

COMMUNICATION FROM MERCOSUR AND BOLIVIA

Postal Services

The following communication has been received from the MERCOSUR delegations (Argentina, Brazil, Paraguay and Uruguay) and Bolivia, with the request that it be circulated to the Members of the Council for Trade in Services.

1. The States Parties to MERCOSUR (Argentina, Brazil, Paraguay and Uruguay) – through the pro-tempore Presidency of Uruguay – and Bolivia submit to the World Trade Organization the proposal¹ for a new classification for postal services (CPC 7511) and "courier" services (CPC 7512), under subsectors 2.A and 2.B of Communications Services in the Services Sectoral Classification List (MTN.GNS/W/120), in accordance with the following.

I. INTRODUCTION

2. Historically, postal activities in all countries were organized in the form of direct or indirect provision, by the State itself, of services to society under a generalized monopoly regime, which constituted an obstacle to the operation of private companies in the market.

3. The production processes were fairly primitive, given the limited availability of technologies applicable to operational processes, which did not benefit from technological elements for automating the distribution of correspondence and postal items.

4. With the increase in international exchanges, private "courier" firms emerged, offering international document transport services of higher quality, thereby causing the official postal services to adopt a new strategy of market action. With the passage of time, participation in international alliances facilitated the expansion of "courier" firms serving national markets.

5. At the present time, as a result of economic liberalization and the deregulation of the sector that has occurred in various countries, the official postal services and the "courier" enterprises compete on equal terms in the postal market for services considered not exclusive to the public operators responsible for Universal Postal Service provision.

¹ This proposal is not a legal text. It is submitted solely for the purpose of negotiation and does not prejudice the position of MERCOSUR or its States Parties, nor that of Bolivia, regarding the issues raised in it. MERCOSUR and its States Parties and Bolivia reserve the right to modify this proposal during the negotiations.

II. POSTAL SERVICES IN THE CONTEXT OF THE GENERAL AGREEMENT ON TRADE IN SERVICES

6. Postal and "courier" services are included in subsectors 2.A and 2.B of Communication Services in the Services Sectoral Classification List (MTN.GNS/W/120), under the headings CPC 7511 (Postal Services) and CPC 7512 (Courier Services).

7. The current classification of postal and "courier" services is inadequate, given the lack of any difference in the way in which both postal service operators and "courier" firms provide postal services.

8. In support of this argument, postal and "courier" service provision may be evaluated in relation to the following aspects:

- The time taken to deliver the consignment to the addressee is a critical factor requiring, on the part of the operator, efficient organization, discipline, the use of appropriate means of transport, etc. The postal and "courier" service operators currently provide express services which are intrinsically sensitive to the variable of time, although this does not affect their status as a postal service.
- The technology available enables both postal and "courier" service providers to introduce updated processes of collection, classification, transport and delivery, as well as to modernize their management of the information generated through postal traffic, thus making it possible for them to offer services appropriate to the requirements of specific segments of society.
- Both postal service and "courier" operators offer various facilities to users, such as the following: practices and procedures to prevent delays and achieve the speedy release of consignments, possibility of accompanying the consignment from point of origin to final delivery to the addressee, with availability of information on the "status" and location of the item.
- The postal and "courier" services provide services with added value, such as collection at the address indicated by the sender, delivery against signature by the recipient, guaranteed delivery at a specific time and confirmation of delivery to the addressee.

9. It is clear from the above that there is no difference (in nature) between postal services and "courier" services, bearing in mind that the objective of both is "to deliver the consignment to a final, certain and specific address". Both partake of the same essential quality of "correspondence", which distinguishes the postal service from other services, inasmuch as it concerns interpersonal communications connected with the applicability of the right laid down in Article 12 of the Universal Declaration of Human Rights, approved by the General Assembly of the United Nations on 10 December 1948, which provides; "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

III. THE NEW REGULATORY FRAMEWORKS

10. From the regulatory standpoint, postal activity has been undergoing radical changes throughout the world, the aim being to obtain a new institutional model which reflects the current state of development of the postal market.

Generally speaking, it can be stated that some strategies are common to various countries, including the following in particular:

- Separation of the regulatory and operational functions: in a market made up of various operators, it becomes necessary for all operators to be covered by rules of discipline, standardization, control, and arbitration. A number of countries have already set up bodies to regulate postal activity, while others are finalizing steps in that direction.
- Universalization: this concerns the physical and universal access of the population to a basic set of services, thus constituting an important role to be played by States in this new postal sector scenario, on behalf of society.
- Competition: governments are introducing competition in the sector through the gradual reduction of monopolies, so as to prepare public operators for activity in a totally deregulated market.
- Technology: substantial sums are invested in the development of new services for customers and in improving working conditions for employees in the sector, with substantial gains in productivity. One example is the gradual incorporation of electronic commerce facilities, which provides major opportunities for growth in postal activity, mainly in the parcel delivery segment, since electronic purchases depend on physical delivery for conclusion of the sales process.

11. It will thus be noted that the legal barriers which impeded the free exercise of trade in services by "courier" firms have been or are being removed, and this will guarantee greater market competition, with a greater supply of products and services to the population.

IV. UPU-WTO RELATIONS

12. Relations between the World Trade Organization and the Universal Postal Union are expected to transcend mere rapprochement between two international organizations. Both institutions base themselves on the need to establish global international forums for the discussion of issues concerned with specific activities, which, by their nature, transcend the borders of the various countries.

13. It is clear that both organizations have in common sectors requiring the establishment of relations, an objective which was given its clearest expression at the UPU Universal Postal Congress held in Beijing in 1999, which approved resolution C9 to promote cooperation between the UPU and WTO for improved treatment of postal issues.

14. Finally, it should also be borne in mind that, by not developing into increasingly generalized areas of market freedom and competition, postal activity will lose its key "public service" aspect. Furthermore, given the clear danger that such liberalization will end by affecting services in non-profitable areas, the same Beijing Congress gave thorough consideration to the idea of "Universal Postal Service", as a special duty of States and of the international community for the purpose of ensuring physical and economically effective access for every individual to high quality postal services.

V. PROPOSAL

15. From the analysis carried out, it will be seen that the current classification of postal services and "courier" services is based on premises that are no longer valid, such as that of the single postal operator not subject to market competition.

16. It has been shown that there is no justification for the existence of separate classifications for postal services and "courier" services.

17. The conceptual definition which includes traditional postal services and "courier" services is possible and necessary, and must be based on the concept of the inviolability of correspondence recognized in Article 12 of the Universal Declaration of Humans Rights. The conceptual similarity between these services does not prevent each of them from being distinguished by its different specific modalities, namely agreed delivery times, value added to the service, follow-up technologies, etc.

18. Thus, the States Parties to MERCOSUR and Bolivia proposed the integration of "courier" services (CPC 7512) into postal services (CPC 7511), as set out in subsectors 2.A and 2.B of Communication Services in the Services Sectoral Classification List (MTN.GNS/W/120), under the single heading of Postal Services.

19. With regard to relations between UPU and WTO, it is important to give priority, in all international postal forums, to the relationship between the two organizations, given the need for the UPU to experience the substantial progress being achieved by the WTO in respect of market liberalization, free access to competition and equality of opportunities for transnational investors, while the WTO for its part will benefit from the UPU's work and unrivalled competence in postal matters.

20. Accordingly, we consider it important to promote discussion of topics common to both organizations and to strengthen the machinery for coordination of activities, leading *inter alia* to the mutual recognition of observer status at relevant meetings.
