

15th Königswinter Seminar on Postal Economics
Postal regulation and delivery markets in transition
9-11 February 2015
Hirschburg, Königswinter, Germany

American Perspectives for the 2016 Istanbul Congress of the UPU

James I. Campbell Jr.

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(Some) (Fairly) American Perspectives for the 2016 Istanbul Congress of the UPU

James I. Campbell Jr.

Topics

Perspectives on the organization and acts of the UPU in the future

- **Organization of the UPU and the 21st century international delivery services market**
- **Acts of the UPU compared to the evolution of regulatory, trade, security, and competition policies in the industrialized countries**

Possible reform proposals

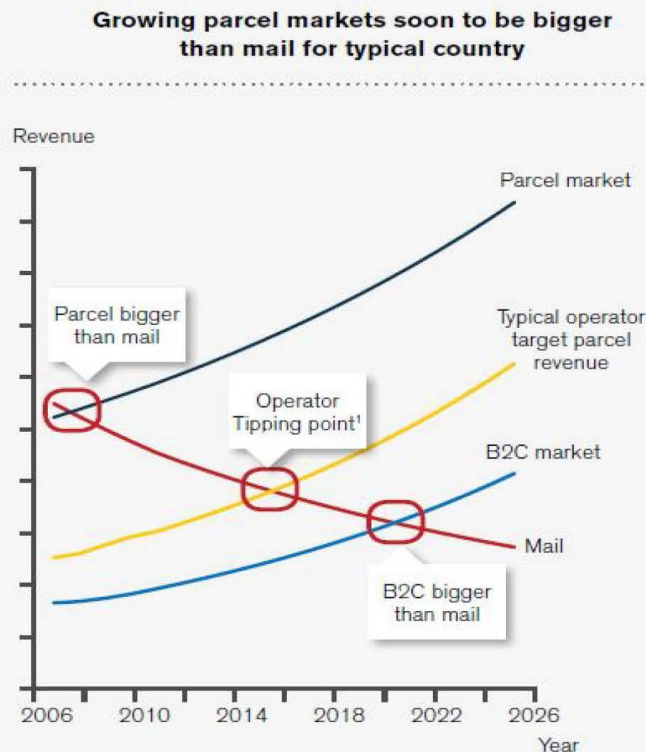
- **Developing a U.S. position for 2016 Istanbul Congress**
 - 1. Customs Issues**
 - 2. Issues relating to inward delivery charges**
 - 3. Institutional issues**

Organization of the UPU and the 21st century international delivery services market

Posts are being transformed into package services

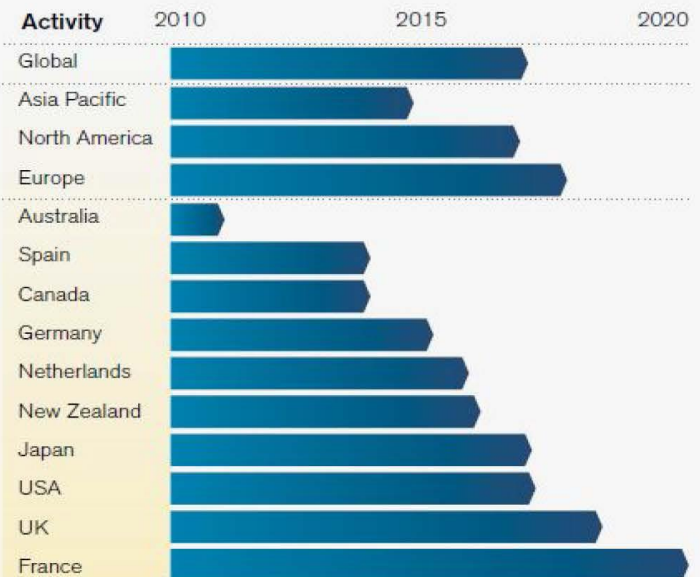


Postal operators are not “Mail companies” any more



1. Tipping point calculated at point where 70% marketshare of enlarged B2C CEP market + 10% marketshare in B2B CEP market is larger than mail market
Source: IPC, BCG analysis

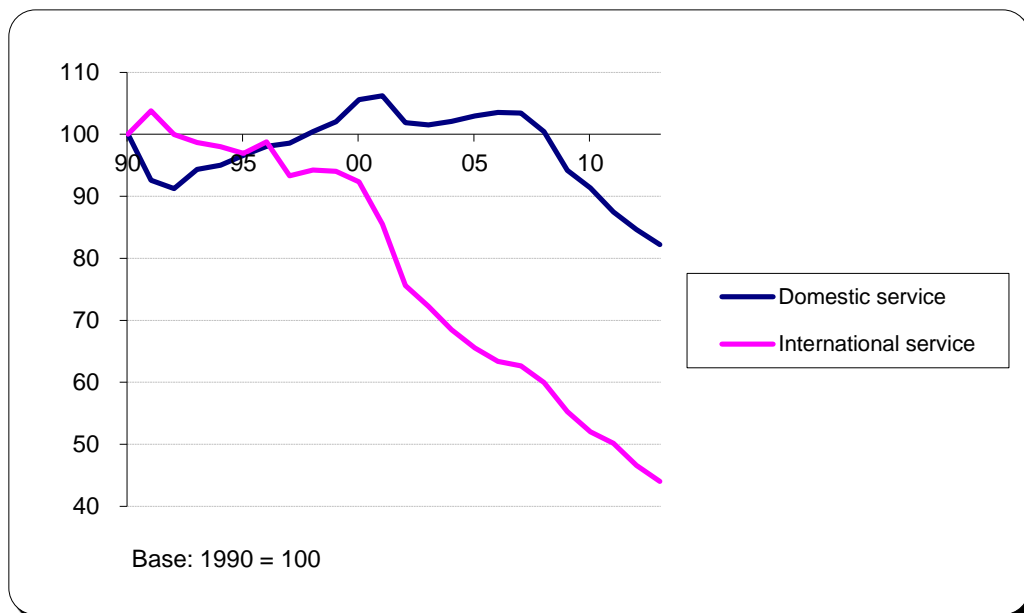
Operator tipping point¹ will be in the coming 10 years



End of arrow indicates tipping point¹

Source: IPC

International document traffic is dropping faster than domestic

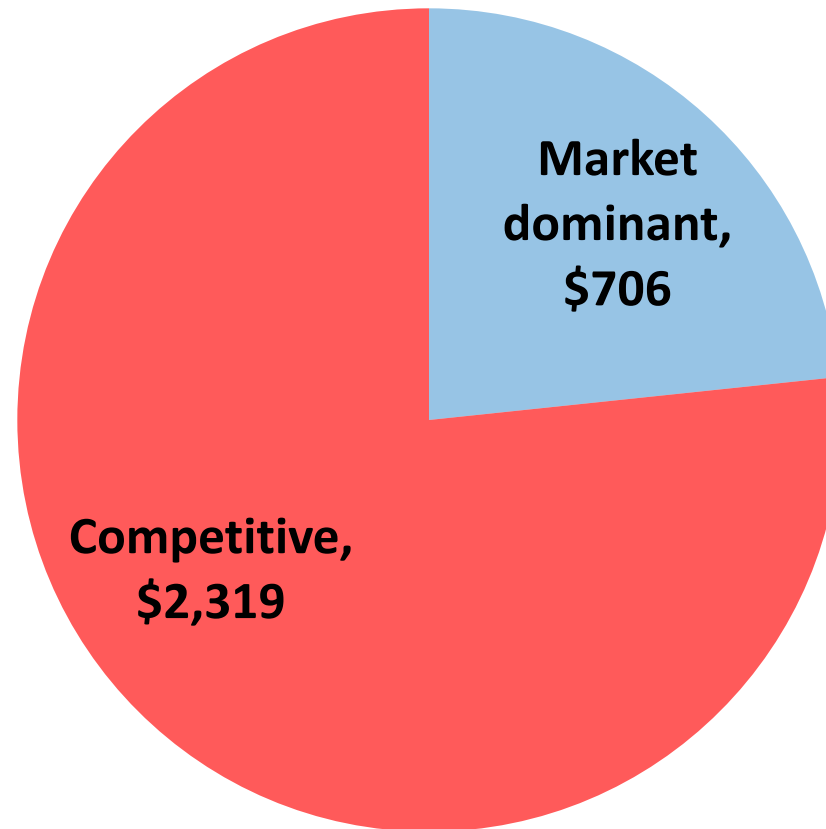


The number of letter post items is in decline.

