



DRAFT REPORT
CERP Working Group UPU
Vilnius, 18 - 19 March 2014

Participants: WG Chairman (Norway), Austria, Denmark, Hungary, Lithuania, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovak Republic, Switzerland, United Kingdom.

Observers: UPU IB, PostEurop, CERP Chairman.

1. Opening of the meeting and adoption of the agenda

The Chairman opened the meeting and the agenda was adopted with a slight modification to the wording of item 8 on the agenda from: “*Work to be done before CA meetings in April*” to “*Work to be done before CA project group meetings in April*”.

2. Report from the seventh meeting in Lisbon

The Chairman has received written comments which are reflected in the report. There were no additional comments to the report.

3. Appointment of CERP WG UPU Vice-Chair

Mr. Daniel Garcia Angulo from the Spanish Ministry for Infrastructures and Transportation has previously expressed his willingness to be a candidate for the Vice-Chair of the working group. However, since Mr. Angulo was not present at the meeting, it was agreed that the Chairman should contact Mr. Angulo after the meeting in order to clarify if he is still a candidate for the position of Vice-Chair.

The participants were informed by email 21st March 2014 from the Chairman that Mr. Angulo has taken a new job and is no longer working for the Spanish Ministry for Infrastructures and Transportation. Consequently, the working group needs a new candidate for Vice-Chair.

WG members are encouraged to contact the Chairman if you have any suggestions about candidates for this position.

4. Discussion on findings and comments to:

- **CA C1 RUPG 2013.2-Doc 2b (Comparison of CA and POC functions)**

The IB informed the working group that they have received extensive comments about the functions of CA and POC. The comments are interesting because they reflect different perspectives, both from regulators, designated operators and operators of express services. The IB explained that it is important to remember the objectives and historical background of the studies of CA and POC functions. The IB had prepared a short presentation on this subject.

Furthermore, the IB provided a presentation of the received comments and highlighted areas that might be of special interest for the working group.

Some of the comparisons and received comments lead to questions to the IB from the working group and discussions between the participants at the meeting. It was noted that many of the articles concerning the functions of the CA and POC seem to lack clarity, especially with regards to the functions of the POC.

The IB has also received many comments regarding the POC powers under the Convention, Letter Post Regulations and Parcel Post Regulations. The IB gave the working group an overview of the received comments. In particular the attention was drawn to the comments from Argentina and Japan during this part of the presentation.

The working group discussed different options regarding the follow-up of the work connected to the functions of the CA and POC. It was suggested that the working group should limit its scope to really important questions. It was also noted that the “Working Methods for CERP in UPU matters” is quite formal, and suggested that the follow-up of these issues might be conducted in a more informal way.

- **CA C1 RUPG 2013.2-Doc 2c. Rev 1**

In regards to document CA C1 RUPG 2013.2-Doc 2c Rev 1, the IB presented a summary of member countries’ positions and comments re promoting greater participation among stakeholders on the basis of the “3 Cs” model. In particular, it was taken note of Portugal’s suggestion to consider expanding the possibilities to become member of the Consultative Committee (CC) to commercial entities, including alternative operators and other private market actors which have an active role in the postal sector. It was suggested that lessons could be learned from the telecom sector, in regards to getting a higher degree of participation from stakeholders. Furthermore, it was noted that it might be several designated operators in one country in the future and that this factor should be considered when discussing this topic in the future.

- **CA C1 AUPG 2013.2-Doc 3a**

The IB presented the work stream regarding the general revision of the Convention and its Regulations to make the Postal Operations Council a more efficient and swifter decision-making body. The revision process includes harmonizing article numbers in the Convention and the Regulations, clarification with respect to mandatory services and simplifying the rules about freedom of transit. The ad hoc group that is established to make recommendations/proposals to the AUPG will have a meeting in Berne 4 April 2014.

The work on the general revision of the Convention is linked to the study on the possibility of establishing a permanent Convention. The IB gave the group a preview of a presentation that IB will give at the AUPG meeting in Bern during the POC session. Many articles in the Convention are time-dependent. A possible solution is to move these articles to a specific annex to the Convention. Some explained that they have the same legal challenges in regards to national approval of changes in the Convention as Japan, but remarked that moving the time-dependent articles to an annex will not solve these challenges. The annex would, according to national law in some countries, be subject to the same national approval process as the Convention itself.

The IB encouraged the members of the working group to forward their positions in regards to a permanent Convention at the AUPG meetings during the upcoming POC session.

