

Universal Postal Union

Introduction

5.1 This chapter addresses Australia's proposed accession to:

- the *Eighth Additional Protocol to the Constitution of the Universal Postal Union* of 10 July 1964, as amended;
- amendments to the *Universal Postal Convention* (the Convention);
- the Final Protocol to the Convention;
- the *First Additional Protocol to the General Regulations*; and
- the *Postal Payment Services Agreement of the Universal Postal Union*.¹

5.2 These instruments were incorporated into the Acts of the 24th Congress of the Universal Postal Union (UPU) on 12 August 2008.²

5.3 The UPU is a specialised agency of the United Nations comprising 191 member countries. Its purpose is to develop and maintain international postal services by:

- establishing rules for the flow of international mail;
- providing the basis for the reciprocal exchange of international mail through a single postal territory; and

1 *National Interest Analysis* (NIA), [2010] ATNIA 13, Universal Postal Union: Eighth Additional Protocol to the Constitution of 10 July 1964, as amended; Convention, and Final Protocol; First Additional Protocol to the General Regulations and the Postal Payment Services Agreement, done at Geneva on 12 August 2008 [2010] ATNIF, para. 1.

2 NIA, para. 2.

- fostering the sustainable development of universal, efficient and accessible postal services.³

Reasons to take treaty action

- 5.4 Australia has been a member of the UPU since 1907.⁴ Participation in the UPU allows Australia and its designated operator, Australia Post, to provide input to international postal arrangements.⁵ Australia is recognised as an active member state and has been a leading advocate for reform of the international postal system.⁶
- 5.5 Accession to these agreements will also assist Australia's continued development of a more efficient and effective domestic postal service.⁷
- 5.6 The Committee notes that international mail services have been in decline for a number of years, with personal mail almost disappearing and companies increasingly conducting business online.⁸ However, while the number of items posted is declining, the network of countries is increasing:
- So there are more and more points you have to serve, but you put fewer and fewer letters in each one. So it is getting more and more expensive for Australia Post to manage that.⁹
- 5.7 Unlike some other countries, Australia's postal services have been diversified for a longer period, protecting Australia Post against the changing nature of postal services.¹⁰ Recent changes in Australia Post's operations have included improvements in automated letter sorting,

3 NIA, para. 7.

4 NIA, para. 4.

5 Mr Duncan McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 11.

6 NIA, paras 8 and 10.

7 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 12.

8 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

9 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, pp. 13-14.

10 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

continued diversification of services, and a significant increase in the number of international parcels.¹¹

The UPU agreements

5.8 The UPU is constituted by three treaty-level instruments that are binding on all members: the Constitution, General Regulations and Convention. As noted above, the proposed treaty action includes amendments to all three instruments.

Constitution

5.9 The Constitution remains in force indefinitely and contains the fundamental rules that provide the legal foundation of the UPU. Amendments to the Constitution are effected by means of an Additional Protocol adopted by a Congress – in this case, the Eighth Additional Protocol.¹²

5.10 Changes to the Constitution include:

- the term ‘postal administration’ is replaced with ‘designated operator’ and/or ‘member country’. Designated operator refers to ‘any governmental or non-governmental entity officially designated by the member country to operate postal services and to fulfil the related obligations arising out of the Acts of the Unions on its territory’;¹³ and
- a definition of ‘reservation’ is inserted at Article 1bis.¹⁴

General Regulations

5.11 The General Regulations implement the Constitution and govern operation of the UPU. Like the Constitution, the General Regulations remain in force for an indefinite period and are amended through an Additional Protocol.¹⁵

5.12 Changes to the General Regulations include:

11 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 14.

12 NIA, para. 11.

13 NIA, para. 15.

14 Article 1bis (amended) – Definitions. See NIA, para. 16.

15 NIA, para. 12.

- ‘postal administration’ is replaced with ‘designated operator’ and/or ‘member country’; and
- A new article has been inserted, which sets out the functions of the Congress, and updates the functions of the Council of Administration and Postal Operations Council (the primary governing bodies of the UPU) and duties of Director-General.¹⁶

Convention

5.13 The Convention comprises the operational rules for international postal services and remains in operation from one Congress until the next, at which time it is reapproved with any amendments.¹⁷ The UPU Congress meets every four years.¹⁸

