



**Report of the 45<sup>th</sup> Plenary in Montreux,  
27 October 2011**

**1. Welcome**

The Chairman welcomed the members and thanked the Swiss host for organizing the meeting in such a beautiful location.

Mr. Mark Furrer welcomed the participants to Montreux where CEPT was founded 55 years ago. He underlined that CERP has to find its new role in view of the current EU developments on the European postal sector. He emphasised that this meeting is mainly dedicated to discuss and prepare the UPU Congress.

**2. Approval of the agenda and introduction by the Chairman (Doc 1 E/F Rev 1)**

The agenda was adopted without any comments.

**3. Approval of the report of the 44<sup>th</sup> Plenary meeting in Dublin on 19-20 May 2011  
(Doc 2 E/F)**

The report was approved without any amendments.

**4. Report of the Steering Group meeting on 24 August 2011 (Doc 3)**

The Steering Group prepared the 45<sup>th</sup> Plenary meeting in Montreux, especially in relation to the topic for the forum. Furthermore the agenda of the CC meeting was prepared and the activities of the both Working Groups were discussed.

**5. Results of the meeting of the Contact Committee CERP/European Commission on  
24 August 2011 (Doc 4)**

The European Commission gave a short overview of the current work in ERGP and confirmed their attendance in the Forum discussion.

Furthermore the Contact Committee discussed UPU affairs, the role of CERP in the European context and the preparation of the next UPU Congress 2012 in Doha. Finally the current and forthcoming EC studies have been considered.

**6. State of affairs in ERGP**

This agenda item was presented together with point 10 of the agenda.

**7. Reports of the Working Groups**

WG Policy (Doc 5)

Ms Anna Karolak reported about the meeting of the WG Policy on 14-15 September 2011 in Warsaw. The main topics were the question what issues the WG should work on and the recent regulatory developments in member countries.

The WG decided to issue a questionnaire asking for the opinion of member countries on the postal directive. The questionnaire will be distributed by the end of 2011. First results will be available in spring 2012 and the final report will be presented in autumn 2012.

The WG also approved Mr. Andreas Hach from Austria as the Vice-chairman of the WG.

## WG UPU (Doc 6)

Mr. Egil Thorstensen presented the document. He reported that the participants discussed the Terms of reference for the CERP Working Group UPU. It was agreed that it is not realistic for the WG to discuss all proposals to the Congress. By focusing on fewer issues the WG can analyze these more in depth and try to find common positions.

Furthermore it was discussed how to find practical means to concentrate on certain key issues and whether there should be written procedures to achieve this objective. A subgroup was created to perform this work.

It was suggested that the WG should try to cooperate with the European Commission. It was also decided that the WG UPU should have a Code of Conduct for decisions on common positions for UPU proposals.

During the preparation phase for the Doha Congress PostEurop will participate in WG UPU meetings with a small number of experts as observers.

Moreover further topics were deliberated, i.e. Terminal dues, the UPU reform, the Work plan and the possible way how to keep track of all proposals before the Congress. UPU/IB will be helpful in this respect.

In addition, the WG approved Ms Coral Iglesias Carrero as Vice-chairperson for the WG UPU.

### **8. Approval of the Working Group work programs**

The working group programs were approved under point 7 of the agenda.

### **9. Creation of Task Forces and approval of their work programs (Doc 9)**

The Chairman introduced the document.

Ireland pointed out that it is important to have a newsletter regarding the UPU Congress because many countries are not able to participate. For these countries CERP is the only possibility to get information about the Congress.

Norway, Poland, Sweden, UK and the CERP Secretariat kindly volunteered to be members of this Task Force.

The Task Force will work by Email only.

### **10. European regulatory matters – Presentation by the European Commission**

Mr. Robert Pochmarski from the European Commission presented the EU Postal Regulatory Developments. The presentation covered the following items:

- Activities overview, including an outlook on current and forthcoming activities
  - o Assistance to Member States in the implementation of the Postal Directive;
  - o 5<sup>th</sup> Application Report;
  - o 3. Conference;
  - o Sector Studies;
  - o Postal Users Forum;
- State of affairs regarding the transposition of Directive 2008/6/EC;
- Selected issues following transposition;
- ERGP, in particular:
  - o Contact network meeting on 4 November 2011
  - o Plenary on 24 November 2011
  - o Work Programme 2011/2012
  - o ERGP-website
- Selected Regulatory and Other Developments;
- 25<sup>th</sup> UPU Congress.