- **CA C1 AUPG 2013.2-Doc 4a**

The IB presented a summary of member countries' positions and comments to the document regarding a study of the use and definitions of terms and expressions in the Acts of the Union. It was noted that the member countries have divided opinions regarding the need to define the term Postal sector, that Argentina has a diverging opinion with regards to the term Express delivery service and that the terms Postal item and Letter Post item are closely linked to the scope of the Union. It was suggested that the link between these terms and the scope of the Union might be suitable for a coordinated view from CERP.

The IB informed the WG that the AUPG is in the process of finalizing an agreement with an external expert to contribute to the study of the use and definitions of terms and expressions in the Acts of the Union.

5. General discussion on issues considered of interest to CERP WG UPU re Lisbon meeting

Reference was made to the report from the seventh CERP WG UPU meeting in Lisbon 10th October 2013. On page 1 and 2 of the report, item 4 refers to the general discussion that the working group had about priorities.

At the time of the meeting some documents were available on the UPU website for the CA project group meetings in April 2014. Most of these documents were provisional agendas, in addition to memorandums regarding issues discussed under agenda item 4.

In regards to Terminal Dues, the RGIPG has set up a taskforce on the review of the UPU remuneration system principles (taskforce 1). The Chairman informed the working group that Mr. Tarjei Weseth from Norway Post has volunteered to chair this taskforce. The taskforce will present its recommendations at the CA session for endorsement. The deadline for volunteering to participate in taskforce 1 has formally passed, but the Chairman encouraged working group members who would like to actively participate in this work to contact Mr. Weseth directly.

The Slovak Republic suggested adding Congress Resolution C 38/2012 on development of philately to the list of tasks for the WG. The members were encouraged to cooperate in the area of philately concerning the part devoted to member countries, especially indent 8 of the resolution (to adopt and implement best practices to ensure the participation of industry stakeholders at national level and their cooperation and support at international level). The working group agreed to add this issue to the list of issues that is considered of particular interest and focus for further discussion in the WG.

6. Status on "Code of Conduct" reaching CERP common positions

The CERP Chairman provided information about the status on "Code of Conduct" and finding European Common positions. The first draft was presented in Lisbon at the CERP WG UPU meeting 10th October 2013, and only minor editorial changes has been done to the document after that meeting. The CERP Chairman has not received any further comments to the document. The working group was informed that the document will be subject to approval at the CERP Plenary in May 2014.

It was suggested a slight change to the wording on the first page of the document concerning the task of the Steering Group. The wording will be changed to reflect that the Steering Group has several tasks.

The document is available on CERP WG UPU's website.

7. Reflections on .post process – possible guidelines for IB when handling similar matters in the future

During the last CA session 2013, the working group had an ad-hoc meeting in Bern where the process concerning .post and the procedure when IB or the Director General acts on behalf of the UPU outside of the organization, was discussed. Based on the discussion at this ad-hoc meeting, Poland has been willing to prepare a draft letter for the working group to consider. The draft letter is available at the CERP WG UPU website.

Poland gave a short presentation of the relevant documents concerning the .post process and concluded that the process was not very clear. In light of this, it was noted that the .post process has identified a need to clarify which role each permanent body of the UPU has. In general, the working group expressed their support for the initiative to send a letter to UPU addressing this matter. The intention is to draft a joint letter that might work as a contribution from CERP to IB regarding the fundamental governance principals of the issue and trigger work concerning which formal procedures should be followed in similar situations in the future. However, the working group does not intend to re-open discussions on the specific .post case. It was agreed that the expression “common position” should not be used in this context and that the expression “contribution” is more appropriate.

The Chairman encouraged the members of the working group to send comments to the draft letter to the Chairman by the end of April. The revised draft letter will be presented at the CERP plenary in Skopje for approval.

Lastly, the IB informed the working group about the .mail-case. The case was also dismissed by ICANN. The CERP WG UPU requested IB to provide financial information about the .mail-case.

8. Work to be done before CA project group meetings in April

During the CA session 2013, the CERP WG UPU had a short morning meeting before the CA meetings to help coordination and discuss a few of the issues that were dealt with at the CA meetings. The working group agreed that it would be of interest to arrange such a meeting in Bern during the last week of the POC session 2014. The Chairman will provide information of the date and time for the ad-hoc meeting as soon as the IB has confirmed that a meeting room is available.

9. Next meeting

It was suggested that the next CERP WG UPU meeting should be held in the second week of October 2014. The Chairman urges the member countries to explore the possibilities to be the host for the next meeting. The Chairman will inform the members of the working group about date and venue when a host country for the next meeting has been confirmed.

10. Any other business

It was suggested to establish a smaller Drafting Project Team that might develop draft proposals on important issues. The draft proposals might be presented and discussed at WG meetings and hopefully contribute to achieving a CERP common position or CERP contributions on selected issues. The working group agreed that such a Drafting Project Team should be established.

