



MEETING OF ASSOCIATIONS OF PRIVATE OPERATORS AND THE UPU (AOP-UPU)

Berne, 30 April 1998

Study of the Legal, Regulatory, Technological and Commercial Environment of the Single Postal Territory of the Universal Postal Union

Mr Chairman,
Ladies and Gentlemen

The International Bureau of the Universal Postal Union has requested Germany to present the "Study of the Legal, Regulatory, Technological and Commercial Environment of the Single Postal Territory of the Universal Postal Union" to this gathering. The idea for the study goes back to a decision taken by the Council of Administration in 1995. Along with Argentina and Tanzania, Germany was charged with carrying out the study and designated the reporting country.

In agreement with Argentina and Tanzania, Germany undertook to begin. As a first step, it prepared an expose and a related questionnaire.

The exposé made the following fundamental statements:

- 1 In its historical context, the "single postal territory" has the following defining features:
 - a uniform offer of international letter-post services;
 - uniform rates within certain limits. Now, however, only recommendations on pricing are made;
 - freedom of transit;
 - uniform transit charge scales;
 - the obligation to deliver incoming international letter-post items;
 - delivery was first made without any special remuneration; later, uniform rates of terminal dues were applied.

- 2 Creation of the "single postal territory" is undoubtedly the Union's main historical achievement. Its historical characteristics are, most notably:
 - worldwide, the provision of letter-post services was a task for the state;
 - letter-post services enjoyed comprehensive monopoly protection;
 - reciprocal exchange of letter post solely between postal administrations;
 - free transit as a result of the dominance of surface transportation.

- 3 Since the 1970s in particular, the legal, regulatory, technological and commercial environment has been exposed to constant change. This changing environment is marked by:

- greater liberalization, in practice and in the legislation, of outgoing cross-border letter-post services, inland letter-post services and incoming cross-border letter-post services and the associated market entry of private operators;
- the growing spread of bilateral agreements between postal administrations and postal administration partnerships in Restricted Unions and joint ventures;
- the emergence of new services;
- the establishment of joint operator companies by postal administrations and private operators for the provision of cross-border postal services;
- the transformation of postal administrations into public enterprises and stock corporations, and their privatization;
- the evolution of new regulatory models.

More than 80 responses to the written poll of the 189 member countries were received. These responses were from both industrial and developing countries, from regulators and operators and also from countries without such separation.

The review of the situation as presented in the expose was largely endorsed by the poll. In the main, the changes taking place were regarded by the majority of member countries as significant.

The Council of Administration approved the report in 1996 and added comments on the next stages. The reporting country was tasked with drawing up orientation proposals for a fresh interpretation of the Union's single postal territory, fundamental to the concept of international letter mail traffic, for the 1997 Council meeting.

Orientation proposals were then drafted in a second phase, based on the analysis of the changing environment and the characteristics of the situation today.

The present situation can be summarized as follows:

- 1 The Universal Postal Convention obliges postal administrations to deliver crossborder letter-post items at uniform rates, within certain limits and under certain conditions, and to provide transit and delivery services;
- 2 Under the Convention, administrations of destination are not bound to grant other postal administrations the same conditions of access, the same rates and rate reductions as they grant domestic mailers for comparable items;
- 3 Relationships between postal administrations and operators other than postal administrations are not covered by the Convention;
- 4 Depending on the category and weight of the items and on the level of costs and tariffs in the country of destination, the terminal dues established by the Convention are often considerably higher or lower than the internal rates of the administration of destination. This encourages private operators and, increasingly, postal administrations to seek indirect access either by – depending on the financial gain involved – posting the items in the country of destination at the internal rates (direct insert), or by reaching the country of destination with the help of an intermediate postal administration, taking advantage of the more favourable terminal dues;
- 5 This situation is unsatisfactory. It provides an incentive to organize cross-border transport networks and mail flows in an economically inefficient manner. Bypassing hampers the free exchange of cross-border letter-post items. The consequences are longer conveyance times, ie poorer quality, and reduced competitive ability in relation to electronic substitutes;

- 6 In many countries, the postal administrations compete with private operators whose share of the market for cross-border letter-post services is steadily increasing. Many postal administrations no longer confine their operations to their national territory; their business interests go far beyond the domestic market. In view of this situation, it would seem essential to adapt the regulatory framework for cross-border letter-post services;
- 7 The aim of the orientation proposals drawn up within the framework of the study is to eliminate these barriers to the free exchange of cross-border letter post and, in this context, to interweave the UPU regime and the internal regime of the administration of destination in an economically meaningful way. The proposals represent the first step in the endeavour to adapt the Union's "single postal territory" to today's environment, characterized as it is by the internationalization of many postal administrations. The proposals concern bulk mail only.

