

COMMUNICATION FROM NEW ZEALAND

Negotiating Proposal for Postal/Courier Services¹

The following communication has been received from the delegation of New Zealand with the request that it be circulated to the Members of the Council for Trade in Services.

I. INTRODUCTION

1. In recent years what once was a relatively clear cut divide between the monopoly provision of postal services and competitive provision of courier services has become increasingly blurred. Postal monopolies have eroded in various ways. In a few cases this has occurred through market deregulation which has formally reduced the scope of or terminated monopoly rights, but for most countries this has been through the expansion of private sector operators into areas once the exclusive preserve of the public postal service providers. Equally, many postal administrations have moved beyond the confines of providing traditional postal services in reserved sectors into new areas in competition with private sector. This process has accelerated with new technological developments in postal services, with the range of possibilities opened up considerably through electronic mail and the Internet.

II. RECENT DEVELOPMENTS, INCLUDING NEW ZEALAND'S EXPERIENCE

2. Monopoly protection underlines the importance attached by most governments to this sector as an infrastructural service, but as New Zealand's own postal experience shows, the provision of efficient, reliable and timely service can be subsumed by non-commercial, social policy objectives. In New Zealand's case a "service whatever the cost" environment meant there was little if any consideration to postal services as a business. Few believed that a postal service could ever make a profit. Policy reform through corporatisation of the postal service operator in New Zealand was partly intended to stem the annual losses to the Government of its postal operations, as well as to create a more efficient structure for the activities of the former Post Office's three divisions (postal, banking and telecommunications), with the intent of providing positive flow-on effects for the business environment and the economy at large.

3. Moreover, under structures in many countries in which postal and telecommunication services, and also financial banking services were typically provided by a single state entity, postal

¹ New Zealand reserves the right to submit further and more detailed proposals on this sector at any time and would note that this proposal should be read together with New Zealand's initial objectives for the resumed services negotiations, as contained in S/CSS/W/90 of 26 June 2001.

services were generally accorded lower strategic priority. This was particularly evident in respect of relative levels of investment, given the more attractive returns to be found in the telecommunications sector, which was seen as modern and innovative.

4. This situation has changed considerably over the last decade, for New Zealand and many other countries as well.² Since corporatisation and the removal of subsidies in 1987, New Zealand Post Limited has returned a profit every year. It has been able to position itself as an efficient low price, low cost service provider, with some notable achievements. Not least, New Zealand Post was able to drop the price of the standard post rate in 1995 (from 45 cents to 40 cents) in a first in modern postal history. At the same time, the priority fastpost rate has been held constant (in nominal terms) for over a decade. Since 1987 New Zealand has become a leader in postal best practice, including production systems, innovation and service performance. In addition, the New Zealand postal services market has been progressively deregulated, so that in 1998 all market segments became fully open to private sector, and international, competition.

5. The New Zealand experience shows that postal businesses can operate on a commercial basis and still successfully deliver social obligations such as universal service at affordable prices. In other words, postal services can be delivered outside the traditional compact involving monopoly privileges in exchange for specific social service-related commitments.

6. In common with many other services sectors, the typical pattern in postal and courier services is that the bulk of economic activity remains within national borders. But international mail volumes continue to grow as well, albeit at a slower pace than previously. Given the intense competition from (largely deregulated) international courier services, it is increasingly important for domestic postal operators to be able to compete in the international market segment as well. This requires that counterpart postal operators in other countries continue to provide competitive and efficient services. All traditional postal operators have a strong joint interest in mounting effective competition. If postal service providers cannot deliver mail efficiently, then their customers domestically and internationally suffer. In such circumstances, those customers are likely to turn to alternatives, including other means of service delivery such as private postal and courier companies, email, or advertising in the print, broadcast and Internet media. As already noted, the options now available to consumers have been greatly facilitated by recent technological developments.

