**KYOTO CONVENTION**

**GUIDELINES TO**

 **SPECIFIC ANNEX J**



***Chapter 2***

***POSTAL TRAFFIC***

WORLD CUSTOMS ORGANIZATION

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# 1. Introduction : purpose and scope

The Post has always been one of the most widely used methods in personal and commercial relations of sending not only greetings and information but also gifts and other goods.

Customs are necessarily involved in international postal traffic since, just as in the case of goods imported and exported by other means, they have to ensure that the appropriate duties and taxes are collected, to enforce import and export prohibitions and restrictions, and in general to ensure compliance with the laws and regulations which they are responsible for enforcing. At the same time they seek to confine any checks to the minimum necessary by employing risk assessment techniques.

Because of the volume and largely unreported nature of postal traffic, the Customs formalities for items carried by post are somewhat different from those applied to goods carried by other means. While individual postal items are restricted in size, their numbers are enormous and, to avoid creating unacceptable delays, administrative arrangements have been made to deal with them. These administrative arrangements and related risk assessment techniques may change in some administrations as national postal services become deregulated, start to compete in new markets and increase their efforts in developing standard electronic messages for postal traffic.

In virtually all countries the postal service whether a public or private body, provide international services governed by the Acts of the Universal Postal Union[[1]](#footnote-1).

This Chapter covers the Customs procedures relating to postal traffic (letter post and parcels) which must operate in accordance with these Acts. Some postal services also make available an Express Mail Service (EMS) as described in the UPU Convention. For the purposes of this Chapter, Customs administrations which apply these procedures to the EMS service are considered to be granting a greater facility in accordance with Article 2 of the Kyoto Convention. Other administrations treat EMS items in the same way as items carried by private operators.

# Definitions

For the purposes of this Chapter :

|  |  |
| --- | --- |
| ***E1/F1*** |  ***"CN22/23 "*** *means the special declaration forms for postal items as described in the Acts of the Universal Postal Union currently in force;* |
| ***E2/F3*** |  ***"Customs formalities in respect of postal items "*** *means all the operations to be carried out by the interested party and the Customs in respect of postal traffic;* |
| ***E3/F2*** |  ***"postal items "*** *means letter-post and parcels, as described in the Acts of the Universal Postal Union currently in force, when carried by or for postal services;* |

|  |  |
| --- | --- |
| ***E4/F5*** |  ***"postal service"*** *means a public or private body authorized by the government to provide the international services governed by the Acts of the Universal Postal Union currently in force;* |
| ***E5/F4*** |  ***"the Universal Postal Union "*** *means the inter-governmental organization founded in 1874 by the Treaty of Bern as the "General Postal Union " which, in 1878, was renamed the "Universal Postal Union (UPU) " and which since 1948 has been a specialized agency of the United Nations.* |

 All the definitions of terms necessary for the interpretation of more than one Annex to the Convention are placed in the General Annex. The definitions of terms applicable to only a particular procedure or practice are contained in that Specific Annex or Chapter.

# 3. Principle

 Standard 1

*The Customs formalities in respect of postal items shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.*

The revised Kyoto Convention has a set of obligatory core provisions that are contained in the General Annex. The General Annex reflects the main principles considered necessary to harmonize and simplify all the relevant Customs procedures and practices which Customs apply in their daily activities.

As the core provisions of the General Annex are applicable to all Specific Annexes and Chapters, they should be applied in full for Postal traffic. Where a specific applicability is not relevant, the general facilitation principles of the General Annex should always be borne in mind when implementing the provisions of this Chapter. In particular, Chapter 3 of the General Annex on Clearance and other Customs formalities, Chapter 6 on Customs control and Chapter 7 on Information technology should be read in conjunction with this Chapter on Postal traffic.

Contracting Parties should particularly note Standard 1.2 of the General Annex and ensure that their national legislation specifies the conditions to be fulfilled and the formalities to be accomplished for Postal traffic.

In line with Article 2 of the Convention, Contracting Parties are encouraged to grant greater facilitation than those provided for in this Chapter.

# 4. Administrative responsibility

 Standard 2

*National legislation shall specify the respective responsibilities and obligations of the Customs and of the postal services in connection with the Customs treatment of postal items.*

Postal services and Customs have certain obligations and responsibilities which derive from the Acts of the Universal Postal Union with the parts relevant to Customs having been established in consultation with Customs. In particular these relate to the documents accompanying postal items, the information to be supplied and the methods of forwarding the items and documents. Other responsibilities and obligations of the postal services and Customs may be decided upon by mutual agreement between the two administrations and, as required byStandard 2**,** must be laid down in national legislation.

Many Customs administrations enter into formal memorandums of understanding with their postal services committing to agreed standards of service delivery and delineating practical responsibilities in detail. These agreements should be encouraged and their development fostered. In many instances the level of detail established under these agreements would fall outside the scope of this provision, nevertheless it is good practice to make the details publicly available for interested parties. (See also Paragraph 10.3.)

The postal services are usually responsible for the conveyance, storage and production to Customs of postal items and, at the request of Customs, may open them for the purposes of Customs control. However, in some countries the actual conveyance, storage and production to Customs of postal parcels is undertaken, by agreement, not by the postal services themselves but by railway authorities and other approved enterprises. Such practical arrangements would mean that in these countries certain of these obligations may become the responsibility of the approved enterprise.

To promote fast Customs clearance of postal items in the country of destination, the postal service in the country of origin shall take all reasonable steps to inform their customers of the importance of correct and full completion of the CN 22 and CN 23 customs declarations. Postal services should check that these CN 22 and CN 23 customs declarations are being provided, as appropriate, and must also ensure that these declarations are signed by the sender. When the declarations are missing or obviously incomplete, the postal services must draw the sender's attention to the relevant Customs regulations and may, as necessary, refuse the relevant item.

## 4.1. Location of Customs clearance

Joint Customs/Post offices may be set up or Customs officers may be stationed permanently or for certain hours of the day at post offices. In these latter circumstances the postal services may provide Customs with office accommodation.

Customs offices may be set up at postal offices of exchange, which are responsible for exchanging postal consignments with the appropriate foreign postal services.

At importation, postal offices of exchange forward postal items received from foreign postal services to the post offices of final destination, while at exportation they forward items posted in the post offices of their country to postal services abroad. In cases of transit, they forward items received from one foreign postal service to another foreign postal service.

# 5. Clearance of postal traffic

 Standard 3

*The clearance of postal items shall be carried out as rapidly as possible.*

As postal traffic is subject to the normal payment of applicable duties and taxes and to national legislation relating to prohibitions and restrictions there will be consequential delays to delivery times. Standard 3 requires Customs to limit these delays to the greatest extent possible. However, nothing in this provision should be seen as limiting Customs controls. (See Chapter 6 of the General Annex).

As a general rule, there are three possible levels of involvement by the postal service in the clearance of goods imported by post:

a. The postal service's role is confined to presenting items requiring clearance to Customs;

b. The postal service carries out certain operations, under Customs control, which are normally the responsibility of Customs;

c. The postal service acts as a Customs clearing agent, in particular in dealing with EMS items.

Flexible approaches to the above-mentioned three types of involvement should be developed to meet local needs cognisant of national legislation, resource considerations and national commitment under the Acts of the Universal Postal Union.

There will be regional differences in the above three levels of involvement by postal services. In general, the CN 22 or CN 23 customs declaration should be accepted for customs clearance by the postal or customs authorities. If these documents are missing, or do not contain enough necessary information for clearance, the customs authorities or Post may have the option of contacting the customer for further information. Regardless of the process, the clearance of legitimate shipments should take place as rapidly as possible.