The orientation proposals submitted by the reporting country are fourfold. They address on the one hand the obligations of the administration of destination towards other postal administrations and the relationship, on the other, between the administration of destination and other operators in matters of bulk mail handover.

Specifically, the proposals are as follows:

Proposal 1: *The administration of destination is obliged, in respect of bulk mail, to grant other postal administrations access to its internal regime*

In respect of bulk mail, the administration of destination should in future offer other postal administrations the same conditions of access, the same rates and rate reductions as apply to comparable items from domestic mailers.

The administration of origin should be able to decide whether to hand over the items under these conditions or under the Union's conditions and at its terminal dues.

Proposal 2: *The administration of destination is obliged, in respect of bulk mail, to grant other postal administrations access according to the UPU regime, even if the senders are resident in a third country. This concerns so-called ABC remailing*

The administration of destination should be obliged in future to deliver bulk mail handed over by other postal administrations under the conventions of the UPU regime, even when it is posted by senders not resident in the country of origin. The only time this obligation should not apply is when the sender is resident in the country of destination, ie in cases of so-called ABA remailing.

Proposal 3: *The administration of destination is obliged, in respect of bulk mail, to grant operators other than postal administrations access to the internal regime*

The administration of destination should in future grant operators other than postal administrations access to the conditions, rates and rate reductions applicable to bulk mail in the internal regime. To date, the only possibility generally has been the standard rate for ordinary letter-post items. In future, other operators should be granted the same reductions for bulk mail as domestic mailers.

Proposal 4: *The administration of destination is obliged, in respect of bulk mail, to grant operators other than postal administrations access according to the UPU regime*

The administration of destination should also, in future, grant operators other than postal administrations access to the conditions and terminal dues laid down for bulk mail in the Convention. The sole exemptions should be items from senders resident in the country of destination. Just like the postal administrations, operators should have the option of handing over items at offices of exchange or at comparable points of access. Bulk mail handed over by other such operators should be subject to the UPU regime in terms of acceptance conditions, grade of service,

redirection, handling of undeliverable items, inquiries, terminal dues, etc, in just the same way as bulk mail from postal administrations.

The common thread running through all the proposals is the obligations they entail for the administration of destination. These administrations should be required in future to accept cross-border bulk mail from any operator; this should be done under the conditions of its internal regime or under those of the UPU regime, as the operator chooses. If the administration of origin continues to make this decision, it could lead to the operators being treated differently. And any possibility of discrimination must be ruled out.

In this connection we should point out, however, that the obligation to admit operators to internal rates regimes will be to the detriment of, first and foremost, the administrations of destination whose rates are lower than the Union's terminal dues. This is the case in developing countries in particular. Solutions that do not disadvantage them in any way will need to be sought here. For the rest, many developing countries do not receive bulk mail.

The following recommendations were also made in connection with the proposals:

- terminal dues for bulk mail should be more cost-based, ie based on the internal rates of the country of destination;
- the minimum quantities defined in the Detailed Regulations to the Universal Postal Convention should be reduced;
- operators other than postal administrations should be involved in the work of the Union, as far as necessary and appropriate.

We should recall, however, that the Council of Administration did not share all the reporting country's views at its autumn 1997 meeting. The long, yet fruitful, debate was occasioned chiefly by changes in and adaptation of the historic structures, and divergent interests both within and between industrial countries and developing countries. The latter is the result of the degree of change that has taken place in the countries concerned as well as the different cost and tariff structures.

Ultimately, the Council of Administration decided that the issues addressed in the study should be further explored in the appropriate bodies. For instance, a Committee 4 Working Group, in conjunction with the Postal Operations Council – specifically Working Group 1.1, responsible for terminal dues – should look in depth at the framework conditions and terminal dues arrangements and propose solutions. The International Bureau, too, will continue to monitor developments in the changing environment and similar responses in other international organizations, reporting on them to the Council of Administration. Other aspects of the study affecting the Union's mission and reform will be taken into account in the appropriate bodies, within their own particular remit.