Austria, Poland and Portugal expressed willingness to participate in such a Drafting Project Team. In addition, Switzerland confirmed that they are willing to participate in this work by email to the Chairman following the meeting.

Working Methods for CERP in UPU matters

Foreword:

In preparation of UPU Congresses there has been several attempts seeking for a rule how to establish CERP Common Positions. However, due to different challenges these procedures never have lead to a successful exercise. Therefore the CERP Plenary meeting gave instructions to the CERP Steering Group to develop a mechanism that serves the need of CERP taking into account existing regulations in the other CEPT committees.

The draft document „Working Methods for CERP in UPU matters“ has been derived from the relevant Com-ITU document.

This document is subdivided into 3 parts:

The first chapter describes the working procedure in preparation and during conferences. The main idea is to coordinate the work by a Coordination Team (Steering Group). The task of this group is to find support for modified positions for ECPs (European Common Proposals).

The second chapter relates to the coordination in preparation of UPU meetings. Here an unanimous voting is needed. In order to be able to submit a relevant contribution (or to speak in a meeting on behalf of CERP) CERP would have to seek consent on special subjects prior to a meeting of an UPU body in a CERP WG UPU meeting.

The third chapter provides the rules to follow when developing ECPs, which means, that CERP could establish a procedure by which proposals of regulatory nature can be developed and co-signed by CERP members.

Working Methods for CERP in UPU matters

A) 1 WORKING PROCEDURES FOR CEPT CO-ORDINATION in the preparation of, and during UPU Conferences¹

1. The Chairman of the CERP (hereafter called the Chairman) shall be responsible for the overall CEPT co-ordination if not decided otherwise.
2. The Chairman shall be assisted by an Coordination Team, which would include the Vice Chairman, the Working Group chairmen and the CEPT co-ordinators during the negotiations and lobbying activities.
3. The observers from CEPT at UPU-Conferences shall also assist the Chairman.
4. Each CEPT delegation shall notify the Chairman of their main contact person, and one for each ECP.
5. The Chairman shall call CEPT co-ordination meetings as appropriate, or when requested by a Member, to inform CEPT delegates of progress, agree on a modified position as necessary to take account of progress, and agree the degree of flexibility on negotiations.
6. Such meetings shall be called by sending a notice to each contact person using the available messaging system.
7. CEPT coordination meetings during the conference to agree on a modified position or on the degree of flexibility on negotiations shall be led by a member of the coordination team (normally the Chairman) from an administration which has co-signed the relevant ECP.
8. In exceptional circumstances, participation in coordination meetings during the Conference may be limited to administrations that have not objected to the relevant ECP.
9. In emergency situations, the co-ordination team shall have the responsibility of notifying all the CEPT delegations of developments.
10. The co-ordination team will negotiate on the ECPs with other countries within the agreed limits of flexibility.
11. Other CEPT delegates should avoid entering into individual negotiations with non-CEPT countries which could undermine the CEPT position. Discussions with non-CEPT delegates should be limited to lobbying of the current CEPT published position, and intelligence gathering. Information gained should be made available to the coordination team as soon as possible, and to all delegates at the next co-ordination meeting. These principles should also apply in the period leading up to the conference in relation to provisionally agreed positions.
12. Unless it has formally notified to the Chairman its opposition to an ECP before the deadline for signature, and preferably before its adoption, an administration which has not co-signed an ECP should avoid opposing the proposal in formal meetings but should seek to maintain European co-operation and unity, remain constructive and search for acceptable compromises, in particular within the coordination team.

¹) UPU conferences include UPU Congress and the UPU Strategy Conference

13. Delegates from CEPT Administrations, at all times, should maintain the original agreed CEPT positions, or the latest stance agreed at a co-ordination meeting, and not make known the agreed negotiating limits.

14. In cases where CEPT is unable to agree on an ECP or a common position, or in cases where a CEPT Member is unable to agree with a common position, CEPT Members should, before bringing forward explicitly their own positions as national or multi-national proposals, endeavour to determine through CEPT co-ordination before or during the Conference, a common position on these proposals which could be supported by a majority of the Conference.

15. Each of the ECPs shall be presented by a co-ordinator from an administration that has co-signed the proposal. The co-ordinator shall be responsible for tracking the proposal until the Conference has disposed of the issue which the ECP addresses. A coordinator shall also be designated for agenda items where no ECP has been submitted.

16. Each co-ordinator shall establish contacts with the appointed representatives from the CEPT delegations (2 to 4 above) in order to have efficient co-operation among the delegates concerned before and during working sessions of the conference.