However, the average weight of an item increases.

	Average annual variation			
	1990-2000	2000-2010	2010-2012	2012-2013
▪ Domestic service	0.5 %	-1.4 %	-3.8 %	-2.8 %
▪ International service	-0.8 %	-5.6 %	-5.3%	-5.6 %

USPS is a competitive international package service



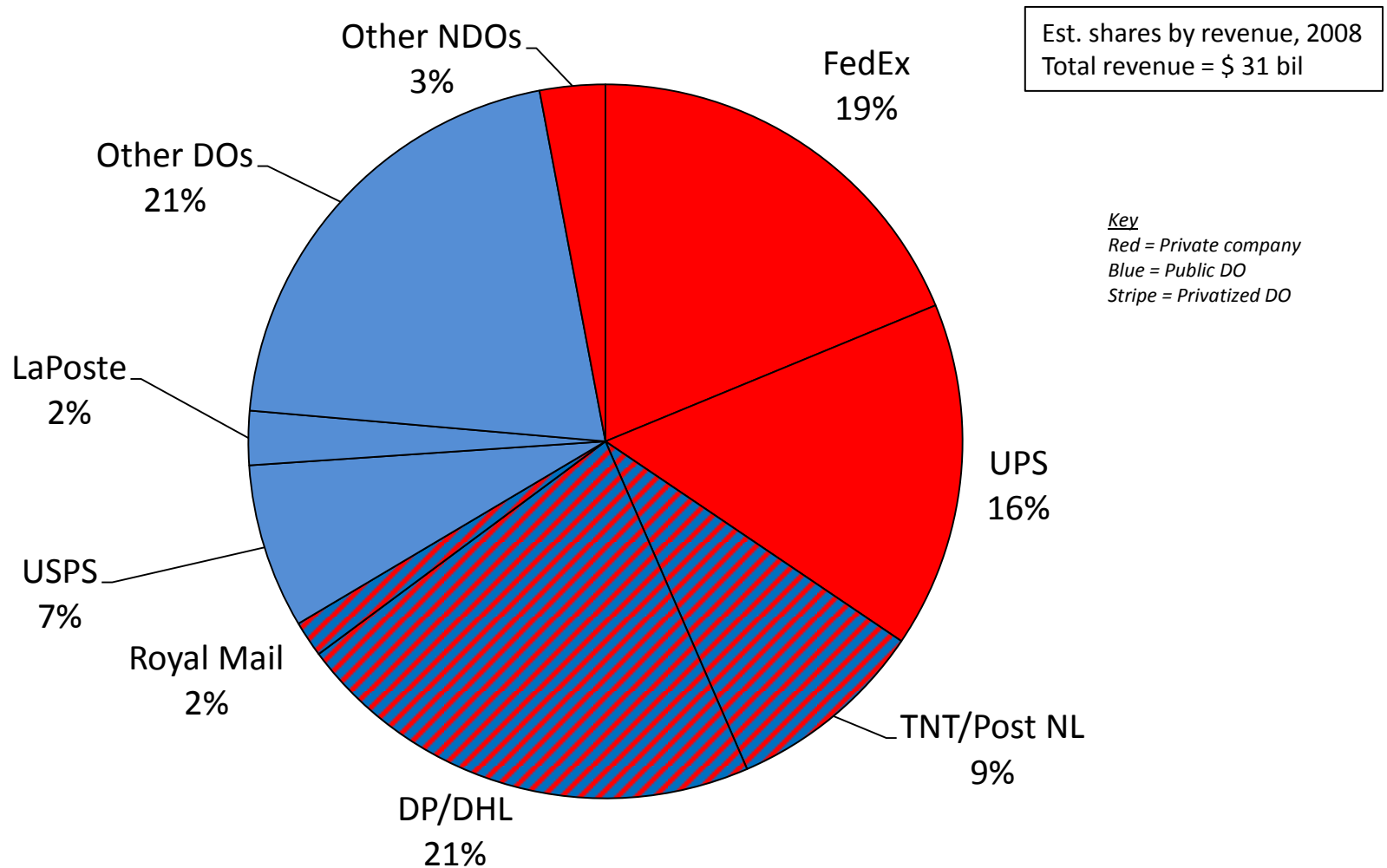
U.S. Postal Service
international
revenues, 2013
(\$mil)

**Competitive
services are 20%
of domestic
revenues**

Competitive services are predominantly outbound package services: small packet, parcel post, EMS.

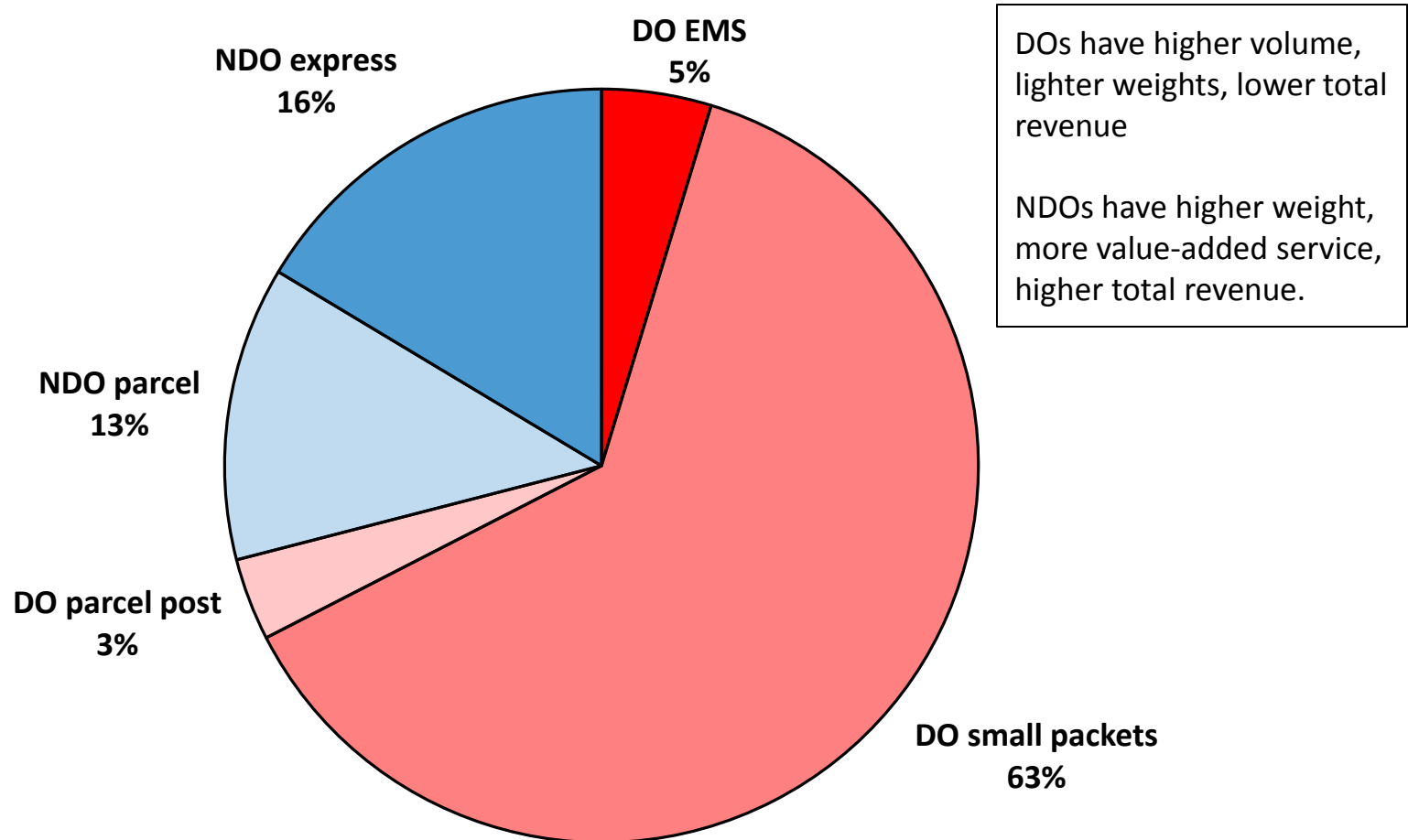
Market dominant services include significant revenue from inbound small packet and parcel businesses that are generated by foreign posts in competition with private operators in origin countries despite PRC classification as "market dominant".