To enhance the efficiency of the customs clearance process, as well as the safety and security of the postal supply chain, the postal service should strive to use electronic interfaces with Customs and the origin Post to transmit content data electronically prior to the item physically arriving in the destination country, to enable the customs authorities or customs clearing agent to either perform pre-arrival clearance or prepare for import clearance.

The electronic exchange of CN 22/CN 23 customs declaration or invoice information between origin and destination Posts should be promoted as a means of speeding up the clearance of postal items. In order to ensure that this information can be used for fiscal clearance, it is vital that the data transferred is correct, complete and of good quality. A joint WCO-UPU data exchange standard exists to avoid fragmentation of electronic interfaces. The UPU and WCO secretariats can be contacted for information on data standards.

## 5.1. Customs clearance with limited postal involvement

Postal items are cleared through Customs "automatically", i.e. on the basis of the CN 22 or CN 23 declarations and other documents prepared by the sender. This procedure requires no co-operation on the part of the postal services or of the sender and his representative as declarant of the goods.

The procedure for submission to Customs control is usually as follows:

Postal parcels (and, when applicable, some EMS items):

- through presentation of the documents accompanying the parcels to the Customs office set up in the post office/office of exchange which then indicates the parcels to be produced for verification; or

- through presentation of the items to the Customs office set up in the post office/office of exchange since the documentation is normally attached to the parcel.

EMS and Letter-post items : through presentation of the items to the Customs office set up in the post office/office of exchange.

Customs staff process the items manually or by computer to :

– calculate duties and taxes and prepare the Customs receipt;

– capture data for trade statistics;

– keep accounts for the post office/office of exchange and Customs office set up in the post office/office of exchange (which maintain a centralized record); and

– provide data electronically to the postal service to verify payments.

In principle, the addressee is not advised of the arrival of the postal items before delivery and the duty is charged on the goods without their involvement. However, in case additional information (copy of the invoice, licence, etc) is needed, the addressee is notified and invited to provide the necessary documents for the completion of Customs formalities.

Some Customs administrations are computerised; if this is the case, the automated system produces the combined Customs/Post form comprising the Customs receipt and the postal inpayment/COD slip designed for optical reading and used to settle the amount for collection from the addressee when the items are delivered. The Customs system can then transmit the list of all Customs receipts to the postal service's automated system for verifying the amounts collected.

These amounts are registered electronically by the postal service's banking facility and also sent to the postal service accounting centre. This procedure permits fully automated checking.

Customs bills the postal service on a mutually agreed basis for all charges due and likewise, the postal service pays the total amount to Customs on a mutually agreed basis.

More detailed guidelines on the procedures of this level of involvement have been provided in Appendix III, “*WCO–UPU Guidelines for developing a Memorandum of Understanding between*

*Customs and Post at national level”*,jointly developed by the WCO and the UPU.

## 5.2. The Postal service acts on behalf of Customs for certain operations

In certain circumstances, the postal service may act on behalf of Customs in executing clearance of postal items. Items are cleared through Customs by the postal service if they feature a CN 22 label or are accompanied by a CN 23 declaration. Without this documentation the items are presented to Customs to deal with.

The procedure described below applies to all postal items.

The speed with which the postal service executes the Customs clearance of postal items depends on application of the following measures :

a. The postal service decides whether the item has any commercial value or is of negligible value and can be admitted duty free. Postal staff separate dutiable items and non-dutiable items under the supervision of Customs which assists the postal service in the event of difficulties.

b. In all cases, the postal service determines the duty to be collected and prepares the payment or duty receipt. For its part, Customs confines itself to validating that receipt and to helping the postal service with any difficulties in precisely identifying the tariff item.

c. In general, duty is charged on the goods without involving the addressee who is not advised of arrival of the item before delivery. However, additional information (copy of the invoice, licence, etc) may sometimes be necessary, in which case the addressee is notified and invited to provide the required documents for the completion of Customs formalities.

The postal service pays Customs the total amount of duty and tax to be collected in advance.

The postal Customs clearance centre then affixes a "Customs duty" label on the item, with the indication of release by Customs and an attached sheet detailing the duty to be collected.

The item is transmitted to the office of delivery for handover to the addressee against collection of the Customs duty. As noted above, the latter pays the duty into the relevant financial account.

If for some reason a dutiable item was not delivered or has to be redirected abroad because the addressee refuses it or for some other reason, the office of destination returns the item, along with all accompanying documents, to the relevant postal Customs clearance centre which requests reimbursement of the duty paid to Customs in advance.

To speed up the Customs clearance procedure, the postal service may use information technology and electronic interfaces with Customs to transmit the duty receipts automatically to Customs.

## 5.3. The Postal service acts as a Customs clearing agent

Postal services that are keen to provide their customers with a quality service, especially for Customs clearance of EMS items and postal parcels, may decide to act as Customs clearing agents. When public administrations are involved (designated operators are often considered part of the government), this status is often granted without an obligation to provide a security.

Thus in some countries on arrival of the items the postal service acting as declarant/agent :

– May provide Customs with a simplified Goods declaration featuring the data required by Customs

 a. sender's name and address;

 b. addressee's name and address;

 c. item number;

 d. gross weight of the item;

 e. description of the goods;

 f. goods tariff classification (based on the Harmonized System);

 g. Customs value of the goods;

 h. amount of duty and tax to be collected;

 i. VAT base;

 j. VAT rate applicable;

 k. VAT number of the addressee if liable to tax;

 l. amount of any other charges to be collected;

 m. total amount of Customs duty and tax.

– May provide a declaration requiring less information to Customs for items of negligible value.

 Customs has a mutually agreed time to physically check the items. Once this time is up, the postal service can dispatch the items to the delivery offices.

On a mutually agreed-upon day of each month, the postal service provides Customs with an additional, global declaration summarising items cleared during the previous month and pays the total amount of duty due. This procedure has the advantage of not requiring Customs duty to be paid in advance. However, very often Customs administrations demand interest on late payment of duty and tax.

## 5.4. Other Customs procedures

Standard 4

*The exportation of goods in postal items shall be allowed regardless of whether they are in free circulation or are under a Customs procedure.*

This standard serves to clarify that exportation must be allowed regardless of the customs procedure applied to the goods. The exceptions to this standard are items which are deemed prohibited and/or could pose a threat to national security or public safety. All normal formalities prescribed for the particular procedure applied to these items should continue to be complied with.

 Standard 5

*The importation of goods in postal items shall be allowed irrespective of whether they are intended to be cleared for home use or for another Customs procedure.*

This standard implies that postal items must be allowed to enter the country regardless of their intended end use or the customs procedure applied to the goods when they arrive, either by the Post or by customs authorities. The exception to this standard is items which are deemed prohibited and/or could pose a threat to national security or public safety.

# 6. Production to Customs

 Standard 6

*The Customs shall designate to the postal service the postal items which shall be produced to them for the purposes of Customs control and the methods of production of these items.*

 Standard 7

 *The Customs shall not require postal items to be produced to them at exportation for the purposes of Customs control, unless they contain :*

* *goods the exportation of which must be certified;*
* *goods which are subject to export prohibitions or restrictions or to export duties and taxes;*
* *goods having a value exceeding an amount specified in national legislation; or*
* *goods which are selected for Customs control on a selective or random basis.*

 **Recommended Practice 8**

 *The Customs should not, as a general rule, require the following categories of imported postal items to be produced to them :*

 *(a) postcards and letters containing personal messages only;*

 *(b) literature for the blind;*

 *(c) printed papers not subject to import duties and taxes.*

Standard 6requires Customs to designate to the postal service the postal items which must be produced to them and the manner of their production. Many low risk goods, such as those detailed in Recommended Practice 8, are presented routinely to Customs simply on the basis of their postal category. This Standard allows Customs to designate not only what is presented to Customs, but also how the items are to be presented for inspection, and thus provides a platform for overcoming these practical difficulties.

