

Committee Inquiries Question on Notice

Treaties

Acts of the Universal Postal Union

IQ24-000002

Division/Agency: DIV - Communications Services and Consumer

Hansard Reference: Spoken, Page No. 3 (26 February 2024)

Topic: Australia's Reservations to the Universal Postal Union treaties

Senator Josh Wilson asked:

CHAIR: I note that there are 15 reservations that Australia has made to the Convention. They are existing reservations; they've presumably been in place for some time and they are maintained. There's not any detail in the papers that we have with respect to what those reservations cover and why.

Mr Caruso: We do have some detail on what the reservations are. They are quite detailed issues. Do you want me to try and address them now?

CHAIR: If they're all sorts of little technical bits and pieces, then perhaps you could just take it on notice. It would be good if they could be summarised in as plain English form as possible for us to consider. But are there any major reservations that you wanted to draw to our attention? From the committee's point of view, there is an international agreement and we decide that we're going to except ourselves from some part of it; it would be interesting to try to understand why exactly that would be. Presumably circumstances are specific to us.

Mr Caruso: I can maybe provide a general rationale for a lot of our exceptions and then I think it would be useful if we took on notice further detail. The Universal Postal Union is sort of unique in the sense – maybe not unique, but one of the features of the Universal Postal Union is that at the treaty level it gets quite specific in terms of the mail products that can be offered between countries and the rates of remuneration that can be charged for those products. So, in general, I think I'd characterise a lot of Australia's reservations as really reflecting the fact that there are some quite detailed operational implications of some of the matters in the UPU treaties. And our reservations go to making sure that those can apply appropriately in the Australian context. In terms of detail, we can, come back to you on notice.

CHAIR: That's fine. [...]

Answer:

Australia has a number of reservations to Universal Postal Union treaties which are operational in nature. The wording of these reservations did not change at any of the Congresses in 2018, 2019 or 2021. The nature of the reservations are to ensure consistency in the treatment of international postal items with domestic postal items, or to allow Australia Post to cost recover for certain services. A summary of the reservations to articles amended in 2018, 2019 and 2021 is at **Attachment A**.

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Attachments

Attachment A – list and description of Australia’s reservations

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Attachment A: List and Description of Australia's Reservations

Decisions of the 2018, 2019 and 2021 Congresses

Final protocol article	Convention article	Text of the reservation	Text of the convention article	Rationale for reservation
I	5.1	Article 5.1 shall not apply to Australia, Ghana and Zimbabwe.	A postal item shall remain the property of the sender until it is delivered to the rightful owner, except when the item has been seized in pursuance of the national legislation of the country of origin or destination and, in case of application of article 19.2.1.1 or 19.3, in accordance with the national legislation or transit.	Ensure international post is subject to the same requirements as domestic post.
I	5.2	Article 5.2 shall apply to Australia only in so far as that article is consistent with its domestic legislation.	The sender of a postal item may have it withdrawn from the post or have its address and/or the name of the addressee (name of the legal person, or family name, given name or patronymic (if any)) altered or corrected. The charges and other conditions are laid down in the Regulations.	Ensure international post is subject to the same requirements as domestic post.
II	6	Notwithstanding article 6.7, Australia, Malaysia, New Zealand and the United Kingdom of Great Britain and Northern Ireland, will process letter-post items and postal parcels bearing postage stamps using new materials or technologies that	<i>Postage stamps</i>	Ensure international post is subject to the same requirements as domestic post.