Public/private line is blurring in international delivery markets



Source: UPU, Adrenale Report (2010). Market includes services for documents and packages < 2 kg only.

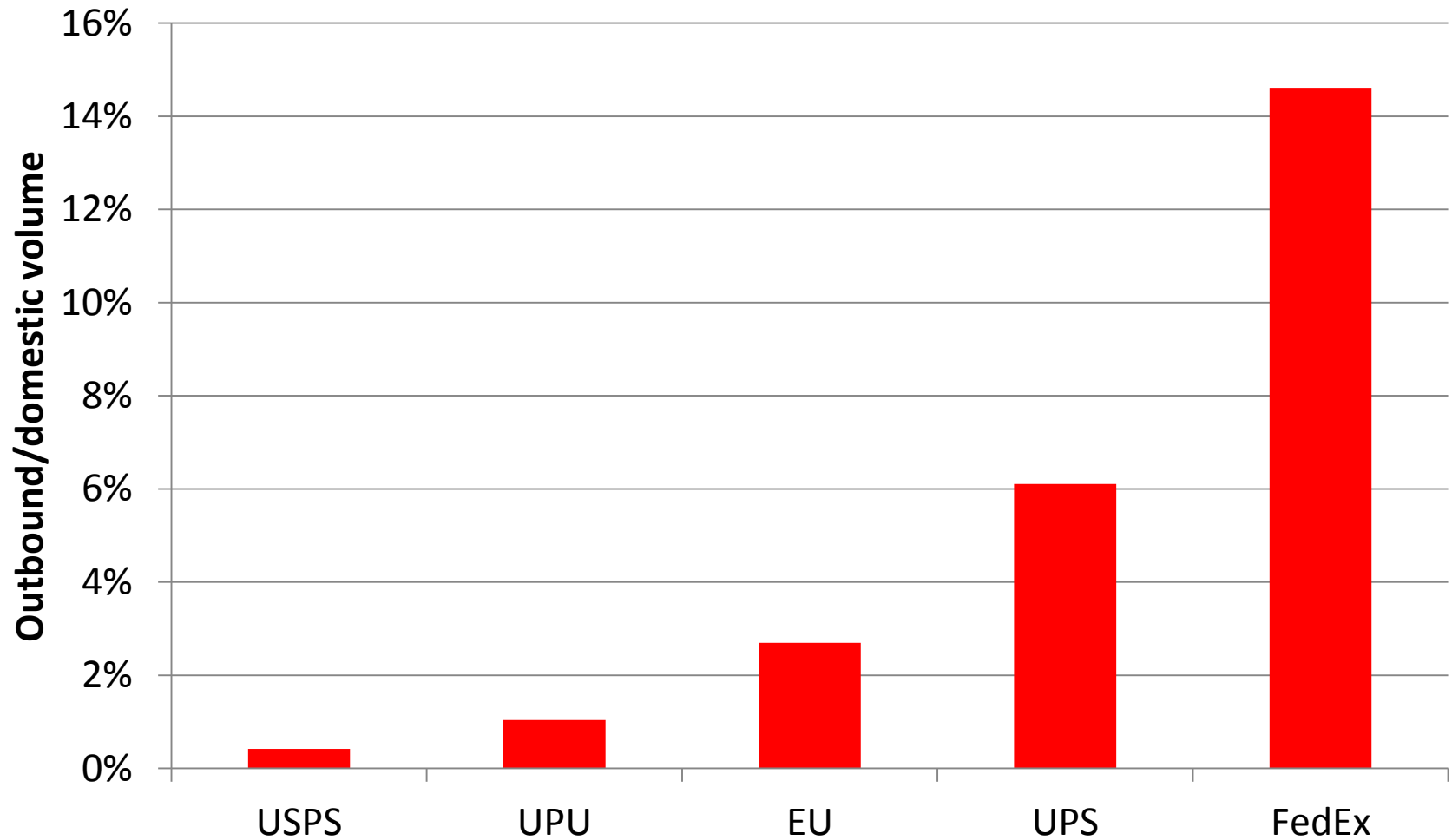
Approximate state of international package competition, 2011



Sources: UPU, Adrenale Report (2010); UPU, POC C 1 PDMG 2011.1–Doc 4 Annex 1 (Letter Post Action Plan (Ver 1-2)) (Apr 4, 2011); FedEx, Annual Statistics (2013); UPU, CEP C 1 GFT 2011.1–Doc 4a. Annexe 2 (13 Apr 2011) (percent of business mail).

Notes: (1) NDO includes non-DO operations of DPAG and TNT. (2) FedEx growth from 2008 to 2011 used to project Adrenale 2008 estimates to 2011.

Relative exposure to international markets (approx)



Packages from e-commerce countries (“ECs) are growing rapidly

- **E-commerce small packets from China to the US increased 182% from 2011 to 2012 (9.5 to 26.8 mil).**
- **Singapore Post international mail revenue increased 53% from FY 2012 to FY 2014, mostly due to e-commerce**
 - Alibaba bought 10% of Singapore Post in May 2014.

Market outlook for 2018 to 2021

The UPU's 2016 Istanbul Congress will establish the Convention in effect from 1 Jan 2018 to 31 Dec 2021.

- **Paper-based communications will largely disappear from international (especially inter-regional) postal shipments.**
- **Demand for international package services will grow substantially.**
- **Relative role countries focusing of e-commerce exports will increase.**
- **Public postal operators will be primarily package services catering to the business of B2C and B2B e-commerce shippers.**
- **International package delivery services will be dominated by a small number of major public and private operators who will compete regionally and globally, not from a national territorial base.**
- **Distinctions between public and private operators will blur as joint ventures and cooperative arrangements increase.**

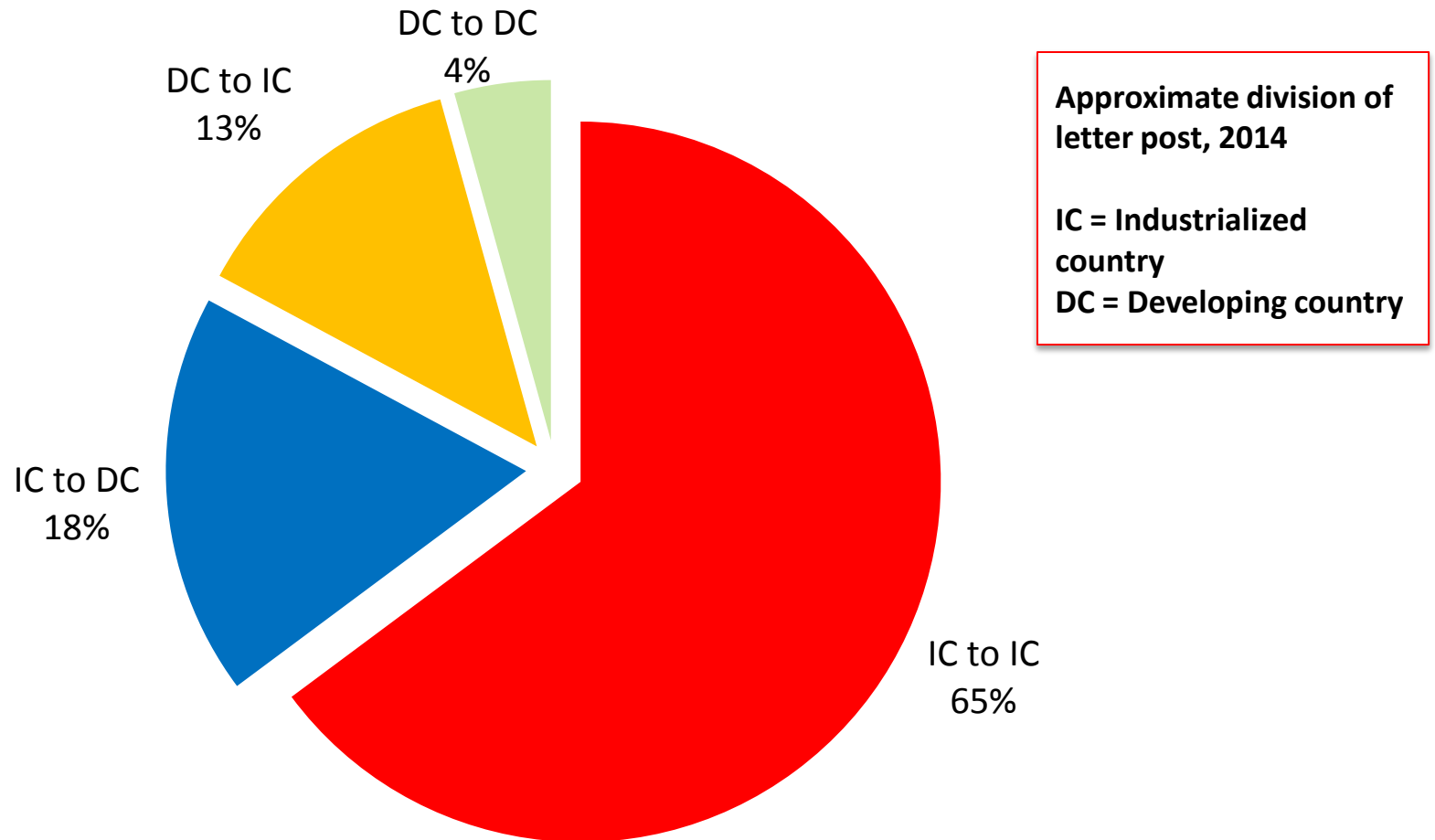
UPU international framework compared to 21C market