The presentation is attached. (CERP PL 2011/2 Pres.1)

## 11. Recent developments in UPU – Presentation by the IB

Ms. Won-ja Lee gave a presentation about the recent developments in the UPU. The presentation covered the following major issues of the 2011 CA session:

- Governance Issues (C 1)
  - o Reform of the Union
  - o Ad hoc group
  - o Interconnectivity
  - o Terminal Dues Governance Issues
- Development Cooperation (C 2)
- Finance and Administration (C 3)
- UPU Doha Postal Strategy (C 4)
- Plenary
  - o Palestine – draft resolution by Palestine, Qatar and Egypt
  - o Forum on postal regulation

The presentation is attached. (CERP PL 2011/2 Pres.2)

## 12. Forum

The Forum dealt with the topic “What are the main interests of European policy makers and regulators concerning the 2012 UPU Congress in Doha and are there any concrete proposals that should be launched?”

The discussion was moderated by Mr. Alex Dieke from WIK-Consult (Germany). The discussants were Mr. Jean-Paul Forceville (PostEurop), Mr. Andreas Hach (Austrian Ministry), Ms. Won-ja Lee (International Bureau of the UPU), Mr. Torstein Olsen (Norwegian NRA), Mr. Werner Stengg (European Commission) and Mr. Frank Wilod Versprille (Consultative Committee of the UPU).

In the very lively discussion the following questions were raised:

- Reform of the Union
  - o Separation of governmental and operational functions has long been discussed at the UPU. How should this separation be achieved?
  - o Do you think it would be beneficial to separate the UPU into two operational and governmental organisations (IATA/ICAO model)?
- Governmental functions & binding requirements on member countries?
  - o In Europe, postal operations, policy and regulation have been separated. From this European perspective, what exactly are governmental functions the UPU needs to carry out?
  - o At present, the UPU acts, including detailed regulations for letter post and parcel post, are binding on all UPU member countries (including operational matters such as size formats, documentation for postal shipments, or rules for terminal dues). Which rules must be binding on all member countries in order to ensure a universal, single postal territory?
  - o Which rules could be left for operators to be agreed outside international law? Would operators agree on commercial terms for international postal service if they were not required by international law?
- Should the UPU be open to multiple operators in one country?

At present, designated operators both have the obligations to carry incoming mail (and offer transit), and benefit from certain rights under the UPU acts. At the same time, some operational standards are restricted to designated operators. This traditional system is challenged because some member countries have designated multiple operators for their territory (for parts of the country, or for different products), and new (private) operators offer international mail, and reply on UPU documentation.

  - o Should UPU operational standards, e.g. IMPC codes, be open to non-designated operators? Who should be responsible for “licensing” IMPC codes? UPU? National regulators? Designated operators?
  - o With respect to obligations on member countries, should member countries be allowed to designate multiple operators, e.g. for different parts of the country,

- or for different products?
  - With respect to right for member countries, should member countries be allowed to grant rights from the UPU acts to multiple operators? (e.g. IMPC codes, or simplified customs treatment?) How could this be organised?
- Simplified customs procedure for postal services
 

In many countries, postal shipments carrying UPU documentation are subject only to simplified customs treatment (reduced liability for postal operators and simplified procedure).

  - Do you think that simplified customs procedure is still timely in times of enhanced international terrorism? What needs to be done to ensure simple procedure in member countries? Could procedures be harmonised better?
  - Which postal services should benefit from simplified customs rules: Letter post only? All universal services, including parcels? Designated operators only or all postal operators? All products from designated operators?
- Application of UPU acts inside the European Union
 

The application of some UPU rules (e.g. enforcement of anti-remail rules, or enforcement of UPU terminal dues) for intra-Community postal traffic may conflict with the rules established by the EU Postal Directive.

  - Do you think UPU acts can/should be applied to intra-Community traffic?
  - In case of doubt, how do you think EU law can be enforced for intra-Community cross-border traffic?
- Regulation of terminal dues
 

Art. 13 of the Postal Directive requires terminal dues for intra-Community traffic to be cost-oriented, related to quality of service, transparent, and non-discriminatory. While UPU terminal dues (target system) aim at being cost-oriented, many operators argue that no sufficient progress has been made towards this goal. REIMS, the terminal dues agreements among many EU postal operators is dramatically losing relevance in recent years.