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		are not compatible with their respective mail processing machines only upon prior agreement with the designated operator of origin concerned.		
III	12	Australia, Austria, Greece, New Zealand, United Kingdom of Great Britain and Northern Ireland and United States of America reserve the right to impose a charge, equivalent to the cost of the work it incurs, on any designated operator which, under the provisions of article 12.4, sends to it items for disposal which were not originally dispatched as postal items by their services.	A designated operator shall not be bound to forward or deliver to the addressees letter-post items which senders post or cause to be posted in large quantities in a country other than the country where they reside if the amount of terminal dues to be received is lower than the sum that would have been received if the mail had been posted in the country where the senders reside. The designated operator of destination may claim from the designated operator of posting payment commensurate with the cost incurred and which may not exceed the higher of the following two amounts: either 80% of the domestic tariff for equivalent items, or the rates applicable pursuant to articles 29.5 to 29.11, 29.12 to 29.15, or 30.9 , as appropriate. If the designated operator of posting does not agree to pay the amount claimed within a time limit set by the designated operator of destination, the designated operator of destination may either return the items to the designated operator of posting and shall be entitled to claim reimbursement of the redirection costs, or handle them in accordance with its national legislation.	Allows Australia Post to cost recover for certain services.
III	12	Article 12.4 allows the designated operator of destination to claim, from the designated operator of posting, appropriate remuneration for delivering letter-post items posted abroad in large quantities. Australia and the United Kingdom of Great Britain and Northern Ireland reserve the right to limit any such payment to the appropriate domestic tariff for equivalent items in the country of destination.		Allows Australia Post to cost recover for certain services.

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III	12	Notwithstanding the reservations under 4, the following member countries reserve the right to apply in full the provisions of article 12 of the Convention to mail received from Union member countries: Argentina, Australia, Austria, Azerbaijan, Belgium, Benin, Brazil, Burkina Faso, Cameroon, Canada, Côte d'Ivoire (Rep.), Cyprus, Denmark, Egypt, France, Germany, Greece, Guinea, Iran (Islamic Rep.), Israel, Italy, Japan, Jordan, Lebanon, Luxembourg, Mali, Mauritania, Monaco, Morocco, Norway, Pakistan, Portugal, Russian Federation, Saudi Arabia, Senegal, Switzerland, Syrian Arab Rep., Togo and Turkey.	<i>Posting abroad of letter-post items</i>	Ensure international post is subject to the same requirements as domestic post.
IV	15	Notwithstanding article 15, Australia, Belarus, Canada, Finland and New Zealand shall be authorized to collect postal charges other than those provided for in the Regulations, when such charges are consistent with the legislation of their countries.	<i>Charges</i>	Ensure international post is subject to the same requirements as domestic post.
V	16	Notwithstanding article 16, Australia will accept as items for the blind for delivery in Australia only those items that are exempted from postal charges in its domestic service.	<i>Exemption from postal charges</i>	Ensure international post is subject to the same requirements as domestic post.

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V	16	Notwithstanding article 16, Australia, Austria, Azerbaijan, Canada, Germany, Japan, Switzerland, United Kingdom of Great Britain and Northern Ireland and United States of America may collect the charges for special services which are applied items for the blind in their internal service.		Ensure international post is subject to the same requirements as domestic post.
VI	17	Notwithstanding the provisions of article 17, Australia does not agree to the extension of basic services to include postal parcels.	<i>Basic services</i>	Ensure international post is subject to the same requirements as domestic post.
VIII	19	Australia does not accept postal items of any kind containing bullion or bank notes. In addition, it does not accept registered items for delivery in Australia, or items in transit à découvert, containing valuables such as jewellery, precious metals, precious or semi-precious stones, securities, coins or any form of negotiable financial instrument. It declines all liability for items posted which are not in compliance with this reservation.	<i>Prohibitions (letter post)</i>	Ensure international post is subject to the same requirements as domestic post.
IX	19	Australia does not accept postal items of any kind containing bullion or bank notes.	<i>Prohibitions (postal parcels)</i>	Ensure international post is subject to the same requirements as domestic post.
XI	20	Notwithstanding article 20.2, Argentina, Australia, Austria, Brazil, Canada, Cyprus, Finland, Romania, the Russian Federation	<i>Customs Control. Customs duty and other fees.</i>	Allows Australia Post to cost recover for certain services.