Premise	20C Market	21C Market
Primary service	Secure communication through exchange of letters	Distribution of packages
Market structure	Exchange of items between national monopolies (of letters, USO)	Competitive market composed of both shifting combinations of forwarders/agents (incl. UPU) and global/regional operators
Role of operator	Constitutes and represents a national market	Interested party in a competitive market
Role of government	Oversee/promote cooperation between government owned/regulated operators	Develop agreement with other governments on legal rules for a market (e.g., GATS, Open Skies)

Legal considerations

Acts of the UPU compared to the evolution of regulatory, trade, security, and competition policies in the industrialized countries

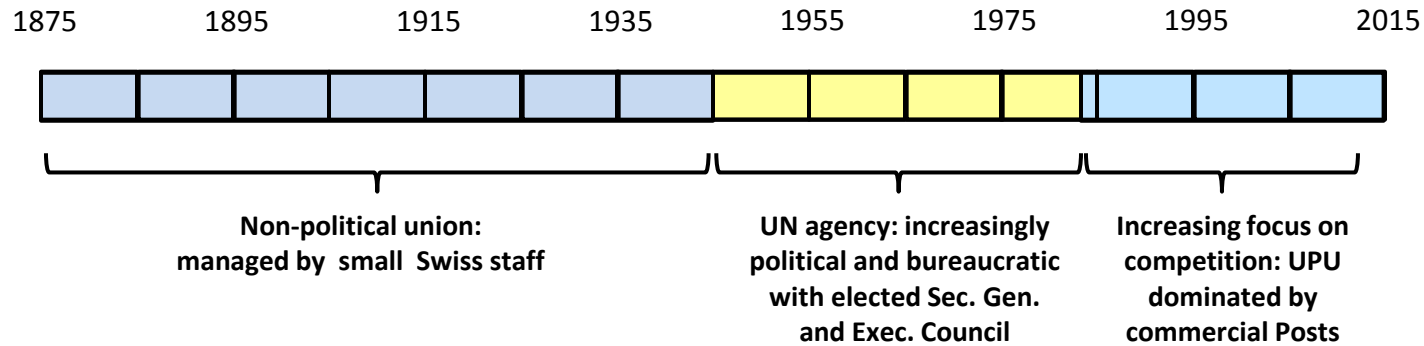
Global letter post is centered on ICs



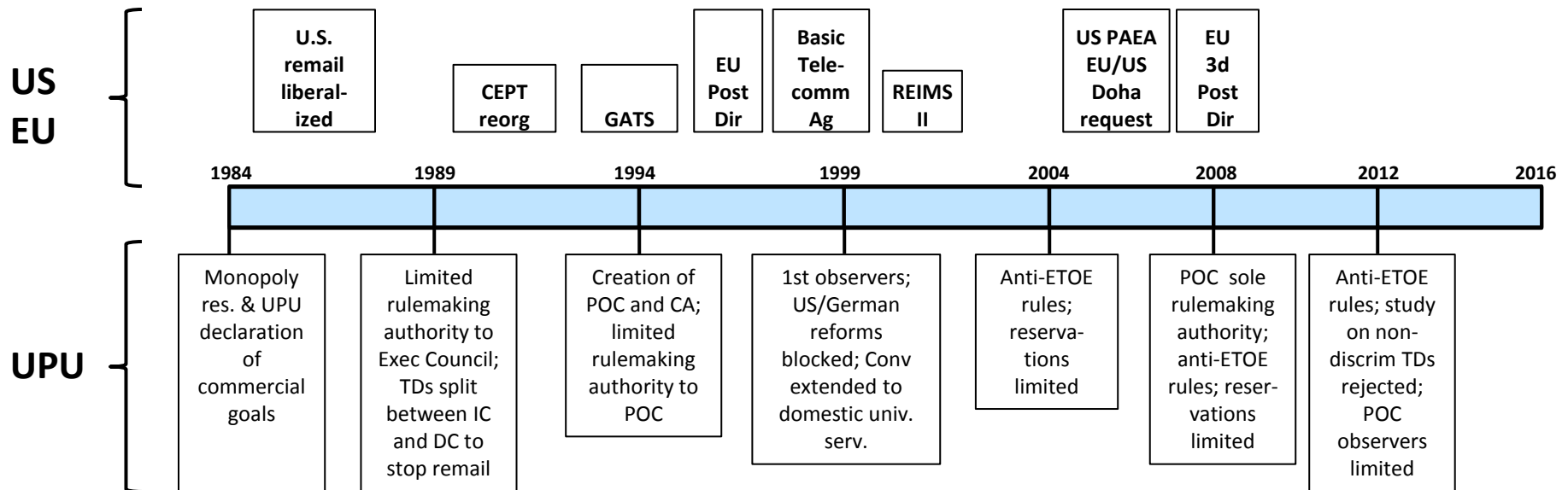
Source: James I. Campbell Jr.. Estimates based on UPU data and other sources.

UPU and US/EU legal reforms have diverged

Evolution of the UPU



Divergence of EU/US and UPU reforms



UPU acts are no longer consistent with legal policies of ICs

- **United States**

- Postal Accountability and Enhancement Act (2006)
- International aviation policy (Open skies, rejection of IATA price fixing)
- International trade policy (Trade in Services acts, Doha Round, FTAs)
- Security policy
- Antitrust laws

- **European Union**

- Postal Directive (1997, 2008)
- International trade policy (Treaty of Lisbon (2009), Doha Round, FTAs)
- International aviation policy (Open skies, AETR doctrine)
- Union Customs Code (2013)
- Security policy
- Competition rules

Developing a U.S. position for the 2016 Istanbul Congress

National policy towards international postal & delivery services

- "To promote and encourage communications between peoples by efficient operation of **international postal services and other international delivery services** for cultural, social, and economic purposes."
- "To promote and encourage unrestricted and undistorted competition in the provision of **international postal services and other international delivery services**, except where provision of such services by private companies may be prohibited by law of the United States."
- "To promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of **international postal services and other international delivery services** [1] by the Government of the United States and [2] by intergovernmental organizations of which the United States is a member."

Limits on U.S. international postal agreements

- “The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services and shall have the power to conclude postal treaties, conventions, and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.”

Advisory Committee on IPODS

- **“The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with [development of international postal policy].”**
- **Advisory Committee meetings are open to the public.**
 - Documents are available from <http://www.state.gov/p/io/ipp/>
- **The Advisory Committee has been considering proposals to support to reform key UPU policies since September 2014.**
 - Customs
 - Terminal dues and inward land rates
 - Institutional issues

Caveats!