7. The WTO Secretariat's background paper cites the Director General of the Universal Postal Union as acknowledging that all current providers of postal services, whether or not they enjoy monopoly protection, will have to face a future environment quite different from the present³. The specific challenge posed by the information revolution is whether the existing international framework can cope with the demands of this fast evolving sector.

III. PROPOSAL

8. New Zealand believes that Members should actively explore ways in which the number and quality of commitments made for postal and courier services can be increased and would note, in this regard, the following issues to assist Members in their consideration of this sector.

(i) *Classifications*

9. Communications from WTO Members (S/CSS/W/26 of 18 December 2000 from the United States, S/CSS/W/61 of 23 March 2001 from the EC, S/CSS/W/73 of 4 May 2001 from Switzerland

² See for example the WTO Secretariat's useful Background Note on "Postal and Courier Services" (S/C/W/39 of 12 June 1998) prepared in the information exchange exercise.

³ *Ibid*, page 3.

and S/CSS/W/108 of 26 September 2001 from MERCOSUR and Bolivia) have already identified the need to update and revise the classifications of postal and courier services under W/120 and the United Nations Central Product Classification (CPC) system. The EC paper, supported by Switzerland, proposes removal of the distinction between postal and courier services through listing the range of services relating to the handling of postal items by any operator, public or private. The proposal by MERCOSUR and Bolivia supports the integration of courier services into postal services, given that the original premise for having separate classifications no longer applies. The United States proposal involves the addition of a new category, express delivery services, to the five categories presently listed under communications services.

10. As evident from the background comments above, New Zealand would endorse the amendments proposed in the EC, Swiss and MERCOSUR/Bolivia papers to the existing CPC classifications, as these categories look to more closely match the present range of activities in this sector, thereby providing scope for WTO Members to make additional commitments in the market access negotiations. While the low number of commitments on postal/courier services presently listed in GATS schedules may reflect the extensive nature of public sector involvement in postal services at the conclusion of the Uruguay Round, it should be possible to open the way to increased commitments in the future, reflecting the liberalisation already underway in this sector. As noted in the WTO Secretariat's paper, postal services would be covered under GATS disciplines as long as these services are provided on a commercial basis, which is usually the case.⁴

(ii) *Consulting services: postal*

11. One area not explicitly covered by any of the classification proposals is that of consulting services in relation to postal/courier services. As a generic issue, consulting services is considered in a separate New Zealand paper,⁵ but in respect of the postal sector we would note that there is increasing demand for consultancy support, including for restructuring postal operations along business lines. While such expertise may be drawn from management consultancies, at least some postal services have developed particular expertise in this field through the experience of their own reforms, and set up consultancy subsidiaries advising other postal administrations and private sector clients. New Zealand's proposal is for recognition of consulting services as a sector in its own right (which would obviously cover consulting activities related to postal services) through amending the existing classification of "other management consulting services" to provide a broader definition of consulting services.

(iii) *Interlinkages with other service sectors*

12. One characteristic of courier services, which both the United States and WTO Secretariat papers identify, is that there is often a high degree of integration in this sector, especially among those specialising in express delivery. As these and other papers have pointed out, this sector depends on physical means of delivery, notably road and air transport services. While road transport falls squarely under the GATS framework, it is anomalous that the air transport sector largely remains outside of GATS disciplines, through the exclusions under the GATS Annex on Air Transport Services. The ability to maximise opportunities arising through the progressive liberalisation of postal and courier services, and increased levels of commitments by Members in these sectors, would be greatly enhanced by concomitant liberalisation of air transport services. Conversely, ongoing constraints in transport services could serve to diminish the opportunities afforded through liberalisation of postal and courier services. In this regard New Zealand would draw the attention of Members to its negotiating proposal on air transport services (S/CSS/W/92 of 26 June 2001).

⁴ *Ibid*, page 2

⁵ See S/CSS/W/116 of 6 October 2001.

