

# **Ratification of the Decisions of the 2012 Doha Congress: Universal Postal Union: General Regulations of the Universal Postal Union, Universal Postal Convention, Final Protocol of the Universal Postal Convention and Postal Payment Services Agreement**

## **Introduction**

- 4.1 The Universal Postal Union (UPU) is a specialised agency of the United Nations. It provides the basis for the system of international mail by establishing a regime for the exchange of international post.<sup>1</sup>
- 4.2 In addition, the UPU fulfils an advisory, mediation and liaison role and provides technical assistance. It establishes the rules for international mail exchanges and makes recommendations to stimulate growth in mail volumes and improve quality of service for customers.<sup>2</sup>
- 4.3 The UPU has 192 member countries. It is the primary forum for cooperation between postal sector participants and helps to ensure a

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1 National Interest Analysis [2015] ATNIA 11, Ratification of the Decisions of the 2012 Doha Congress: *Universal Postal Union: General Regulations of the Universal Postal Union, Universal Postal Convention and Final Protocol of the Universal Postal Convention and Postal Payment Services Agreement*, (hereafter referred to as the NIA), para 5.

2 NIA, para 6.

universal network of up to date products and services.<sup>3</sup> Australia has been a member of the UPU since 1907.<sup>4</sup>

- 4.4 Australia is currently a member of two governing bodies of the UPU; the Council of Administration and the Postal Operations Council.<sup>5</sup> Participation in the UPU allows Australia and Australia Post to have input into the conduct of the UPU and the international policy, regulatory and operational frameworks governing the exchange of international mail.<sup>6</sup>

## The proposed Treaty

- 4.5 The proposed Treaty concerns the ratification of the Decisions of the 25<sup>th</sup> UPU Congress, held in Doha in 2012, including amendments to the *Universal Postal Union General Regulations* (the General Regulations), the *Universal Postal Convention* (the Convention), and the *Final Protocol to the Convention* (Final Protocol) and the *Postal Payment Services Agreement* (PPSA).<sup>7</sup>
- 4.6 The General Regulations and the Convention are two of the three governing instruments of the UPU. (The third governing instrument is the UPU Constitution. It exists in perpetuity and was not amended at the 25<sup>th</sup> Congress.)<sup>8</sup>
- 4.7 The PPSA is one of a number of treaty level agreements which regulate services, other than those of letter post, between the states that are party to the agreements. The PPSA is the only instrument of this type amended at the 25<sup>th</sup> Congress.<sup>9</sup>
- 4.8 The Decisions of UPU Congresses are implemented through the legal systems of each party. The Decisions generally enter into force on a date fixed by the Congress. For the Acts of the 25<sup>th</sup> Congress, the date of entry into force was 1 January 2014. The Acts will come into force for Australia when the Australian Government advises the UPU of ratification.<sup>10</sup>

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3 NIA, para 6.

4 NIA, para 5.

5 Dr Simon Pelling, First Assistant Secretary, Consumer and Content Division, Department of Communications, *Committee Hansard*, 17 August 2015, p. 2.

6 NIA, para 8.

7 NIA, para 1.

8 NIA, para 12.

9 NIA, para 12.

10 NIA, para 4.

- 4.9 In accordance with usual practice, Australia Post has been operating under the revised procedures in anticipation of ratification.<sup>11</sup> The ratification of the Acts will provide the basis for Australia to continue its active participation in the development of a more efficient and effective international postal service.<sup>12</sup>
- 4.10 Failure by Australia to ratify the Acts would affect the flow of international mail to and from Australia, as well as reflect negatively on Australia's commitment to the UPU.<sup>13</sup>

## Specific amendments

### General Regulations

- 4.11 The General Regulations implement the UPU Constitution and contain provisions for the operation of the organisation. They set out the rules regarding the composition, functioning and meetings of the major bodies of the UPU.
- 4.12 While the General Regulations are usually amended through an Additional Protocol, the 25<sup>th</sup> Congress recast the General Regulations as a whole, including amendments made at the Congress.<sup>14</sup>
- 4.13 The substantive changes included:
- inserting a new article establishing rules for the admission of observers to meetings of the Council of Administration (CA),<sup>15</sup> Postal Operations Council (POC)<sup>16</sup> and Congress, and sets out which observers may be allowed to participate;
  - amending the article covering the functions of the CA to align the UPU business plan with the available resources and the prioritisation process carried out by the Congress;

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11 Dr Pelling, Department of Communications, *Committee Hansard*, 17 August 2015, p. 1.

12 NIA, para 7.

13 NIA, para 11.

14 NIA, para 14.

15 The CA consists of 41 member countries and meets to ensure continuity of the UPU's work between Congresses. The CA also supervises the activities of the UPU and studies regulatory, administrative, legislative and legal issues.