- **There is no single U.S. interest or view.**
- **The Advisory Committee discussions are ongoing**
- **The U.S. government position may or may include views of the Advisory Committee.**

1. Customs Issues

U.S. law re UPU customs provisions

- "With respect to shipments of international mail that are competitive products ... that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies." §407(e)(2).
- "The Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers." §407(e)(3).

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 Regulations: CN 22 and CN 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

POC Regs: CN 22 Customs Declaration

CUSTOMS DECLARATION		May be opened officially		CN 22	
Designated operator				Important! 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 23 Customs Declaration (p. 1)

CUSTOMS DECLARATION					CN 23	
From	(Designated operator)			No. of item (barcode, if any)	May be opened officially	Important! See instructions on the back
	Name		Sender's customs reference (if any)			
	Business					
	Street					
	Postcode	City				
To	Country					
	Name					
	Business					
	Street		Importer's reference (if any) (tax code/VAT No./importer code) (optional)			
	Postcode					
Country		Importer's telephone/fax/e-mail (if known)				
Detailed description of contents (1)		Quantity (2)	Net weight (in kg) (3)	Value (5)	<div style="font-size: x-small; border-bottom: 1px solid black; padding-bottom: 2px;">For commercial items only</div> <div style="display: flex; font-size: x-small;"> <div style="flex: 1;">HS tariff number (7)</div> <div style="flex: 1;">Country of origin of goods (8)</div> </div>	
			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) No(s). of licence(s)		<input type="checkbox"/> Certificate (13) No(s). of certificate(s)		<input type="checkbox"/> Invoice (14) 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.

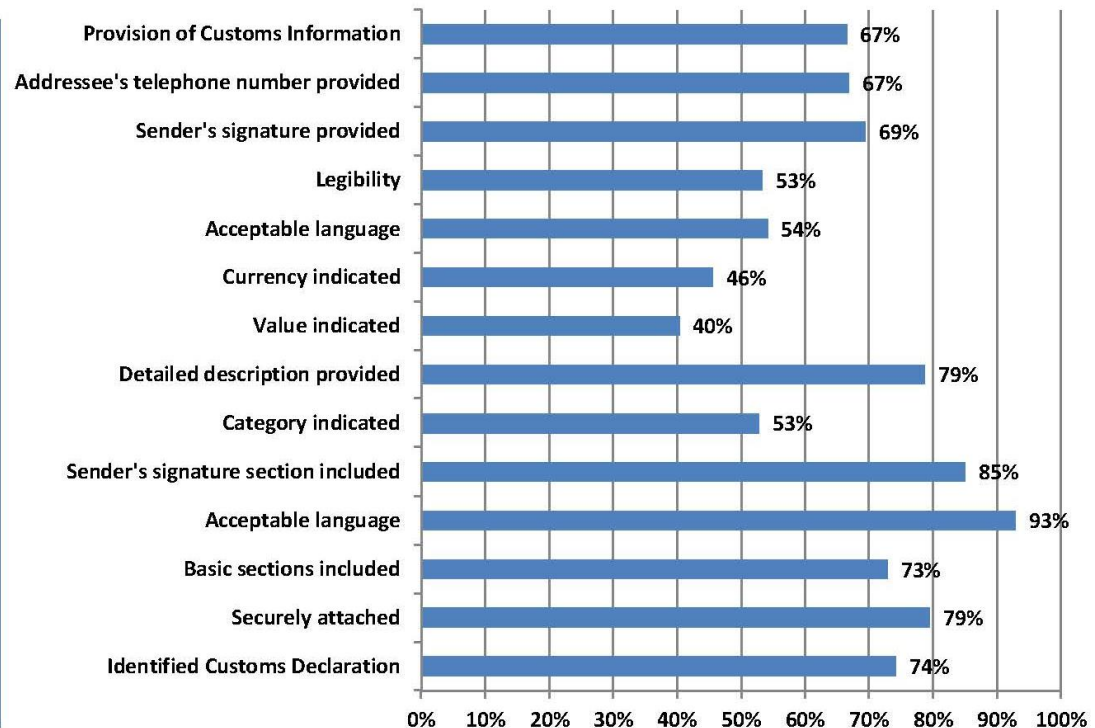
UPU customs procedures have not worked well in practice

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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Postal items often escape customs entry altogether

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

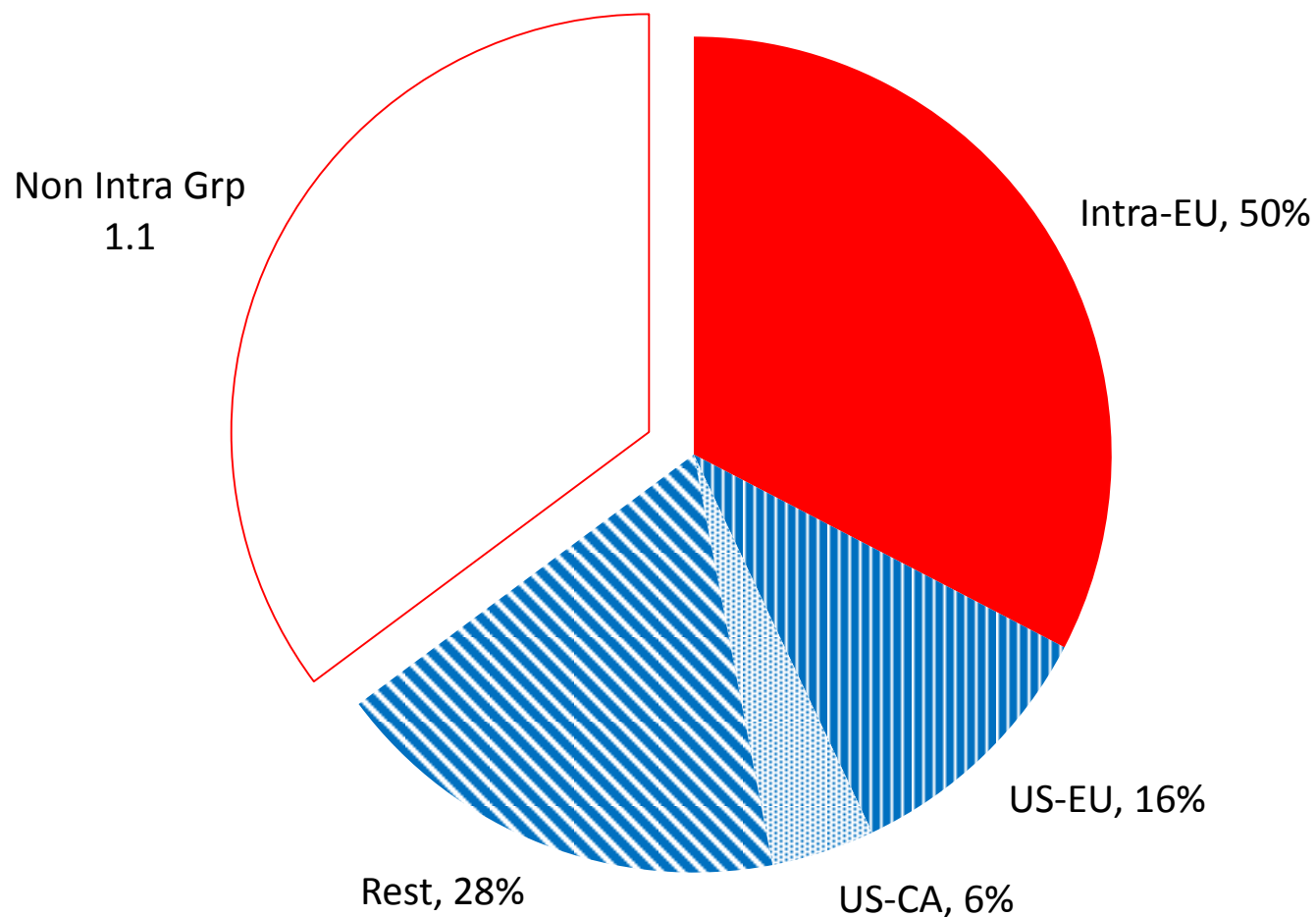
- 90 dutiable packages sent to US from 10 European countries via FedEx or UPS.
- 90 identical dutiable packages via the express mail service provided by foreign postal administrations with transfer either to the USPS (63 packages) or to express carriers (“independent contractors”) (27 packages).