In determining which goods should be produced, Customs should take into account the provisions of Standard 7 and Recommended Practice 8 which limit the items that Customs may request to be presented to them.

Customs may always select items for control on a selective or random basis at either importation or exportation. In this respect and in an endeavour to deal with increasing volumes of mail and to apply effectively risk management techniques, some Customs administrations arrange with the postal services to separate, within the letter-post category, postcards and letters containing personal messages only and other items (small packets up to 2 kg).

It is generally recognised that letters containing personal messages present a relatively low risk whereas the other items within this class, like postal parcels, are large enough to present a greater risk. Separation of this type can be of benefit to both Customs and the postal services since Customs will be in a better position to provide a low level of interference to letters containing personal messages and thus facilitate the majority of the mail (in some cases as much as 90% of the total).

Many Customs administrations also employ a simple application of risk management by indicating to the postal service the countries of origin of mail they are particularly interested in examining. The postal service will then be able to readily supply the mail directly after its arrival from a particular country. X-ray machines as well as detector dogs are also frequently employed by Customs in order to identify illicit drugs or other prohibited items carried in the mail.

Regardless, some items listed in Standard 7 and Recommended Practice 8 may be required to be presented to Customs irrespective of whether they would be subject to import or export duties.

At export goods may need to be certified if the exportation is temporary, if they are being exported on drawback or after temporary admission. In these circumstances, Customs may wish the items to be presented to them.

As a general rule, postal services present the postal items and documents to Customs simultaneously. In many countries Customs work in the post offices so that both the documents and the postal items are readily available to Customs and Customs can therefore select the items they wish to control.

However, some countries employ a documentary clearance system for postal items, where only the documents and not the items themselves are first submitted to Customs. Customs then indicate to the postal service which items must be produced to them for Customs control. This system has clear practical benefits in that most of the parcels themselves do not need to be physically processed.

Postal services should also transmit Customs data electronically wherever possible.

# 7. Postal items and their Customs documentation

## 7.1. Types of postal item

Postal items as described in the Acts of the UPU comprise letter-post items and postal parcels (which this Chapter covers specifically) and EMS items.

## 7.2. Description of postal items

Under the Acts of the Universal Postal Union the term "letter-post items" includes :

– letters, the weight of which must not exceed 2 kilogrammes and which may contain articles subject to import duties and taxes unless they are addressed to countries which have expressly entered a reservation to this effect in the Acts of the Universal Postal Union;

* postcards;
* printed papers, the weight of which must not exceed 5 kilogrammes (items containing books or brochures may weigh up to 10 kilogrammes by arrangement between the administrations concerned).

– literature for the blind, the weight of which must not exceed 7 kilogrammes;

– small packets, the weight of which must not exceed 2 kilogrammes and which must be clearly marked "petit paquet" (small packet) or its equivalent known in the country of destination.

There is a postal item category termed "insured letters" which are letters containing securities, valuable documents and other articles, the contents of which are insured for the value declared by the sender. For Customs purposes in general, and for the purposes of this Chapter, insured letters are covered by the term "letter-post items".

Under the UPU Convention the term "postal parcels" means parcels of which the individual weight does not exceed 31.5 30 kilogrammes.

The EMS service is defined in the Universal Postal Convention. The relevant provisions in the Acts of the UPU are applicable to EMS items (e.g. freedom of transit, ownership of postal items, items not admissible – prohibitions, Customs matters, etc.)

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## 7.3. Documentation

 Standard 9

*When all the information required by the Customs is available from the CN 22 or CN 23 customs declaration and supporting documents, the CN 22 or CN 23 customs declaration shall be the Goods declaration, except in the case of :*

* *goods having a value exceeding an amount specified in national legislation;*
* *goods which are subject to prohibitions or restrictions or to export duties and taxes;*
* *goods the exportation of which must be certified;*
* *imported goods intended to be placed under a Customs procedure other than clearance for home use.*

 *In these cases, a separate Goods declaration shall be required.*

***Use of CN 22 or CN 23 customs declarations***

In most cases the forms provided for in Standard 9will be a de-facto Goods declaration. It should be noted that, in accordance with Standard 15 of Chapter 3 of the General Annex, Customs can require the original CN 22 or CN 23 customs declaration and only the minimum number of copies necessary. However, if the Post and Customs engage in electronic data exchange, steps may be taken to reduce the number of paper copies of the CN 23 customs declaration required for clearance.

In addition to the CN 22 or CN 23 customs declaration, Customs may require any document (invoices, export licences, import licences, certificates of origin, phytosanitary certificates, etc.) necessary for Customs clearance in the country of departure and in the country of destination.

Letter-post items to be submitted to Customs control should bear a CN 22 customs declaration. If the value of the contents declared by the sender exceeds a certain amount, or if the sender prefers, the items should be accompanied by the prescribed number of separate CN 23 customs declarations.

For small packets, the contents of the item should be shown in detail on the CN 22 customs declaration. Descriptions of a general character, such as "gift", are not admitted.

In order to facilitate and expedite Customs clearance operations, it is recommended that Customs encourage postal services to ask senders of postal items to use the CN 23 customs declaration only, irrespective of the value of the goods, and to attach an invoice.

For parcels, a CN 23 customs declaration should be attached to each parcel, if a CP 72 is not included as part of the dispatch note.

## 7.4. Goods declaration

A Goods declaration is required for

- goods having a value exceeding an amount specified in national legislation,

- goods which are subject to prohibitions or restrictions or to export duties and taxes,

- goods the exportation of which must be certified, and

- imported goods intended to be placed under a Customs procedure other than clearance for home use.

The Goods declaration may be a national document which is the same as that prescribed for importations by other means or it may be specially designed for importations by post. Alternatively, some Customs administrations accept an international document such as an ATA carnet.

Customs administrations that do not require a separate Goods declaration and clear these goods with the CN 22 or CN 23 customs declaration are granting a greater facility as recommended in Article 2 of the Kyoto Convention.

The Goods declaration may be completed by the postal service by the addressee or by an authorised agent.

## 7.5. Documentation – Practical difficulties

Customs officers have noted how their role in the clearance of goods has been made more difficult by inexact or inadequate customs declarations, a phenomenon largely due to the sender's unfamiliarity with Customs requirements. It is recommended that the postal services be requested to lend their assistance in order to improve this situation. To facilitate co-operation between Customs and the postal service in the country of destination, it is essential that the sender should make out a Customs declaration in accordance with the provisions of the Acts of the UPU and that his attention should be drawn to the necessity of strictly observing the instructions on the back of the CN 22 and CN 23 customs declarations. For this purpose, it is recommended that postal services.

a. check that all letter-post items containing goods and all postal parcels are accompanied by a CN 22 or CN 23 customs declaration as prescribed in the Acts of the UPU;

b. ensure that the CN 22 or CN 23 customs declaration are completed in accordance with the instructions given on the back of these forms;

c. when a CN 22 or CN 23 customs declaration is obviously incomplete, draw the sender's attention to the Customs regulations and accept only items accompanied by complete declarations; and

d. advise exporters of commercial items of the need, where appropriate, to attach a commercial invoice and a certificate of origin to each parcel.

# 8. Transit

 Standard 10

*Postal items shall not be subject to Customs formalities whilst they are being conveyed in transit.*

Standard 10 applies only to those transit movements carried by postal services that form part of the truly international movement of the items and are carried out under cover of an international consignment document. The expression "whilst they are being conveyed in transit" is to be interpreted in this sense. Thus, notwithstanding Standard 6.1 of the General Annex which provides that all goods are subject to Customs control, by virtue of Standard 10 these items are not subject to the normal Customs transit procedure and formalities in Specific Annex E, Chapter 1.

Subsequent internal movements carried out under cover of a national document are excluded and the Standard does not prevent Customs from imposing Customs formalities in respect of such purely national movements, or for Customs procedures on those items that could pose a risk to national security or public safety.