16 The POC consists of 40 member countries and is responsible for the operational, commercial, technical and economic questions concerning the postal service.

- amending the article concerning the preparation of documents for UPU bodies to allow the documents to be distributed over the internet;
- amending the article concerning the provision of information or advice by the UPU International Bureau to ensure the confidentiality and security of commercial data provided by parties to the UPU;
- inserting a new article allowing for the creation of user funded subsidiary bodies by the POC to enable it to undertake new operational, commercial and technical activities; and
- substantially overhauling the arbitration procedure.<sup>17</sup>

## The Universal Postal Convention

4.14 The Convention contains the operational rules for international letter and parcel postal services. The Convention is renewed at each Congress to include new amendments.<sup>18</sup>

4.15 The substantive changes made at the 25<sup>th</sup> Congress included:

- inserting a definition of personal data;
- expanding the type of material for the blind exempt from postal charges from 'literature for the blind' to 'items for the blind'. Australia has lodged a reservation on this amendment specifying that Australia will only accept incoming international mail as items for the blind if those items are exempt from postal charges under its domestic service;
- requiring UPU parties to advise the organisation about the compatibility with mail processing machines of new materials or technology used in stamp manufacture. Australia has lodged a reservation in relation to this amendment that it will only process incompatible postage stamps after prior agreement with the relevant operator of origin ;
- amending the article related to postal security to require UPU parties to observe the security requirements defined in the UPU security standards;
- also amending the security article to require that parties apply security measures commensurate with the risks the measures address so that they do not hinder worldwide mail flows;
- inserting a new article establishing rules for the protection of personal data, which are generally similar to the personal privacy provisions extant in Australia;

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17 NIA, paras 16-21.

18 NIA, para 22.

- inserting a new article introducing a classification system for letters based on their format, in addition to the usual classifications on size, speed of delivery, contents and weight;
- amending the supplementary services article to include a registration service for inbound registered letter post and, should an operator wish, a merchandise return service;
- inserting a requirement that the merchandise return service rates are to be calculated according to the Parcel Post Regulations provisions. Australia has lodged a reservation in relation to this insertion to permit Australia to apply rates calculated by other means, including under bilateral arrangements for merchandise return service rates;
- inserting a new article enabling the exchange of electronic postal services between operators who wish to provide this service;
- amending the article relating to prohibitions on items for postage to reflect the fact that the list of dangerous goods that are permitted to be posted is now contained in the Regulations to the Convention;
- also amending this article to permit the transport of live animals through the postal system where such transport is permitted by national legislation, in addition to where such transport is permitted by the postal regulations;
- amending the article related to customs controls to permit a postal service to clear items through customs in the name of the postal service, as well as in the name of the postal customer; and
- amending the article relating to the liability of an operator for damage to goods to remove 'moral damage' as one of the matters to be considered in determining liability.<sup>19</sup>

## Postal Payment Services Agreement

4.16 The PPSA is one of a number of treaty level agreements administered by the UPU. It provides the basis for the international postal payment service, a service that facilitates the transfer of funds between national postal organisations to pay for international postal services.<sup>20</sup>

4.17 Two significant amendments have been made to the PPSA across several of the PPSA's articles. The first is to allow cash on delivery money orders

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<sup>19</sup> NIA, paras 23-40.

<sup>20</sup> NIA, para 41.

to be used as an allowable postal payments service, and the second is to permit urgent money orders as an allowable postal payment service.<sup>21</sup>

## Implementation and costs

- 4.18 No changes to legislation will be required should the proposed Treaty be ratified.<sup>22</sup> No action needs to be taken at state or territory government level.<sup>23</sup>
- 4.19 The amendments made by the Treaty are expected to result in additional income for Australia Post of an estimated \$12m per annum by 2016.<sup>24</sup>

## Conclusion

- 4.20 The Committee supports the Ratification of the Decisions of the 2012 Doha Congress: *Universal Postal Union: General Regulations of the Universal Postal Union, Universal Postal Convention, Final Protocol of the Universal Postal Convention and Postal Payment Services Agreement* and recommends that binding treaty action be taken.

### Recommendation 3

- 4.21 **The Committee supports the Ratification of the Decisions of the 2012 Doha Congress: *Universal Postal Union: General Regulations of the Universal Postal Union, Universal Postal Convention, Final Protocol of the Universal Postal Convention and Postal Payment Services Agreement* and recommends that binding treaty action be taken.**

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21 NIA, para 42.

22 NIA, para 46.

23 Dr Pelling, Department of Communications, *Committee Hansard*, 17 August 2015, p. 2.

24 NIA, para 48.

Mr Wyatt Roy MP  
Chair