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%

Reform proposals: customs

- **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.
 - UPU can continue to prescribe special customs forms, exempt Posts from liability under customs law, etc.
 - Reasonable limits on customs privileges for certain mail (1) large shipments of commercial packages, (2) remail, and (3) ETOE mail.
- **Require CA to develop a reform plan for 2020 Congress**

Based on similarity of customs policies in US and EU



Source: James I. Campbell Jr., "Estimating the Effects of UPU Terminal Dues, 2014 – 2017" (2014) and related calculations.

Present status of reform proposals for customs

- **Strong support in Advisory Committee for requiring equal customs treatment for and by all UPU member countries.**
- **CA study on extension of equal customs treatment therefore unnecessary.**
- **Immunity issues to be unaddressed.**

2. Issues relating to inward delivery charges

U.S. laws re UPU delivery charges

- "Before concluding any treaty [etc.] that establishes a rate or classification for a [market dominant] product, the Secretary of State shall request the Postal Regulatory Commission to submit its views on whether such rate or classification is consistent with the standards and criteria established by the Commission [for market dominant domestic products].
- "The Secretary shall ensure that each treaty [etc.] is consistent with the views submitted by the Commission ..., except if, or to the extent, the Secretary determines, in writing, that it is not in the foreign policy or national security interest of the United States to ensure consistency with the Commission's views."
- No cross subsidy from market dominant to competitive products.

UPU delivery charges

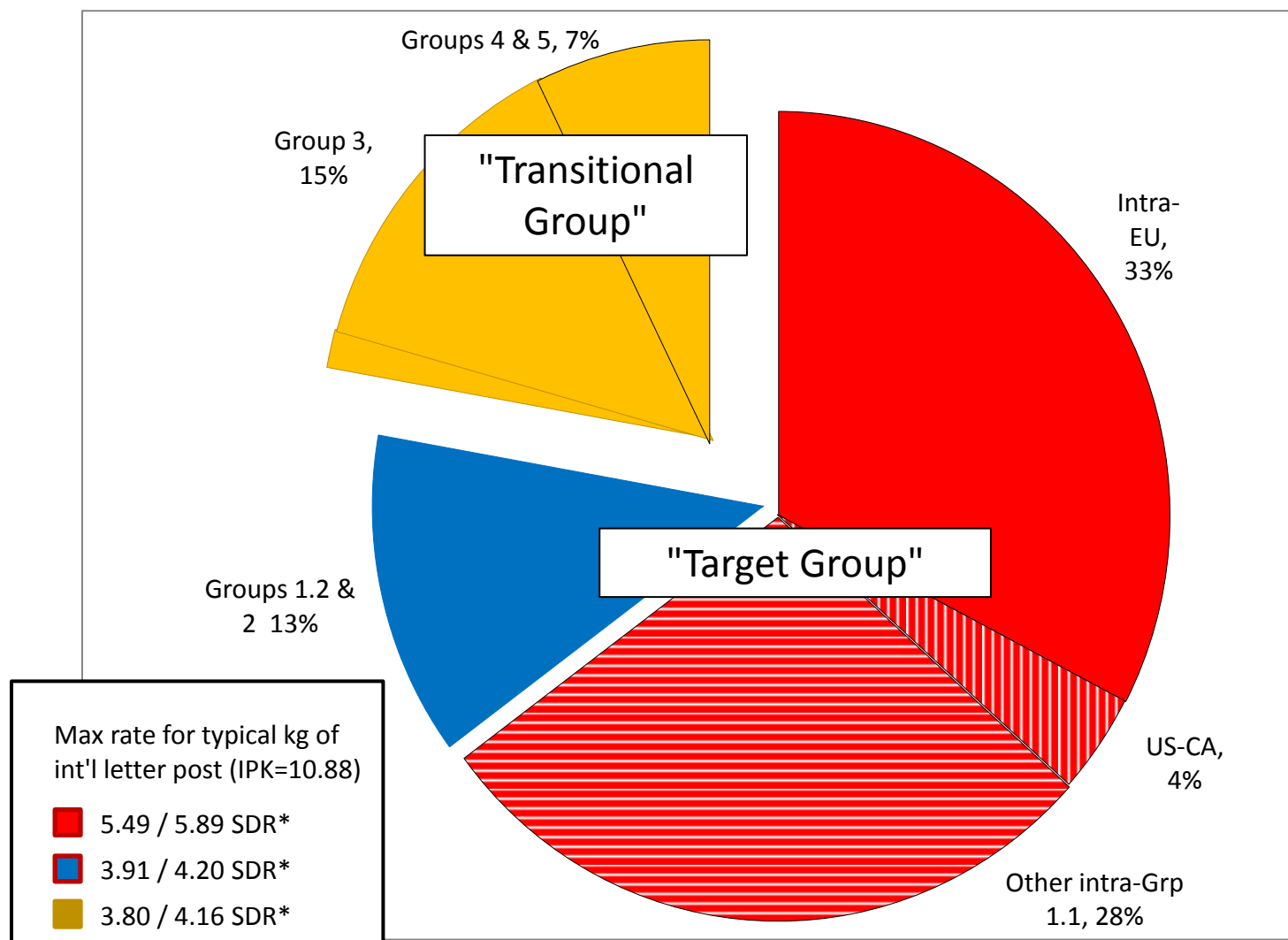
- **Terminal dues**

- Applies to docs and small packets up to 2 kg ("letter post").
- In 1999, the UPU amended the Convention: "The provisions of the present Convention concerning the payment of terminal dues are transitional arrangements, moving towards a country specific payment system at the end of the transition period."
- Since 1999, UPU Conventions have increased, not decreased, the discrepancy between terminal dues and equivalent domestic postage.
- Posts may make alternative TD arrangements (e.g., REIMS).

- **Inward land rates**

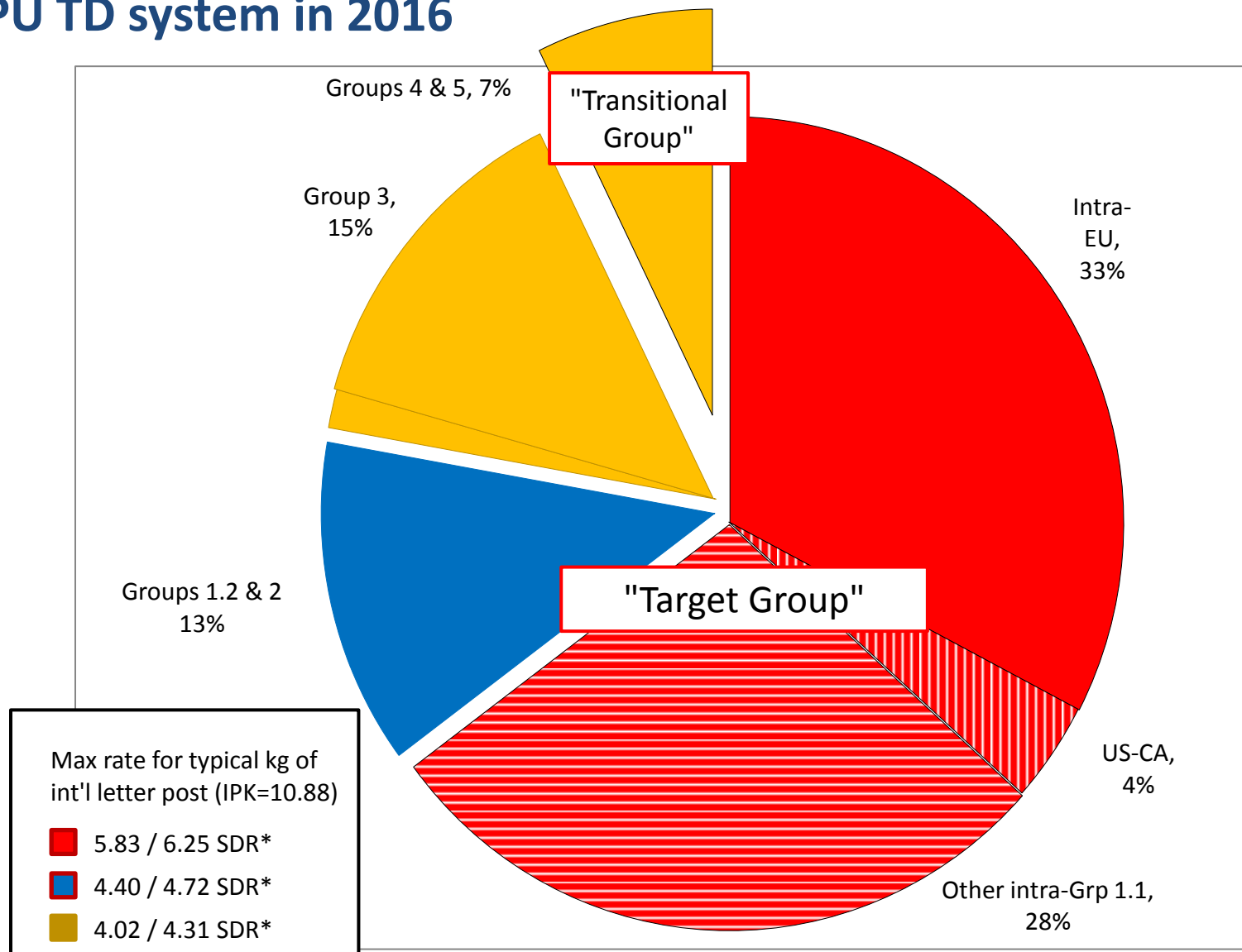
- Applies to parcel post up to 20 kg
- Since 2004 POC sets inward land rates by Regulation.
- Base rate set at 71.4% of the pre-2004 rates plus inflation. Pre-2004 rates were set by the destination post office.