In accordance with the WCO/UPU formal opinion on items in transit in closed mails or à découvert suspected of containing narcotics or psychotropic substances, Customs in the transit country may take appropriate measures to inform Customs in the country of destination of their suspicions. However, it must be noted that in appropriate cases and subject to national legislation, Customs in some transit countries may be empowered to stop shipments if they contain restricted/prohibited material in the transit country.

# 9. Collection of duties and taxes and simplified procedures

 Standard 11

*The Customs shall make the simplest possible arrangements for the collection of duties and taxes on the goods contained in postal items.*

Usually Customs assess the import duties and taxes due on postal items and the amount of duty/taxes to be collected is entered on a document affixed to the item or enclosed with it. This is a resource-intensive exercise for Customs and contrary to many administrations' self-assessment arrangements for importation by other modes. To overcome this inefficiency, in some countries the postal service assesses duties and taxes on behalf of the importer. In other countries legislation has been introduced to simplify the assessment basis, e.g. flat-rate assessment. Customs should explore potential simplification arrangements with their respective postal services.

The postal service normally collects the import duties and taxes from the addressee at the time of delivery and makes periodic payment to Customs, for example at the end of each quarter. However, the postal service may pay the import duties and taxes to Customs on behalf of the addressee when an item is released to them for delivery.

Once any examination considered necessary has been carried out and any duties and taxes assessed, the postal items may be released to the postal service for delivery and collection of Customs duty.

Under certain optional provisions in the Acts of the Universal Postal Union the sender of a postal item may, in some cases, undertake to pay all charges including import duties and taxes, to which the item is subject at delivery.

Goods which are subject to export duties and taxes are usually cleared by Customs before posting, with the export duties and taxes being paid before the goods are passed to the postal service for exportation.

## 9.1. Simplified procedures

### 9.1.1. Flat-rate assessment

The WCO recommends a system of flat-rate assessment for non-commercial goods imported for home use up to a value specified in national legislation. Each country has full scope to determine the amount of the aggregate value of the goods on the basis of the economic conditions in that country.

An importation is usually considered to be of a non-commercial nature when it is occasional and consists only of goods for personal use or consumption by the addressee or his family and where there is no suggestion, by their nature or quantity, that they are imported for commercial purposes.

The addressee may request that the goods be charged at their own appropriate rate of import duties and taxes. Some countries may allow this only if the addressee is present at clearance.

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### 9.1.2. Gifts

Another WCO Recommendation allows for admission free of import duties and taxes for gifts up to an aggregate value to be specified in national legislation. Each country has full scope to determine the amount of the aggregate value on the basis of the prevailing retail prices in the country of consignment, according to its economic conditions.

A gift is usually considered to be personal if it :

a. is sent to a private person by or on behalf of another private person resident abroad;

b. is occasional; and

c. consists only of goods for personal use by the addressee or his family, and the nature and quantity of the goods imported are such that the consignment is obviously not of a commercial nature.

To facilitate the speedy clearance of gift consignments at importation, the sender generally indicates on the CN 22 or CN 23 customs declaration that the consignment is a gift, and states its contents and value.

## 9.2. Repayment or remission

Postal services will normally request that Customs cancel or repay duties and taxes on items returned to origin, destroyed because of total damage to the contents or redirected to a third country and for postal parcels abandoned by the sender.

In cases of rifled or damaged parcels, cancellation of fees must be requested only to the value of the missing contents or the depreciation suffered by the contents.

In practice, postal services will normally present Customs with a periodic list of items which fall into the above categories and where duty and tax needs to be cancelled. (See also the provisions on repayment and remission in Chapter 4 of the General Annex and its Guidelines.)

This repayment or remission process should be completed as quickly as possible to avoid long delays. To this goal, postal services should work together with Customs to establish a mechanism for the efficient identification and correlation of postal items being returned with the originally imported items, subject to national rules and regulations.

# 10. Other considerations

## 10.1. Examination

The examination of postal items is covered by the General Annex and the full details of risk management techniques are given in Chapter 6 on Customs control and in the Guidelines.

In some countries when postal items are opened for examination, Customs may advise the addressee by inserting a note or adding a stamp indicating that they have opened the parcel.

## 10.2. Use of information technology

Information technology can be used by Customs and postal services to improve both the speed and accuracy of the processes related to the clearance of postal items. Various applications have been developed by Customs and postal services to address specific requirements of Customs. Use of electronic interfaces between Customs and Posts not only yields beneficial results for speed and efficiency of customs clearance processes but also for security and safety as well.

There is also co-operation between Customs and the Posts at the international level on this subject through the WCO-UPU Contact Committee and other bodies. International standards in the area of information technology – EDI in particular – will be important as more Customs and postal services employ information technology to achieve their objectives.

Information about progress in developing standards for electronic customs messaging, and also current projects aimed at advancing the electronic exchange of customs information data, has been provided in Appendix I.

## 10.3. Information exchange and co-operation

Co-operation between Customs and the postal services is of particular importance given the special nature of the procedure. For example the postal services have an important role in ensuring the accuracy of the CN 22 and CN 23 customs declarations and also in assisting in the fight against illicit drug smuggling. For these reasons, most administrations find it invaluable to form a joint Customs/Post committee at a national level.

In addition to this close co-operation between Customs and postal at the national level, there is close collaboration at the international level between the Universal Postal Union (the international organisation whose rules and regulations govern postal traffic) and the WCO. These two international organisations have, for example, established a Contact Committee at which Customs and postal experts meet to discuss and find internationally acceptable solutions to problems which cannot be resolved nationally or bilaterally. [In 2008 they signed a Memorandum of Understanding Between the Customs Cooperation Council and the Universal Postal detailing wide range of areas for cooperation and consultation, including an attachment that provided guidelines for cooperation] on the prevention of drug smuggling, a copy of which is attached at Appendix II. All administrations are encouraged to implement such an MOU at a national level as well.

Such MOUs encourage a greater co-operative effort between the two agencies. For instance postal service staff are usually well placed to bring suspicious postal articles to the attention of Customs. This can be particularly helpful in the detection of illegally imported goods such as narcotics or weapons. These MOUs can also be helpful for postal services as they can

address service delivery standards.

As a further illustration of international co-operation on postal matters, Appendix III contains the "WCO-UPU guidelines for developing a memorandum of understanding between Customs and the Post at the national level." This jointly-approved document contains many guideline principles for Posts and Customs to consider when formulating an MOU at the national level.

## 10.4. Training

Customs administrations should consider offering specific training to postal staff responsible for accepting postal items for international shipment and to postal staff in offices of exchange.

At the same time, postal services should ensure that such staff remain in their jobs for some time to ensure this training is put to best use.

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**Appendix I**

**USE OF INFORMATION TECHNOLOGY**

**I. Introduction**

Posts and Customs are relying on greater use of information technology and promoting advances in elec­tronic exchanges to better meet security requirements and support the role of Customs in facilitating trade. The following is an overview of the work undertaken by Posts and Customs, as well as the WCO and the UPU, to increase awareness and use of EDI exchanges, and to develop standards that will be used through­out the global postal and customs community.

Significant progress has been made in a number of areas that will support electronic customs data exchanges between postal operators and their customs authorities. In some cases the solutions developed are unique to mail, while in others they correspond to customs procedures applied to other types of goods as well.

The following sections outline a few of the cooperative efforts postal services and Customs have undertaken in the field of EDI and information technology. These cooperative efforts may be formalized through the fol­lowing types of agreements:

* Those between a postal service and its national customs administration;
* Those between a dispatching postal service and a receiving customs administration (in cooperation with the receiving postal service); or
* Those established multilaterally among a specific group of Posts and their national customs authori­ties.