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		and Spain reserve the right to collect a presentation-to-Customs charge from customers for any item submitted to customs control.		
XIV	33	Notwithstanding the provisions of article 33, Australia reserves the right to apply air conveyance rates for outward parcels sent via the merchandise return service, either as laid down in the Regulations or by any other means, including bilateral agreements.	<i>Basic rates and provisions concerning air conveyance dues.</i>	Allows Australia Post to cost recover for certain services.
XVI	36	Notwithstanding article 36.1.6, Australia reserves the right to apply outward land rates for the provision of the merchandise return service for parcels, either as laid down in the Regulations or by any other means, including bilateral agreements.	<i>Authority of the POC to fix charges and rates.</i>	Allows Australia Post to cost recover for certain services.

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IQ24-000003

Division/Agency: DIV - Communications Services and Consumer

Hansard Reference: Spoken, Page No. 4 (26 February 2024)

Topic: Consultation with Pacific Islands Nations

Senator David Fawcett asked:

Senator FAWCETT: In your submission you talked about changes within the UPU and, particularly, going to the small islands states, it talks about pathways to lift restrictions on SIDS, including a permanent seat for Pacific island nations on the UPU. What are the other restrictions specifically that these changes will address?

Mr Caruso: I think the other restrictions largely went to better mechanisms – if Small Island Developing States or any other states had entered into arrears with the Universal Postal Union – better arrangements to enable more flexibility in the kinds of arrangements of the UPU that that state could come to, to allow them to rejoin membership of the organisation. For example, one of the specific benefits is ensuring that you could calculate any future dues based on – countries have a deal of scope to declare the amount of membership fees that they pay to the UPU, depending on their development status. This gives greater flexibility for countries in arrears. The way you can get out of arrears can reflect a new declaration at a lower contribution rate, rather than declarations at higher contribution rates.

Senator FAWCETT: Mr Caruso, can I go to one other question that's related? In the consultation section you talk of consulting with a range of people, including international partners, and it specifically calls out the United States Postal Service. Can I assume, given the significant implications for Pacific island states, that you also consulted with Pacific island nations?

Mr Caruso: We have regular conversations with the whole gamut of countries that are members of the Universal Postal Union, including Pacific island states. We treat those relationships very importantly and take them very seriously.

Senator FAWCETT: I'm sure you do but the specific question was: did you have specific consultation around these changes, in terms of removing those restrictions?

Mr Caruso: I will have to take that on notice.

Answer:

The 2018 Extraordinary Congress approved the creation of a more equitable contribution class (of 0.1) for Small Island Developing States (SIDS) with less than 200,000 people. Pacific countries that benefited from this decision include Kiribati, Nauru, Samoa, Tonga and Tuvalu.

The 2021 Abidjan Congress built on this progress, and agreed to create new pathways to

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recover unpaid membership contributions and remove sanctions for countries with longstanding debts. This allows members with historical arrears to pay a smaller amount of arrears to have sanctions lifted, normalising their membership status. Pacific countries which have accessed these provisions include Nauru, Tonga and Tuvalu.

Both of these proposals were developed by Nauru in consultation with other Pacific Universal Postal Union members. Australia was consulted on these proposals bilaterally and through the Asian-Pacific Postal Union, and spoke in support of equitable member contributions and normalising membership status. Australia engaged extensively with Nauru in particular on these matters.

Australia engages with Pacific nations frequently on UPU matters, as well as on a bilateral basis and through regional organisations such as the Asian-Pacific Postal Union.

More recently, Australia has facilitated the in-person attendance of Tonga and Tuvalu at recent international postal meetings, to assist with amplifying Pacific voices in the work of the UPU.

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IQ24-000004

Division/Agency: DIV - Communications Services and Consumer

Hansard Reference: Spoken, Page No. 5 (26 February 2024)

Topic: Australia's participation in the Postal Operations Council

Senator David Fawcett asked:

Senator FAWCETT: One of the first changes to the 10th additional protocol, article 18, talks about the fact that the change that has been proposed means that when a country is a member of the Postal Operations Council they must act in that role in the interest of the UPU and not their national interests. Australia is currently on that Council. What change, if any, will that mean for how Australia operates on that Council?