UPU TD system since 2004

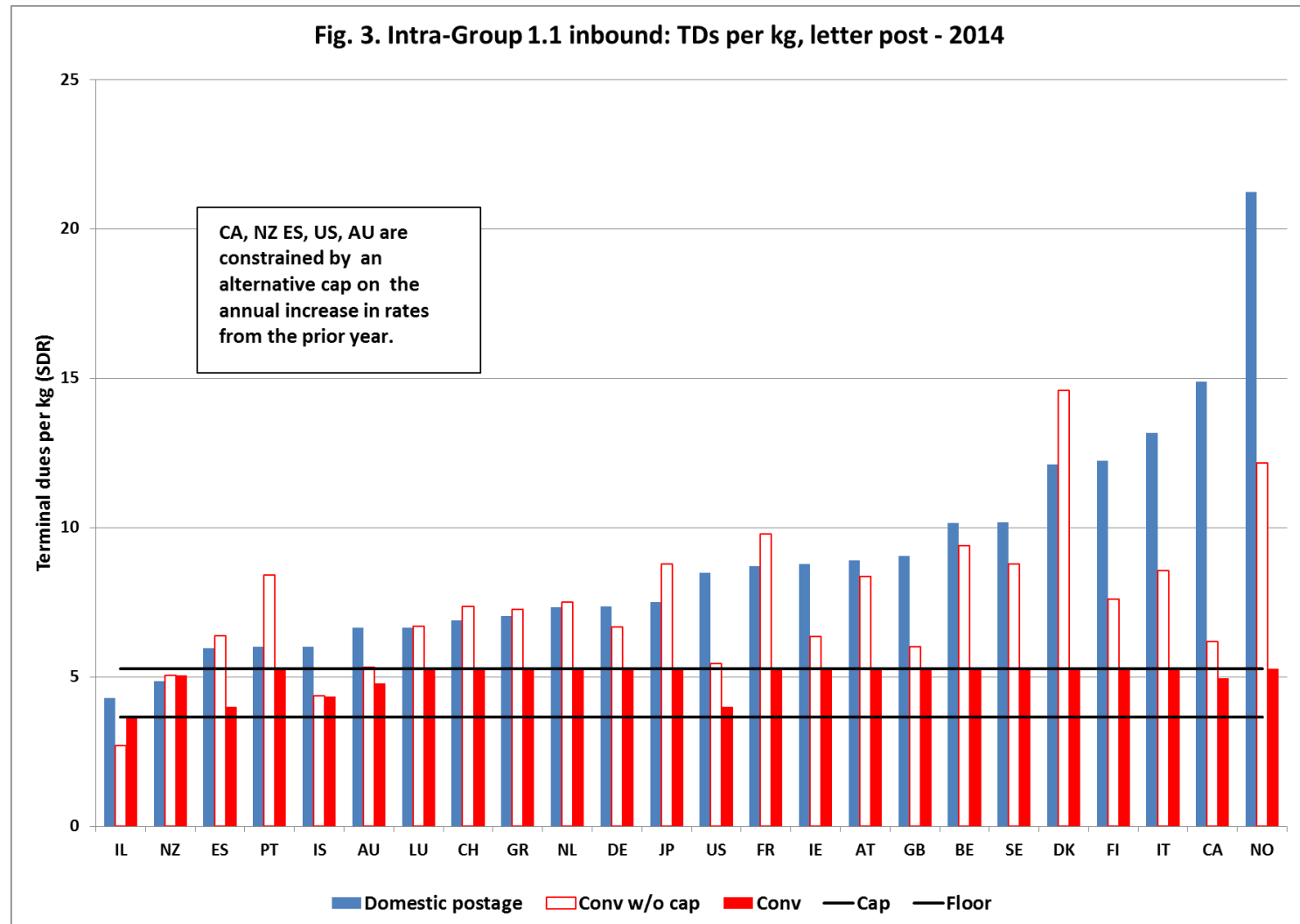


* Second rate applies if annual bilateral flow is less than 75 tonnes.