17. Within the authority delegated by the CEPT co-ordination team, the CEPT coordinator on a given subject shall call CEPT co-ordination meetings as appropriate, or when requested by a Member, to inform CEPT delegates of progress, agree a modified position on this subject as necessary to take account of progress, and agree the degree of flexibility on negotiations. Within the scope of their subjects, and within the authority delegated by the CEPT co-ordination team, the CEPT co-ordinators will, as necessary and in co-operation with interested CEPT members, lead the negotiations with non-CEPT delegations or organisations, keeping the co-ordination team informed.

18. Each ECP shall be actively supported by all CEPT delegations whose administrations have co-signed the ECP. This shall include speaking in support of the ECP following its presentation.

B) WORKING PROCEDURES FOR CEPT CO-ORDINATION in the preparation of contributions to meetings of UPU groups²

Project Teams and Working Groups may submit documents to UPU Working Parties or Task Groups. This can only be done based on unanimity among the CEPT members represented at the meeting. In case there is no unanimity the issues will, if necessary, be brought to the parental group for decision.

In case a contribution, agreed accordingly to the above, is submitted to the UPU, it should include the sentence:

"This document has been developed and agreed within the framework of CEPT [group responsible]"

It should be emphasised that all CEPT Administrations should support such documents after their introduction in UPU.

²) UPU groups include, but are not limited to, Study Groups, Working Parties, Task Groups and Experts groups.

C) European Common Proposal (ECP)

An ECP is a multi-country proposal to which the Working Procedures for CEPT Coordination apply.

Co-signature of an ECP must be evidenced by endorsement from the responsible person within an Administration. It is recognised that in some cases this may take some time after approval of the ECP in the responsible CERP entity. For the purposes of defining an ECP, an indication of intention to co-sign an ECP shall be considered as support.

The purpose of this definition is to serve two main purposes:

- to ensure that there would not be major open opposition from CEPT members;
- to require a reasonably active support, inter alia, through the co-signature of the proposal.

If this cannot be achieved, the proposal should not be submitted in the form of an ECP, as to do so would undermine the credibility of ECPs.

In making this decision, not only the quantity of opposition/support but also the quality must be taken into account. Those opposing might, reluctantly, accept a lost vote or, alternatively, they might feel obliged to reserve their right to present a contradicting national (or multinational) proposal. In a similar way, support could be anything between strong national interest (leading to very active support in the Conference) to luke warm acceptance in the spirit of European cooperation.

Although these factors cannot be built into a simple count of votes, as a general guideline an ECP would not be approved by the responsible CERP entity unless there were at least 10 CEPT members indicating their intention to co-sign it, and not more than 6 opposing the proposal going forward as an ECP.

Even so, it would still be for the responsible CERP entity to decide if a proposal should go forward as an ECP or not, based on both the quantitative and qualitative factors as described above.

Any CEPT Member which is obliged to voice objections or submit alternative proposals to an ECP should inform the responsible CERP entity of its intentions and should, nevertheless, cooperate with the other CEPT Members during UPU meetings to develop a common consensus.

At the request of the responsible CERP entity, the Office may circulate ECPs to UPU member administrations via diplomatic channels in Copenhagen, seeking their support

Draft letter to the International Bureau (IB) of the Universal Postal Union (UPU)

**European Committee for Postal Regulation (CERP) contribution
concerning clear decision making processes within the UPU**

At the Council of Administration (CA) session spring 2013 the International Bureau presented CA C 1 2013.1-Doc 10 to CA Committee 1. The document included extensive information concerning the ICANN (Internet Corporation for Assigned Names and Numbers) objection process in relation to the proposed .epost top-level domain name. Several member countries expressed their support for the actions taken by the IB to protect the .post top-level domain name, while some said there were a number of questions needing further clarification, particularly concerning clear decision making, and potential GATS (WTO) issues, etc.

During the CA C 1 meeting at the CA session autumn 2013, the issue of decision making processes was again mentioned by at least one member country.

Bearing these discussions in mind, members of European Committee for Postal Regulation (CERP) would like to express their opinion that there is a need to develop a formal procedure for the IB and the Director General's representation of the UPU as an intergovernmental organisation – outside of the organisation.

In CERP's opinion it is necessary for the UPU to set up a formal procedure where member countries could express their opinion and approve (or not) proposed actions to be undertaken by the IB or its Director General.

In CERP's opinion actions such as starting an arbitration process need approval of the Council of Administration which is the supreme body of the UPU between Congresses and among others responsible for the UPU's budget.

We hope that this letter will trigger further work on this issue, to which CERP member countries will gladly contribute.