(iv) *GATS Article VIII.2 considerations*

13. The expansion of Postal Service operations beyond traditional activities, into areas such as the provision of hybrid⁶ and/or electronic services, may well raise issues touching on a Member's obligations under Article VIII.2,⁷ in the absence of policy moves to remove monopoly protection or other regulatory reforms resulting in unbundling of postal services.

(v) *The Universal Postal Union (UPU) and the GATS*

14. WTO Members will be aware that the UPU has had primary responsibility for the international regulation of postal services since its establishment in 1874. This includes setting the rules for international mail exchanges, through the Universal Postal Convention and its Regulations.

15. There has been little evidence to date of scrutiny into possible inconsistencies between the obligations on WTO Members under the GATS, and the operation of the rules under the UPU. It is clear, however, that there is growing recognition within the UPU and its membership of an overlap between its responsibilities and activities, and the coverage of postal and courier services under the mandated GATS negotiations.

16. A key area for consideration is the operation of the *terminal dues system*, under which international accounts among postal administrations are settled. Set up in 1969 to compensate postal administrations for the costs of handling inbound mail, this system was most recently refined at the Beijing UPU Congress (1999). Existing arrangements cover the period from 1 January 2001 to 2006, and provide for differential payment schemes within and between developing and industrialised countries. This raises the question of consistency with GATS Article II (*Most-Favoured-Nation Treatment*), under which Members are obliged to accord treatment to the services and service suppliers of any other Member no less favourable than that it accords to like services and service suppliers of any other country.

17. As Members know the MFN obligation applies to any measures covered by the GATS, including those relating to uncommitted sectors. Some Members may judge that Article I.3(c) is relevant in this situation, but as already noted from the Secretariat paper there would appear to be few examples of postal services supplied "neither on a commercial basis nor in competition with one or more service suppliers". Most, if not all, postal regimes would charge their consumers a fee for their services. In any event, for postal monopolies, the provisions of GATS Art VIII.1, as noted above, would appear to apply.

18. Evidence of the distortions resulting from the operation of the terminal dues system may be found in the recent emergence of "extraterritorial offices of exchange",⁸ set up at least in part to take advantage of the arbitrage opportunities offered by the two-tier system. It is understood that this development has been the source of some debate within the UPU. Moreover, the scope apparently afforded under the terminal dues system for postal administrations to refuse to accept mail from extra-territorial offices of exchange, or to apply different terms to that enjoyed by mail received from an office of exchange located within the UPU member's territory, might also need to be considered against the GATS MFN obligations.

⁶ This involves the electronic transmission of messages in combination with at some point in the mail stream the transmission of hard copy messages.

⁷ "Where a Member's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside of the scope of its monopoly rights and which is subject to that Member's specific commitments, the Member shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments."

⁸ These are exchange offices set up by postal administrations outside of their own national territories.

19. The EC's paper proposes Members transmit the Universal Postal Convention and its Regulations into their GATS schedules, in order to ensure coherence and provide a dispute settlement mechanism to the sector. Against the background set out above, however, it would appear that the operation of the terminal dues system is a significant impediment to incorporating the UPU obligations of Members. It is understood that the UPU is presently discussing the terminal dues system, and that efforts may be underway to bring this system into consistency with the GATS. In such circumstances, as also noted in the EC paper, the experience in the telecommunications sector, particularly in relation to the question of accounting rates and the application of MFN principles, may prove relevant.⁹

20. New Zealand wishes to encourage a detailed discussion of the relationship between the GATS and the UPU, as well as the other issues raised above in respect of postal and courier services, in the Special Session. It is clear that there are some complex issues involved in this sector, including the interplay between two international agreements. To assist in the fullest possible consideration of these issues, New Zealand would welcome the views of other Members as to whether there could be value in inviting the UPU, through its Secretariat, to make a contribution to these deliberations, perhaps by way of an informal note.

⁹ New Zealand would however reserve its position on the particular question of any moratorium or agreement similar to that in place for accounting rates.