One common thread is that the standard for information on postal items uses the data elements from the CN 22 and CN 23 postal customs declarations forms.

**II. Electronic message standards**

Significant progress continues to be made in the development of electronic messaging standards and proce­dures. UPU members have collaborated on developing an advanced data model leveraging the electronic exchanges of electronic messages for customs data such as ITeM ATTribute (ITMATT) and CUSITM, as well as standards for Posts to adhere to when using this messaging. (Further details on CUSITM/CUSRSP are provided below.)

Detailed data for the ITMATT message such as sender information, detailed receiver information (name, address, postcode, content information*,* value information, and other data) is captured by the origin Post and transmitted by the origin Post to the destination Post at the time of mailing or dispatch. In turn, the des­tination Post relays this data to its customs (and/or border control) authorities to enable them to conduct risk profiling prior to the goods' actual arrival at a destination Post's exchange office.

In 2011, the WCO and UPU adopted a joint standard for the electronic exchange of postal customs declara­tions and responses between postal operators and their customs and border control authorities at the local level. These "Customs–Post electronic messages" are:

* CUSITM: the electronic equivalent of form CN 23;
* CUSRSP: the electronic response from Customs to Post covering elements such as:
* decision on inspection (mandatory);
* feedback on import charges, and additional requests, alerts (optional).

These electronic messages are able to be used for the following purposes:

* Automated support for fiscal declaration and taxation;
* Early detection of import prohibitions and restrictions;
* Feedback of alerts/requests from Customs to Posts (import and/or export post);
* Automated support for selectivity and risk management.

The goal is to obtain widespread usage of these recommended standard messages for the electronic com­munication between Posts and customs/border control authorities. The usage of a global standard ensures maximum interoperability and least cost for both Customs and Posts.

**III. Standards for a postal model of provision of advanced electronic information**

Posts and Customs are also working together to leverage the exchange of the standardized electronic cus­toms message as part of the strategy to increase supply chain security. The following is an overview of the work undertaken by Posts, Customs, the WCO and UPU and other stakeholder organizations to standardize procedures to support security in the international postal supply chain.

Article 9 of the UPU's Universal Postal Convention (provision of EAD for postal items identified in the imple­menting provisions adopted by the CA and POC) is the legislative enabler for the provision of EAD by postal operators. Paragraph 1 of this article is reproduced below. The sentence dealing with EAD is italicized.

"Article 9 (renumbered as Article 8 at the 2016 Istanbul Congress)

Postal security

1. Member countries and their designated operators shall observe the security requirements defined in the UPU security standards and shall adopt and implement a proactive security strategy at all levels of postal operations to maintain and enhance the confidence of the general public in the postal services, in the interests of all officials involved. *This strategy shall, in particular, include the principle of complying with requirements for providing electronic advance data on postal items identified in implementing provisions (including the type of, and identification criteria for, postal items) adopted by the Council of Administration and Postal Operations Council, in accordance with UPU technical messaging standards*. The strategy shall also include the exchange of information on maintaining the safe and secure transport and transit of mails between member countries and their designated operators."

The UPU and the WCO have jointly developed two EDI messages to enable information exchange between Posts and Customs. These are:

i The CUSITM (CUStoms ITeM) message, which is used to transmit item-level CN 22 and CN 23 data from destination Post to destination Customs;

ii The CUSRSP (CUStoms RESponse) message, which is used to transmit the customs decision on an item, sent from destination Customs to destination Post.

Both messages conform to WCO Data Model 3. These messages, when used together with the ITMATT, enable electronic pre-advice to Customs. Pre-advice is for two purposes:

* for security risk assessment (pre-loading clearance);
* for customs fiscal assessment (pre-arrival clearance).

The WCO and the UPU have been cooperating in the development of an advanced data model for the exchange of electronic messaging standards (ITMATT, CUSITM/CUSRSP), as well as standards (some security-related) for Posts to adhere to when using this messaging. The WCO and UPU have been reviewing and see merit to the above-mentioned concept developed in UPU Postal Operations Council (POC) document POC C 1 CG 2013.1–Doc 5a, and through discussions in the WCO–UPU Contact Committee. Below is the advanced data model approved at that time, as subsequently amended.



**Note:**

1 The advanced data flowchart comprises eight steps shown in the explanatory dialogue boxes. However, this is only an initial concept because we have several challenges to overcome (e.g. some Posts do not always exchange CARDIT messages with all air carriers). The UPU and IATA are working together to finalize arrangements for the Post–airline data link.

2 DNL (do not load) and HRC (high risk cargo screening) are considered to be the representative exam­ples of the "Referral".

3 No referral message received by origin Post within an arranged time indicates that the item can be loaded on the plane, and the decision regarding the "agreed time" is our critical element so that the current worldwide mail flows will not be hampered.

**IV. Projects under way**

*Customs Declaration System*: The UPU Postal Technology Centre has developed a Customs Declaration System (CDS) which is available for use by both designated postal operators and customs/border control authorities. The system provides for:

* capture of declaration data – especially through a "kiosk" function embedded in websites for capture by individuals on the Internet – and checking for completeness, prohibitions and restrictions or alerts;
* electronic exchange of data between Posts and Customs and electronic response from Customs to Post;
* (automated) pre-arrival selectivity for postal items by rules defined by Customs;
* automated calculation of taxes and duties and tax invoice production;
* electronic feedback of alerts from import Customs to the import and origin Post.

It can be interfaced with any customs IT system using the WCO–UPU standard messages CUSITM/
CUSRSP or through a standard Web service interface.

The first users of the CDS were Canada Post and Canada Customs, which have used it since May 2014. Great Britain completed a successful pilot in December 2015 and will now integrate CDS fully in postal and customs processes.

Also, a generic interface with UNCTAD's ASYCUDA systems for Customs is planned in 2016. A related cooperation agreement was signed between the UPU and UNCTAD. The open interfaces of CDS allow an easy interface with other customs/security systems in use at the national level; however, it must be high­lighted that any such systems interfacing with CDS that were not using the WCO–UPU standard messages would incur additional cost.

*Expanding electronic customs messaging*: In addition to work being done with the CDS, other designated operators – using their own IT systems – are continuing their extensive testing of exchanges of the stand­ardized ITMATT and CUSITM messages. Consequently, there has been a significant increase in the number of postal partners enlisted in these electronic arrangements, and more operators are now reaching out to their national customs/border control authorities on ways to leverage these new data flows.

*UPU POC work in support of electronic customs data exchange*: to facilitate agreement and protocols around the exchange of electronic customs data, and address potential privacy and data usage issues, the POC has been developing a model agreement for electronic exchange of customs data to serve as a starting point for discussions. The POC has been working on tools, such as the Postal Export Guide, that could improve the quality of information being transmitted. Also, the POC continues to promulgate UPU regulations aimed at facilitating these exchanges.

**IV. Conclusion and future directions**

In addition to addressing supply chain security, electronic exchange of customs declaration messages will be crucial for Posts and Customs to cope with the growing international merchandise flows arising from the rapid expansion of the international e-commerce market. Posts and Customs will be challenged to muster the resources needed to manually process the increased volumes. Therefore, pre-processing based on electronic pre-advice is necessary to avoid bottlenecks and obstacles to trade facilitation.

UPU and WCO cooperation has resulted in a global message standard and IT tools available to exchange electronic messages between Posts and Customs. However, the next critical goal will be to continue work on refining and enhancing the processes and, most importantly, replicating the procedural models through­out the global network. It is recommended that Posts and Customs take steps to develop an electronic exchange process, as detailed above.

For this to happen, a critical success factor is efficient cooperation between Posts and Customs. Therefore, the creation of Post–Customs coordination teams is encouraged, to assess the opportunities of electronic message exchanges and determine the best way forward – including the necessary adaptation to the Post–Customs import and export process and capacity building for the postal and customs teams processing mail imports/exports.