  - Should terminal dues in Europe be regulated in the coming years? If so, who should regulate them, and what should be the objectives to achieve?
  - What are the prospects to rendering UPU terminal dues more consistent with EU standards? Can the two sets of rules be better aligned?
- Preparations for Doha: Coordination of Positions among EU Member States
  - As a practical matter, how do you recommend EU Member States should coordinate for Doha Congress?
  - What are common interests, and what are possible topics for joint proposals by CERP members (or EU members)?
  - To organise coordination, who should take initiative?

An mp3 record of the discussion is stored on the CERP-website under the following link: (<http://www.cept.org/cecp/deliverables/list-of-plenaries>).

### **13. CEPT/CERP Website**

The Chairman announced that the CEPT/CERP Website provides useful information, but is not yet fully exploited. The Website should be used to exchange information. The aim is that all information will only be set on the website so that the exchange of emails and documents will no longer be necessary.

The Chairman explained that in order to get access to all the documents, a registration is required. After registration the user will obtain a password which allows access to all CERP-documents. In this context a guideline will be distributed to all CERP members.

### **14. Exchange of information between regulators/ministries**

Ireland: The Communications Regulation (Postal Services) Act 2011, which transposes the third Postal Directive, came into operation on 2 August 2011. ComReg, the national regulatory authority had published a short information note (11/56) setting out the work it would undertake to implement the new legislation.

Slovakia: Postal market in Slovakia will be fully opened from 1st January 2012. The new Act of 14 September 2011 on Postal Service and on Amendments to Certain Acts was published as the Act No. 324/2011 on 14 October 2011. The act is available on <http://www.telecom.gov.sk/index/index.php?ids=1911> in Slovak version. English version will be available in December 2011."

Greece: A hearing procedure was held by EETT, the Greek NRA, regarding the provision of Express Mail Service (EMS) by the Greek USP and its courier subsidiary and the procedure followed for the clearance of EMS postal items through custom duties. EETT has decided that the USP failed to meet the principles of transparency, non discrimination and proportionality, in the assignment agreement and violated competition law by extending their dominant market position to the market of express courier services and proposed to the ministry to impose to the USP a financial penalty.

Germany: The Ruling Chamber prepares the future price cap decision concerning the prices of the incumbent for the period from January 2012 until December 2013. The framework of the decision is currently subject to a consultation process for all interested parties. The foreseen framework gives room for a moderate increase of prices to the incumbent. After the consultation, the ruling chamber will publish its decision. Subject of the decision, the incumbent will apply for new rates. The rates will be approved by the NRA if they range within the given.

The NRA issued a decision taken by the Ruling Chamber on the so called First Mail case on 19 June 2011. First Mail is a 100% daughter company of the incumbent Deutsche Post. It is active on the mail market since 10 years. It focussed mainly on areas with intensive competition. It is a kind –of test laboratory of the incumbent to experience the view of competitors. The decision says that the tariffs of First Mail are not in line with the price regulation decisions taken by the NRA as they are not cost covering and thus constitute an infringement of the non discrimination law. First Mail now has to proof towards the NRA that their prices will be increased in accordance with the regulated price regime within a certain period of time. The main issues of discussion in this context are the dominant market position of the daughter company of the incumbent and the division of prices between the mother company Deutsche Post AG and the daughter company First Mail. Legal action has been taken by First Mail against the decision of the NRA. In a first step, the administrative court upheld the NRA's decision on 1<sup>st</sup> September 2011. First Mail appealed to the higher administrative court. Final judgement is still pending. In the meantime the mother company decided to close down First Mail.

Norway: The Norwegian government has informed the Parliament that it will propose to reduce the obligation for Norway Post to offer banking services through its network throughout the country. Until now Norway Post has had an obligation to offer such services from all its post offices including postal counters in shops, and with all the rural postmen. Details in the proposal will be known later. The decision might have a substantial impact on the organizing of the network.

The government has this summer appointed Mr. Torstein Olsen (who participated in the plenary) as the new Director General of the Norwegian Post and Telecommunications Authority of Norway.

UK: A representative of Ofcom gave a presentation regarding "Securing the universal postal service: The future framework for economic regulation". The presentation is annexed: (CERP PL 2011/2 Pres.3).

## **15. Programme of Plenaries**

The next plenary will take place on 24th and 25 may 2012 in Belgrade (Serbia). The autumn Plenary 2012 will take place in Cyprus on 1-2 November 2012. The Norwegian NRA kindly offered to host the CERP Plenary in spring 2013.

## **16. AOB**

None.

### Annex

List of participants

Presentation by European Commission

Presentation by UPU

Presentation by UK

Bonn, 2 December 2011

A. Czauderna-Wanis  
CERP Secretariat

U. DAMMANN  
CERP Chairman