asked about the likelihood of convergence between Options A and B. In response, Mr. Murphy said that the focus of the convergence discussion is on principles, rather than text. The U.S. remains bound by its stated intent to establish self-declared rates by 2020, so convergence would only be possible if it encompassed that possibility.

Responding to the Amazon representative's (Brian Palmer's) query on whether the tight deadline for self-declared rates meant new postal tariffs under Option B might not comply with U.S. rate-making law, Mr. Murphy noted that the State Department intends to consult closely with the

Postal Regulatory Commission. Ann Fisher, the Commission representative, affirmed that Chairman Taub was engaged on this issue.

Ms. Muth commented that there seems to be a real possibility that United States will, in fact, leave the UPU. She and Paul Steidler (Lexington Institute) asked about contingency plans, inquiring specifically about what steps the Department is taking to stay in the international mail network if the United States withdraws from UPU. Mr. Anderson reiterated that the focus at present was to remain in the UPU while finding a path forward that meets U.S. requirements.

Mr. Kellison expressed concern that only 30 of 192 member states actively support the U.S. position. Mr. Murphy responded that only 60 or so member states are engaged in UPU council deliberations at present, while the bulk of the membership may not yet be fully aware of the issues. Of those engaged, about half support Option A and half support Option B. Most African countries, he said, are not yet participating in the discussion but he expressed hope that they can be brought into the U.S. camp. (Mr. Murphy had noted earlier that Option B supporters included Canada, Brazil, Argentina, Chile, the Nordics, Ireland, Italy, Australia, New Zealand, Israel, Japan, Russia, South Africa and Tunisia and that postal operators in the Americas, as a group, have been strong supporters of the U.S. position.)

As for next steps, Mr. Murphy said that the U.S. delegation would assess the results of the April meetings of the UPU, then chart the way forward. Mr. Anderson added that the State Department had sent out two worldwide messages through American embassies as part of a diplomatic awareness program that had flagged U.S. concerns for foreign governments.

Mr. Steidler asked about the implications of UPU withdrawal for implementation of the STOP Act, which sets requirements for advanced electronic data (AED) for packages. He wanted to know if those requirements could be met outside of the UPU. Responding, Mr. Murphy noted that AED represents another objective listed in the August 2018 Presidential Memorandum and one where the UPU is playing a highly positive role. The UPU has worked diligently to establish a regulatory framework and standards for AED, he said, while noting that the international postal network is still lacking sufficient capacity to exchange this data globally. He highlighted, however, that the UPU is spending one-half of its development funds to build capacity. Peter Chandler (USPS) noted that the USPS has taken an important lead role within the UPU in the various working committees seeking to strengthen standards and member state capacity.

A member of the public, James Campbell, returned to the question of non-discrimination between designated and non-designated operators and commented that it appeared that the State Department was not complying with either the law [the Postal Accountability and Enhancement Act's provisions for international mail] or the Presidential Memorandum in regard to this matter. Mr. Murphy replied that the State Department was in close consultation with the White House and that it was being guided by the White House's interpretation of the Presidential Memorandum. He assured Mr. Campbell that the Department would continue to follow the law.

At the end of the discussion, Mr. Steidler commented that the Lexington Institute has covered the U.S. Postal Service for 20 years and that it strongly supports the Presidential Memorandum's goal of overcoming distortions in the pricing of international postal services. He read a

statement, included in the meeting record, that described the impact of low-cost shipping from China, which, he said, hurts U.S. businesses.

Agenda Item 4

Steve Simchak (AIA) asked to read a statement expressing his organization's concerns with UPU activities in the area of financial services, which has been added to the meeting record. In addition, Mr. Murphy shared the contents of a letter received from a member of the public: Mark Richmond, General Counsel of Dexas International. Mr. Richmond expressed disappointment that, five months after the White House October 17 announcement, his company was still being "undercut by terminals dues." This letter is added to the record of the meeting.

Mr. Murphy adjourned the meeting after noting for the record that Committee member Lea Emerson, would soon retire from the U.S. Postal Service after a distinguished career that spanned numerous UPU Congresses. The meeting warmly applauded her in recognition of her service, and she expressed her gratitude to colleagues in the postal community.