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**Appendix II**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE CUSTOMS CO-OPERATION COUNCIL**

**AND**

**THE UNIVERSAL POSTAL UNION**

**MEMORANDUM OF UNDERSTANDING BETWEEN THE WORLD CUSTOMS ORGANIZATION (WCO)[[2]](#footnote-2)\* AND THE UNIVERSAL POSTAL UNION (UPU)**

Recognizing that the mission of the World Customs Organization (WCO) is to enhance the efficiency and effec­tiveness of member customs administrations, thereby helping them to contribute successfully to national development goals, particularly in the areas of trade facilitation, revenue collection, community protection and national security,

Recognizing also that the mission of the Universal Postal Union (UPU) is to stimulate the lasting development of efficient and accessible universal postal services of quality in order to facilitate communication between the inhabitants of the world by: guaranteeing the free circulation of postal items over a single postal territory composed of interconnected networks; encouraging the adoption of fair common standards and the use of technology; ensuring cooperation and interaction among stakeholders; promoting effective technical cooperation and ensuring the satisfaction of custom­ers' changing needs,

Realizing that UPU member countries support the concept of the single postal territory, and agree that all customers are entitled to a universal postal service based on the permanent provision of quality basic postal services at all points in their territory at affordable prices,

Realizing also that the UPU and the WCO pursue common goals to ensure and facilitate free and secure move­ment of global trade in line with WTO rules while abiding by the fundamental principles of the international postal service such as freedom of transit and customs clearance of postal items,

Recalling that resolution C 62/2004 of the UPU Bucharest Congress recognized that the cooperation between the UPU and the WCO, which has existed since 1965, is in the best interests of both organizations, and should be continued in order to pursue the study of common problems,

Recalling also that a WCO–UPU Contact Committee was set up in 1965 with a view to establishing a close working relationship between the two organizations,

Recognizing that the Revised Kyoto Convention which came into force on 3 February 2006 includes a new chapter on Postal Traffic contained in a specific Annex J, Chapter 2, which provides for specific customs procedures in respect of postal items,

Recognizing further that the nature of postal traffic is specific because of its mass volumes and the restricted site of postal items,

Noting also the need to ensure efficient customs clearance of postal items,

Aware that the use of information and communication technologies and electronic data interchange systems is of vital importance in further improving the speed, security and quality of customs clearance of postal items,

Aware also that collaboration in capacity-building initiatives would be to the benefit of both organizations,

Convinced that the complexity of the international mail transportation network requires the implementation of physical and procedural security measures based on a risk analysis of the current threats and vulnerabilities,

Noting also that offences against customs laws, particularly money laundering, the transport of illicit materi­als, drugs, counterfeit goods and other contraband are prejudicial to the economic, social, fiscal and security interests of States and the interests of all parties involved in legitimate international trade,

Believing that this cooperation in promoting efficient customs clearance would be of benefit to members of both organizations,

Recognizing the need to identify clearly the possible areas of cooperation between the two organizations,

The Parties agree that the above-mentioned objectives shall be pursued through the following cooperation and consultation activities set out in this Memorandum of Understanding (hereinafter referred to as the "MOU"):

**I. Areas of cooperation and consultation**

The Parties agree to seek each other's expertise in the following areas:

i To examine and develop together ways in which cooperation and consultation between postal administrations and customs authorities could be improved with a view to combating drug trafficking by post and to contributing to mail security while abiding by the funda­mental principles of the international postal service, in particular the freedom of transit.

ii To seek to ensure a better understanding by postal administrations of customs authorities' tasks and problems and vice versa, thereby facilitating a productive exchange of information between the two parties with a view to encouraging the resolution of problems at national level.

iii To consider practical ways in which postal administrations and customs authorities can assist one another in the detection of postal items which might contain drugs or other pro­hibited materials, and facilitate the rapid processing of mail while maintaining customs control measures.

iv To consider practical measures to increase and facilitate the use of electronic data inter­change systems between Posts and Customs.

v To identify and address the training needs of their respective member countries in areas of common interest such as E-learning and improving compliance with customs declarations.

vi To pursue the development of minimum security standards and procedures to facilitate the overall security of the international mail transportation network and expedite the customs clearance process.

vii To encourage Posts and Customs to form joint Customs–Post committees at the national level to:

– ensure efficient customs clearance of postal items, in particular packets and parcels, by ensuring improved compliance with the rules regarding customs declarations;

– adopt a joint strategy to combat smuggling of drugs, money laundering, counterfeit goods, illicit materials and other contraband;

– facilitate a productive exchange of information between the two parties with a view to encouraging the resolution of problems at the national level,

viii To promote the role of Customs and Posts as vehicles for economic growth and social devel­opment through capacity-building.

ix To update the joint WCO–UPU publications: Customer Guide and Operations Guide.

**II. Guidelines on Cooperation**

The Guidelines on Cooperation between Customs Authorities and Postal Administrations are attached to the present MOU in order to define in concrete terms the areas of cooperation and consultation listed in Part I above, with particular attention to combating illicit trafficking by post.

**III. Entry into force, duration and termination**

The Memorandum of Understanding shall come into effect on the date of its signature and shall remain in force unless terminated by mutual consent or by either Party giving three months' written notice of termination to the other Party. The provisions shall, however, remain in force beyond the date of such termination to the extent necessary to permit an orderly completion of activities.

**IV. Amendment**

The present Memorandum of Understanding may be modified by mutual written consent.

Any dispute over the interpretation or application of any provision herein shall be settled through negotiations or by other means as the Parties shall mutually agree.

The Parties hereby agree that this MOU and its annexes shall replace and supersede the Memorandum of Understanding and its annexes previously signed by the Parties on 15 September 1994.

In witness whereof, the Parties hereto, each acting through its duly authorized representative, have duly affixed their signatures on the two originals of this Memorandum of Understanding in the English and French languages, both texts being equally authentic.

Done at Berne on 5 July 2007 Done at Brussels on 5 July 2007

For the Universal Postal Union: For the World Customs Organization:

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Edouard Dayan Michel Danet

Director General Secretary General

**Guidelines on cooperation**

**between**

**Customs Authorities and Postal Administrations**

**1 Introduction**

1.1 In recent years, the smuggling of drugs, false passports, currency for money laundering, items that are protected by intellectual property rights and other prohibited goods has increased significantly, with traffickers using all means of international transport to smuggle drugs.

1.2 This illicit traffic has placed an increasing burden upon customs authorities, which have come to recognize that, to combat it more effectively, they need the cooperation of those parties regularly involved in international trade and transport.

1.3 As one of those parties, the Universal Postal Union (UPU) has recognized the need to cooper­ate to combat this illicit traffic. The UPU has accepted the offer by the World Customs Organization (WCO) to provide it with assistance and advice to prevent postal items being used for drug smuggling.

1.4 Formal recognition of the need for cooperation between customs authorities and postal administrations has taken the form of a Memorandum of Understanding (MOU) concluded between the WCO and the UPU. This MOU provides a basis for Guidelines on how customs authorities and postal administrations might cooperate in the prevention of smuggling through the post. Both the WCO and the UPU have agreed to recommend these Guidelines to their respec­tive members and to report on their implementation.

1.5 This paper contains these Guidelines, which incorporate measures that postal administra­tions should take to reduce or inhibit smuggling. These measures will necessarily vary depending on the source and destination of the postal items.

1.6 Also incorporated in the Guidelines are measures which customs authorities should take to enable postal administrations to contribute more usefully to customs efforts and to encourage them to participate in the battle against the illicit trafficking of prohibited goods.

1.7 The measures recommended are not intended to be exhaustive. Customs authorities and postal administrations may apply additional measures to take account of national conditions.