5.14 A series of amendments to the Convention were agreed at the 24th Congress:

- Article 1 has been amended to include a definition of ‘designated operator’ and introduce definitions for terms such as parcel, small packet, misrouted mail and mis-sent items, to ensure common interpretations.
- Article 8 has been amended to underscore member state sovereignty in relation to issuance, administration and circulation of stamps.
- Article 10 clarifies member countries’ responsibilities with regard to developing environmentally sustainable postal operations.
- Article 14 has been amended to incorporate new cross-border interoperable ‘Eproducts’ and services.
- Article 15 expands the list of prohibited mail items to include narcotics, psychotropic substances and other illicit drugs which are prohibited in the country of destination, as well as counterfeit and pirated articles, replica and inert explosive devices and military ordnance.
- Article 16 has been amended in order to ensure alignment between UPU Regulations and those of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods, International Civil Aviation Organisation Technical Instructions and International Air Transport Association Dangerous Goods Regulations.

16 NIA, para. 17.

17 NIA, para. 13.

18 NIA, para. 43.

- Article 17 provides that postal administrations remain bound to accept inquiries about the non-receipt of ordinary letter-post items only in respect of parcels, registered, insured or recorded delivery items.
 - Article 21, which addresses designated operator liability in relation to lost, 'rifled' or damaged postal items, has been expanded to provide for the refund of charges for unexplained non-delivery of parcels or registered or insured items.
 - Articles 27, 28 and 29, which address the matter of terminal dues, have been further amended to reflect the continuing development of the terminal dues system. Terminal dues are the dues which one national postal service provider collects from another for the delivery of its international letter-post mail (items up to two kg in mass).
 - In line with changes to the provisions addressing terminal dues, changes have also been made to Article 30 – Quality of Service Fund (QSF). The QSF is a fund designed to help developing nations improve their postal infrastructure and quality of service.¹⁹
- 5.15 The Committee was interested in some of the ways that sustainable environmental practices (Article 10) are being addressed. Representatives of the Department of Broadband, Communications and the Digital Economy told the Committee of two areas where the international postal agreement has increasingly imposed obligations on countries to:
- conduct postal activities in a more sustainable way – for example, by making vehicle fleets runs more cleanly; and
 - substitute services with technology.²⁰
- 5.16 The international postal system has also provided support and expertise to developing nations over many years to help these nations develop better postal systems.²¹

Postal Payment Services Agreement

- 5.17 The Postal Payment Services Agreement was adopted at the 24th Congress and is binding only on member countries that become party to it. The
-

¹⁹ NIA, paras 19 to 30.

²⁰ Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

²¹ Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

agreement establishes a multilateral framework to facilitate the exchange of money transfers between postal operators.²²

- 5.18 Australia Post currently provides international funds transfers via its agency service for Western Union. However, accession to this agreement will allow Australia Post to participate in the framework for postal orders that sits under the UPU.²³ This will provide Australia Post with additional flexibility and is expected to increase product competition.²⁴

Implementation and costs

- 5.19 The amendments to the Acts of the UPU will be implemented administratively by Australia Post and do not require any legislative changes.²⁵
- 5.20 Contributions to the UPU's budget are financed jointly by member countries and are determined based upon a country's population and level of development. Countries contribute to one of ten contribution classes ranging from one to 50 units. Australia's contribution class is 20 units.²⁶
- 5.21 Australia therefore contributes approximately A\$0.83 million annually to the UPU's regular budget, which was 37 million Swiss francs in 2010.²⁷
- 5.22 Australia also incurs additional expenses arising from both voluntary and mandatory activities within the UPU framework of about \$0.37 million per annum.
- 5.23 It is expected that implementation of the amendments will add \$2 million to \$3 million to Australia Post's costs. Australia Post will meet these costs from existing income sources.²⁸

22 NIA, para. 31.

23 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

24 Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 13.

25 NIA, para. 36.

26 Department of Broadband, Communications and the Digital Economy, *Submission 2*, p. 1; Mr McIntyre, Department of Broadband, Communications and the Digital Economy, *Transcript of Evidence*, 22 November 2010, p. 15.

27 Department of Broadband, Communications and the Digital Economy, *Submission. 2*, p. 1.

28 NIA, para. 41.

Conclusion

- 5.24 The Committee notes that Australia has taken an active role in the ongoing development of the international postal service, and that its designated operator, Australia Post, has successfully adapted to the changing nature of these services. Accession to these agreements will allow Australia to continue this contribution. The Committee therefore supports binding treaty action being taken.

Recommendation 7

The Committee supports the *Universal Postal Union: Eighth Additional Protocol to the Constitution of 10 July 1964, as amended; Convention and Final Protocol; First Additional Protocol to the General Regulations; and Postal Payment Services Agreement*, and recommends that binding treaty action be taken.