UPU TD system in 2016

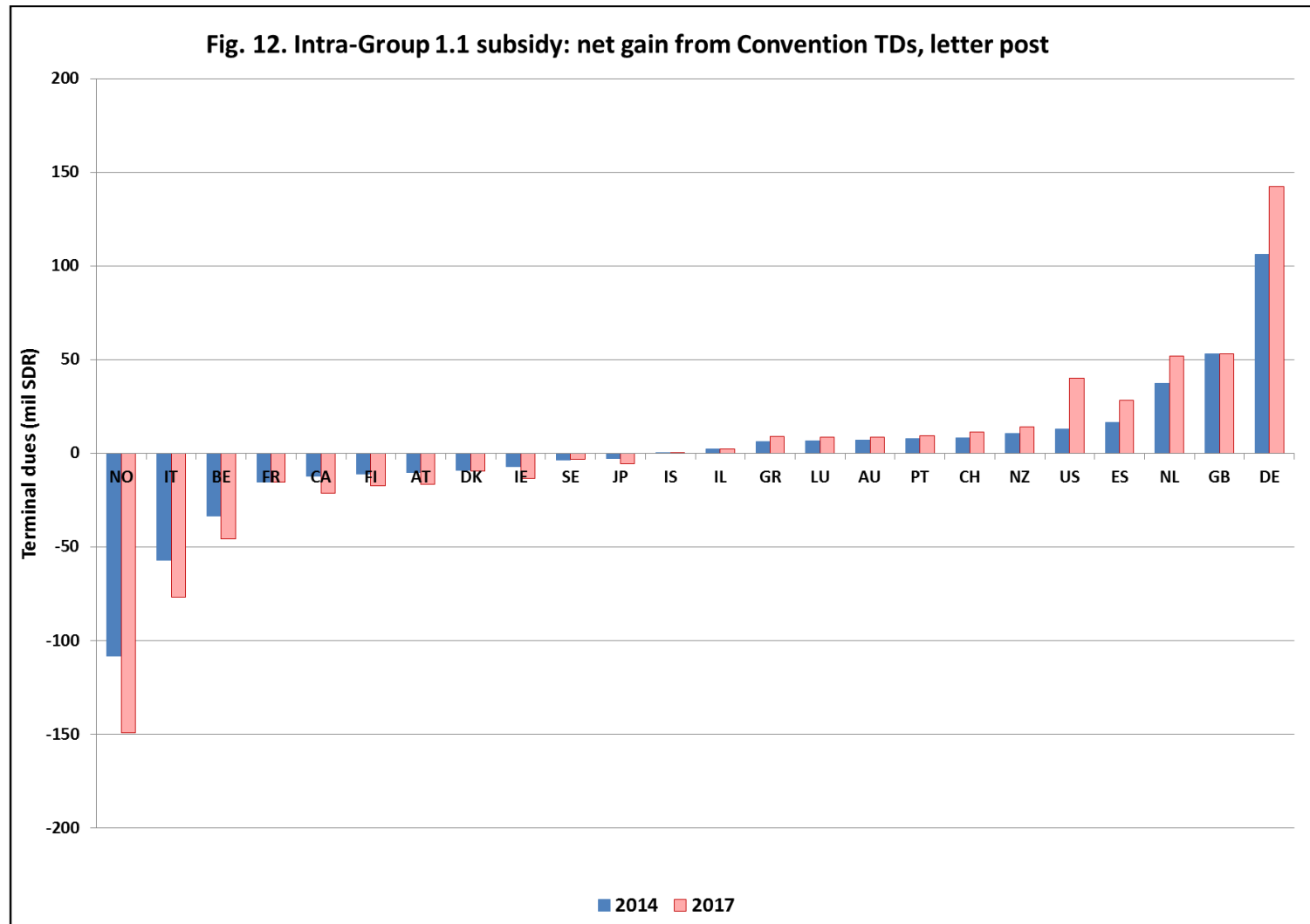


Intra-Group 1.1. TDs per kg of typical LP



Source: James I. Campbell Jr., "Estimating the Effects of UPU Terminal Dues, 2014 – 2017" (2014) and related calculations.

Intra-Group 1.1. Net gain or loss from UPU TDs



Source: James I. Campbell Jr., "Estimating the Effects of UPU Terminal Dues, 2014 – 2017" (2014) and related calculations.

Distortions created by the current UPU system

Six types of distortions created by current terminal dues

Distortion of **competition**

- 1) for last-mile handling of cross-border mail
- 2) for first-mile handling of cross-border mail

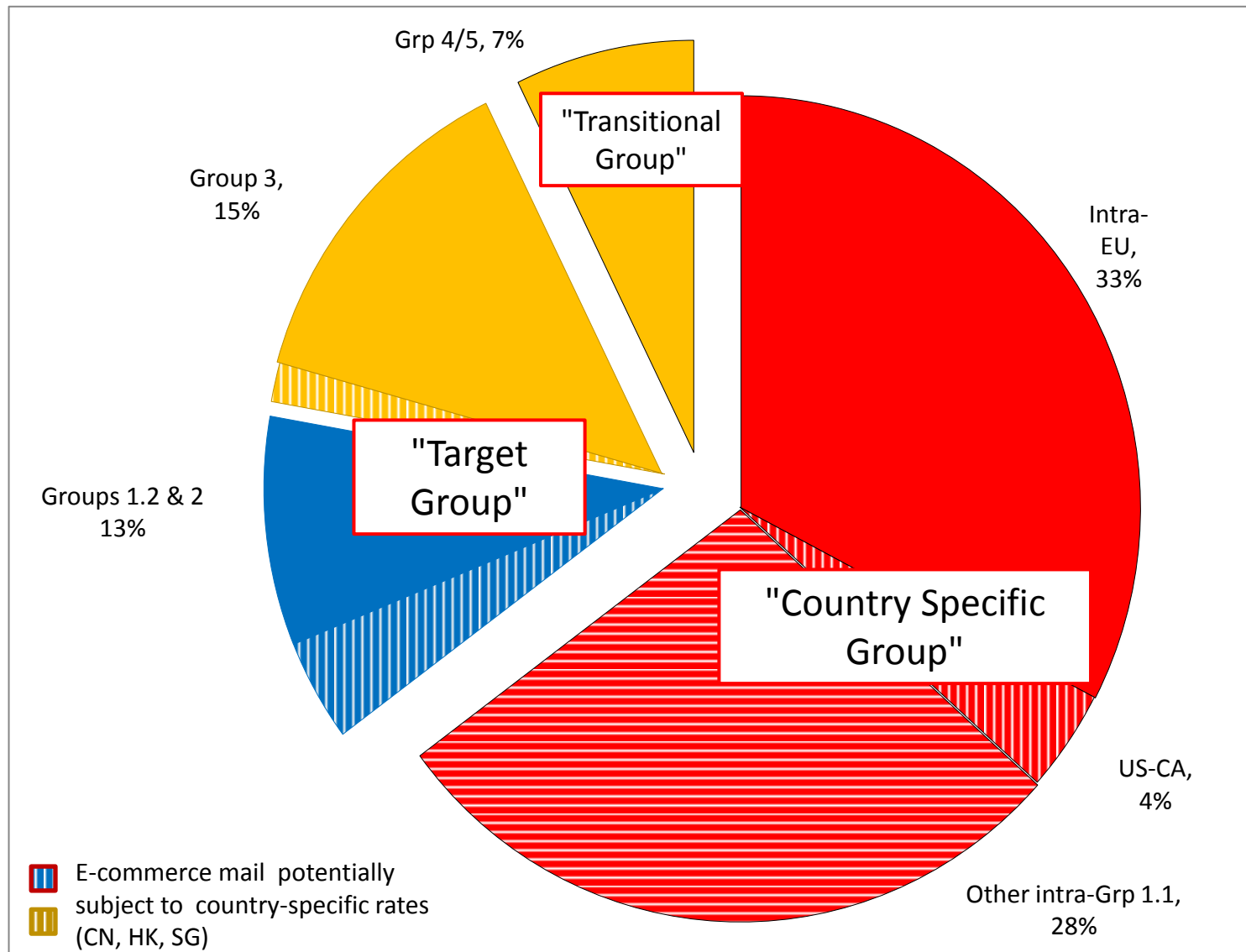
Distortion of **global mail and trade flows** in terms of distorted demand for

- 3) Delivery services within vs. outside the scope of terminal dues
- 4) Domestic vs. cross-border delivery
- 5) Cross-border delivery from target vs. transition country origin
- 6) Transfers between delivery operators leading to **spill-over effects**

Reform proposals: delivery charges

- **Mail sent between Industrialized Countries**
 - Require Posts to provide access for inbound postal items on same terms as available to domestic mailers.
 - Generally non-discriminatory access for market dominant universal services.
 - A Post could continue special deals with large mailers and foreign Posts where permissible under national postal and antitrust laws.
 - Similar to Postal Directive, Article 13
- **Mail to, from, between Developing Countries**
 - In general, no change from current procedures for most mail.
 - Reasonable limits on rate privileges for (1) large shipments of commercial packages, (2) remail, and (3) ETOE mail.
- **Require CA to develop a reform plan for 2020 Congress**

Fig 3. UPU terminal dues by TD Group, 2018 (Proposal T1)



Present status of reform proposals for UPU delivery charges

- **To be considered at next Advisory Committee meeting (13 Feb)**

3. UPU institutional issues

Fundamental issues presented by the UPU legal framework

- **The Postal Operations cannot legislate Regulations binding on governments and direct the commercial activities of the UPU without unacceptable conflicts of interest.**
 - Exercise of governmental power by commercial entities raises questions under US (due process) and EU (state aid) laws.
- **The legislative authority of the POC to implement the Convention is not clearly defined.**
 - POC Regulations are adopted and revised after Congress adjourns, so Congress cannot know the content of the Regulations binding on them.
 - The Convention does not provide a specific delegation of authority to the POC so POC Regulations can (and do) extend beyond the provision of the Convention approved by Congress.
- **Since 2004, countries have had only limited ability to opt out of POC Regulations or other acts of the UPU which may contravene national law or policy.**

Reform proposals: institutional procedures

- **Define the POC's legislative authority**
 - POC Regulations implementing the Convention must be authorized by the Convention.
 - Require Council of Administration approval for Regulations which limit the authority of governments; or involve matters of fundamental policy or principle.
 - Prohibit Regulations which derogate from the legislation of any member country in respect of anything which is not expressly provided for by this Convention.
- **Adopt ITU procedures for reservations to Convention**
- **Establish High Level Group of Government Officials to prepare plan for UPU institutional reform for 2020 Congress**
 - The UPU needs to achieve the same level of separation of regulatory and operational functions that is mandated in the industrialized countries.

Present status of reform proposals institutional reforms

- **Proposals recommended by Advisory Committee**
- **Position of the U.S. government not announced.**