1.8 The WCO Secretariat and the UPU International Bureau would welcome any suggestions from their members for the improvement of these Guidelines.

**2 Objectives**

2.1 The objectives of these Guidelines are to:

a promote increased cooperation between customs authorities and postal administrations and to heighten the latters' awareness of the problem and effects of smuggling;

b encourage postal administrations to increase security with a view to ensuring the security of the supply chain and inhibiting smuggling;

c increase the ability of customs authorities to detect and forestall attempts to smuggle illicit goods by post;

d respond favourably to requests from customs authorities for access to commercially held information in order to combat the illicit traffic of prohibited commodities, but not where such action would be in breach of any law or regulation;

e assist customs authorities in their efforts against those criminal elements involved in smug­gling;

f facilitate, to the greatest extent possible consistent with the application of adequate customs controls, the UPU's objective of ensuring efficient organization and improvement of postal services worldwide.

2.2 In order to provide consistency and uniformity, the following principles should be recog­nized:

a The prime responsibility of postal administrations lies in the safe and expeditious handling of postal items.

b Postal administrations should not be asked to act as law enforcement entities.

c Customs authorities are aware that some information held by postal administrations may be considered "commercially confidential", while postal administrations should treat customs inquiries about postal staff, their procedures and services as confidential. This is why all information exchanged between the parties must be considered confidential.

d Postal administrations may wish to enter voluntarily into formal agreements with customs administrations to support or implement these Guidelines. Such agreements would not remove any existing legal obligations on the parties concerned.

e Measures taken nationally by postal administrations in accordance with these Guidelines may be augmented or varied at regional or local level according to the perceived risk of smuggling at that level.

**3 General comments**

3.1 The measures designed to prevent the use of postal administrations' means of transport and facilities and of postal items are intended to:

a improve the security of facilities and services to make it more difficult for illicit goods to be introduced into means of transport or to be conveyed in postal items;

b increase the chances of the timely detection of illicit goods;

c facilitate cooperation with the appropriate authorities so that they can identify those per­sons or parties involved in smuggling.

3.2 Customs authorities and postal administrations (possibly with other bodies operating in this field, such as airlines and shipping companies, etc.) are encouraged to examine their security measures in order to identify shortcomings and to consider improvements.

3.3 Customs authorities and postal administrations should establish contact points at national or local level and organize regular consultative meetings for the ongoing exchange of information.

3.4 The WCO Framework of Standards to Facilitate and Secure Global Trade (SAFE Framework) sets out minimum security standards. This document should form the basis of security measures within postal facilities.

**4 Measures recommended to UPU member countries**

*Introduction*

4.1 Postal administrations should take account of postal regulations and legislation, which should lay down the conditions for cooperation with the appropriate authorities where legal pro­ceedings are under way.

*Documentation*

4.2 On request, postal administrations should normally supply customs authorities with infor­mation relating to international mail.

4.3 Particular attention should be given to exploiting the advantages of modern data processing and telecommunication techniques.

4.4 Postal administrations should notify customs authorities of any unusual or suspicious docu­mentation or requests for information on items.

4.5 Insofar as possible, postal administrations should, on request, instruct customs officers in the use of information systems for locating and tracking mail or other postal items.

*Security of mail and other postal items*

4.6 Postal administrations should be able to request customs authorities' assistance to instruct and train postal employees in how to recognize and report items which may contain illicit goods.

4.7 Postal administrations should check that their national policies are compatible with the prevailing legislation on the security and integrity of mail and, if necessary, should make the changes needed to achieve progress in this respect. The standards within the SAFE Framework should form the basis of the security policy.

4.8 Upon dispatch or receipt of mail, postal employees should alert the customs authorities if they notice that the integrity of postal bags/sacks and postal items has been breached.

4.9 If necessary, postal administrations should examine their measures regarding mail security, with a view to preventing illicit access to the contents of items. These measures may relate, inter alia, to the checking of seals.

*Security of facilities*

4.10 Postal administrations should be able to provide Customs with information on measures taken to ensure the security of their facilities.

4.11 They should draw up a list, by category, of staff employed in post offices and sorting cen­tres.

4.12 They should limit the parking of vehicles belonging to the postal service, customers and staff to the designated areas.

4.13 Any vehicle allowed one-time access to postal premises should be issued with a dated pass, and parking should be restricted to the authorized or controlled areas; vehicle registration num­bers should be recorded and made available to customs authorities on request.

4.14 Where the facilities have electronic security systems, such as closed-circuit television, cus­toms authorities should be given access on request.

4.15 Postal administrations should permit only authorized staff and vehicles displaying proper identification within postal premises and parking areas.

*General security*

4.16 Postal administrations should conduct regular reviews of existing security and control measures and correct any identified deficiencies.

4.17 Postal administrations should provide timely notification to customs authorities when employees discover suspect postal items. Those items should remain undisturbed and under sur­veillance pending customs intervention.

4.18 Postal administrations should use all appropriate means and may, inter alia, place warning signs in post offices indicating the criminal-law sanctions applicable if the post is used for the illicit traffic of drugs and other prohibited materials.

4.19 On request, postal administrations should provide customs authorities with details of any subcontractors and companies which provide support services at their facilities.

*Personnel security*

4.20 Postal administrations should take all necessary precautions when recruiting staff to ensure that they have never been convicted of drug trafficking, and do not have a history of drug abuse or a criminal record.

4.21 Postal administrations' surveillance staff and trainers should receive training in:

– recognizing indications that a postal official may be susceptible to drug-related offences;

– identifying trade practices which might indicate a drug-related offence or the possibility of trafficking in illicit goods.

*General*

4.22 Postal administrations should instruct all their employees to comply with these Guidelines and bring them to the attention of any private companies involved in postal activity, e.g. road transport companies, airlines, etc.

4.23 Postal administrations should seek customs authorities' advice regarding assistance and possibly training to:

a help their staff assess the vulnerability of the postal service in respect of smuggling by post;

b draw up and implement measures to minimize that vulnerability.

4.24 With the assistance of customs authorities, postal administrations should educate their staff in the dangers of drug abuse and methods of identifying drugs.

**5 Measures recommended to customs administrations**

*General security*

5.1 Customs authorities should ensure that all their officers having business in a post office carry proper authorized identification.

5.2 Customs authorities should provide postal administrations with readily accessible contact details, including telephone numbers of customs officials who can be contacted for advice or instructions when it is suspected that a smuggling offence is being or may be committed.

5.3 Customs authorities should encourage postal administrations to exercise control over access to their facilities and should recommend that postal staff carry proper identification.

*Security of facilities*

5.4 Customs authorities should seek to foster cooperation with postal employees.

5.5 Customs authorities should encourage postal administrations to ensure that lists are kept of the staff employed at post offices and sorting centres.

5.6 Customs authorities should encourage postal administrations to ensure that the parking of vehicles with regular access to their facilities is limited to designated areas.

5.7 Customs authorities should encourage postal administrations to ensure that control is exer­cised over one-time vehicle access to postal facilities, through the issuing and recording of dated passes, or recording of vehicle identification details in a register.

5.8 Customs authorities should regularly discuss the security of postal facilities, procedures and items with postal administrations and with the other bodies involved (airlines, shipping com­panies, etc.) with a view to identifying and correcting any reported deficiencies.

5.9 Customs authorities should ensure that publicity materials highlighting the dangers of, and penalties for, smuggling are available and widely circulated.

*Training and information*

5.10 Insofar as their resources allow, customs authorities should provide postal administrations' training services with educational materials and expert guidance on relevant smuggling trends.

5.11 Information should be made available to postal administrations on means of identifying un­usual situations which may indicate smuggling.

5.12 Postal employees dealing with CN 22 and CN 23 customs declarations or responsible for security should be advised about telltale indicators of anomalies in the data provided which might indicate the possibility of a customs offence. The staff should also be alerted to the possibility that other employees may be subject to corruption or coercion.