Mr Caruso: It is an important change. We don't anticipate any changes in the way that Australia operates on those Councils. Australia has always placed great importance on thinking and contributing to the overall benefit of the Universal Postal Union as a whole and not solely being in those representative roles to promote our national interest. For example, we also ensure that when we have representative roles on the committees both at the Universal Postal Union and more broadly, we also do our best to advocate for the interests of, for example, the Pacific island states, who might not be members but might have important perspectives on issues that are being discussed. Bhavana, do you want to add anything?

Ms Chhagan: I think from a postal operator perspective, we work very closely with the Pacific island designated operators. For example, when we attend the annual meetings of the council, we'll share the meeting reports and outcomes with the Pacific nations and work with them to ensure that, where possible, we can also advocate for any of their interests.

Senator FAWCETT: I'm concerned here particularly around Australia's sovereignty. I recognise this doesn't change any of our legislation federally, and obviously the states have no play in this. But there is concern in the Australian community that some of these United Nations bodies impose things on us, and our position has always been that we represent Australia's interests on these. So can you give the committee an assurance, if we now have someone on the council who has to set aside the national interest, that there is some kind of division between that person and the team who is then representing Australia's interests in the negotiations and development of standards so that we can maintain the position we've always had, which is that we enter these agreements where it is in our interests to do so and don't cede our sovereignty or interest to a United Nations body.

Mr Caruso: I'm happy to be corrected, but what I would emphasise is that any major changes to the way the Universal Postal Union operates on a permanent basis need to be considered not just at—these changes you are referring to at the operations of the Postal Operations Council. When you look to any major changes that are going to have a major impact on Australia or Australia Post, those are all going to be considered at either the main

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congresses of the Universal Postal Union or at extraordinary congresses and will be treaty actions. So, at those congresses, Australia goes—and consistent with practice across the entire United Nations system, we're there solely to advocate for Australia's national interest, including Australia Post's interests within that

Senator FAWCETT: Sure. My question is: are we requiring an individual to wear two hats; to lead our delegation to those conferences with Australia's interests and then go to a Council with the global interests? Or are we putting some division of effort between those two roles? That's my question.

Mr Caruso: I don't think we have any formal arrangements in place to put divisions between those two roles.

Senator FAWCETT: Can you perhaps come back to us on notice, and describe how we're making sure that somebody is not, essentially, conflicted by having those two roles with those split loyalties. Thank you.

CHAIR: It would be very helpful to have that. I think the senator was rightly suggesting that not every country is obliged to put someone forward to have a role on the council. Even where countries don't have a role on the council, of course they maintain their sovereign right to participate in the negotiations and considerations with respect to the UPU through the various congresses, and indeed to make reservations if there are parts of an agreement that they don't necessarily agree to. It seems to me—and what you provide to us will either confirm this or correct us if I'm wrong—that what has happened is that, if a country wants someone to participate in that Postal Operations Council, understandably a person taking that role needs to do so thinking about how the overall administration of global postal rules can be best conducted, rather than coming along with their national hat on first and foremost. [...]

Answer:

Article 18 of the Constitution was amended to insert the requirement that 'Members of the Postal Operations Council shall carry out their functions in the name and in the interests of the Union'. The Council of Administration has been subject to the same requirement since 1964.

Australia's national interest is best served by having an effective and efficient Universal Postal Union. As not all nations can be represented at Councils every cycle, it is in Australia's interests that all members of Council act in the best interests of the Union itself.

The role of the Postal Operations Council is to consider the operational, technical, economic and commercial aspects of post. Key topics include developing and implementing technical solutions to operational issues and providing technical input into matters of policy before the Council of Administration.

There are other opportunities at the Universal Postal Union where Australia should and does act very directly in accordance with our sovereign interests. For example, proposals to amend the Acts of the Union must be approved by the Postal Union Congress. All Universal

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Postal Union members in good standing (up-to-date on their membership contributions) may uphold their right to vote or abstain on proposals to change the treaties. Australia's delegations to Congress and Council meetings are also governed by a negotiating mandate approved by the Australian Government.

Additionally, Australia is able to exercise its right as a Universal Postal Union member to take out a reservation against provisions in the Universal Postal Convention (which contains operational postal requirements) if compliance would not be in its interests.