5.13 Customs authorities should familiarize themselves with the documentation and procedures used by postal services at national and local level in respect of postal items, procedures and facilities.

*General*

5.14 Customs authorities should not request or require postal administrations to initiate any action or inaction which would conflict with the UPU's Constitution and Convention, or with the laws, regulations or control requirements of that country; nor should any action or inaction be encouraged in a foreign country which could result in a conflict with the laws of that country.

5.15 In consultation with postal administrations, customs authorities should regularly review the facilitation and enforcement aspects of their procedures to ensure that the needs of both parties are fully considered. Customs authorities which have already established this consultative machinery should be prepared to cooperate, through existing liaison channels, with other customs authorities and advise them on establishing similar arrangements.

**6 Maintenance**

Customs authorities and postal administrations recognize that these Guidelines represent a first step in the development of cooperative measures to implement the spirit of the MOU. It is hoped and expected that the Guidelines will be reviewed and improved in the light of experience in the context of the WCO–UPU Contact Committee's activities, without in any respect departing from the basic principles embodied in the MOU.

**Appendix III**

 

WCO-UPU Guidelines for

Developing a Memorandum of Understanding between Customs and Post at National Level

June, 2014

**Introduction**

 The drafting of an MOU will help postal operators and Customs administrations to examine and elucidate their practical obligations and responsibilities as regards the customs clearance of postal items. An MOU would therefore enable national postal operators and Customs to work together harmoniously, ensur­ing efficient customs clearance and the timely delivery of cleared items.

 The guidelines consist of three sections. In the first section, principles/recommendations for develop­ing an MOU have been identified; the second section contains details for supplementing and implementing the guidelines (if deemed appropriate, designated operators and Customs administrations may incorporate the details into their MOUs); in the third section, an example of the existing MOU between a Customs administration and a designated operator is incorporated.

 The main thrust of the document is to provide guidance and ideas to designated operators and customs authorities for formalizing the contacts at the national level. These guidelines do not seek to impose a specific model on the entities concerned. The division of the document into three sections is meant to add clarity and to provide entities with greater freedom in drafting the MOU, in line with their national require­ments and needs.

**SECTION 1 - Recommendations/principles**

**I. Introduction**

The names of the entities that are making the agreement should be mentioned at the beginning of the agreement.

**II. Objectives and scope**

Explain that the purpose of the agreement is to set out the terms and conditions under which a designated operator and a customs authority have agreed to carry out their respective functions with respect to customs clearance of postal items, in compliance with national and international treaty obligations.

**III. Definitions**

Make sure that the items/terms referred in the MOU are clearly defined.

**IV. Training**

Training of postal officials by customs authorities and vice versa is essential to ensuring speedy and safe clearance of postal items.

**V. Contact**

The Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic and its Guidelines, lay empha­sis on building contacts between Posts and customs authorities at the national level.

**VI. Provision of information/intelligence**

The parties should acknowledge the importance of an open and continuous exchange of information in assisting each other in the performance of their respective obligations and in their mutual interest.

**VII. Attendance**

The opening and closing hours for the submission of postal items to Customs and for the receipt of postal items from Customs should be specified.

**VIII. Examination[[3]](#footnote-3) of postal items**

In principle, designated operators are precluded from opening mail. The physical inspection of mail is the responsibility of Customs.

**IX. Liability**

Reimbursement procedures between the parties could be handled at the national level.

**X. Roles and responsibilities of the designated operator and customs**

The MOU should describe the roles and responsibilities of the designated operator and Customs for each individual process:

– Designated operator's role and responsibility is confined to presenting items requiring clearance to Customs.

– Designated operator may carry out certain operations under customs control, which are normally the responsibility of Customs in line with the national legislation.

– Designated operator may act as a customs clearing agent on its own account in line with the national legislation.

**XI. Facilities provided to Customs**

The facilities to be provided to Customs should be documented. It should be clear whether these facilities are provided free of charge or at a cost.

**XII. Exploring performance protocols and timeframes**

The parties may wish to consider in this MOU the time periods/standards that can rea­sonably be expected for customs clearance of postal items, bearing in mind the unique nature of tasks involved in customs in­spections.

**XIII. Conflict resolution**

Efforts should be made by national customs authorities and designated operators to resolve disputes bilater­ally, in line with the provisions of this agreement, the national legislation and international conventions.

**XIV. Performance and reporting**

The parties should clearly define in the MOU:

– elements for which the performance of the parties shall be measured;

– service performance levels to be achieved by each party.

**XV. Health and safety rules**

The parties should jointly agree on measures to ensure the health and safety of their employees. These measures should encompass actions to be taken in case of emergency.

**XVI. Seizures, detention and destruction of mail and ownership**

Prohibited goods cannot be allowed entry into the country. These goods are usually seized by Customs and disposed of in accordance with the national legislation. The legislation governing the operational procedure is to be referenced in the MOU.

**XVII. Requesting deviations to the MOU**

Both parties may wish to apply for specific deviations from the agreed processes and measures.

**XVIII. Risk assessment**

The arrangements made by countries for carrying out risk assessment both at import and export should be documented.

**XIX. EDI information**

Some designated operators exchange information with their customs administration electronically. The par­ties should explain the procedure for exchanging such information.

**XX. WCO–UPU Customs publications**

The parties should make collaborative efforts to update the joint WCO–UPU customs-related publications.

**XXI. Accession to the WCO Revised Kyoto Convention and to Specific Annex J, Chapter 2 on Postal Traffic**

The parties should recognize the importance of Specific Annex J, Chapter 2 on Postal Traffic, which forms the basis of the simplified customs clearance of postal items.

**XXII. Customer service (how to contact Customs)**

Complaints need to be handled with sensitivity, understanding and tact in order to deliver good customer service.

**XXIII. Duration, amendment and termination of the agreement**

The duration of the MOU should be agreed.

**SECTION 2 - Details**

**I. Introduction**

It would be appropriate to mention if there was a previous MOU between the parties, and to briefly outline the reasons for updating or changing the earlier MOU.

**II. Objectives and scope**

A brief mention should be made of the main functions of the customs authority and of the designated opera­tor.

The vision/objectives which motivate the memorandum of understanding should be highlighted at the start of the agreement. The following examples are given merely for your guidance and are not mandatory:

– Customs clearance, as operated by customs authorities in collaboration with designated operators, will facilitate the provision of a secure, reliable and economical postal service.

– The national customs authority, in collaboration with the designated operator, will provide quality cus­toms clearance by continuously improving the speed, security, reliability and efficiency of customs operations.

– Increased use of information and communication technologies and electronic data interchange sys­tems is vital for furthering the speed, security and quality of customs clearance of postal items.

– Make a brief statement saying that the parties will endeavour to ensure the continuous flow of mail.

– Customs and designated operators will support each other in their roles and functions in order to ensure border security.

It would be desirable to underscore the national and international legal and regulatory basis of the Customs–designated operators working relationship.

*a International legal basis and reference*

– Revised Kyoto Convention Specific Annex J, Chapter 2 on Postal Traffic, Standard 1:

• "The customs formalities in respect of postal items shall be governed by the provisions of this chapter [Specific Annex J, Chapter 2 on Postal Traffic] and, insofar as applicable, by the provi­sions of the General Annex."

– Guidelines to the Revised Kyoto Convention Specific Annex J, Chapter 2 on Postal Traffic, Standard 2:

• "Postal services[[4]](#footnote-4) and Customs have certain obligations and responsibilities which derive from the Acts of the Universal Postal Union with the parts relevant to Customs having been estab­lished in consultation with Customs. In particular, these relate to the documents accompanying postal items, the information to be supplied and the methods of forwarding the items and docu­ments. Other responsibilities and obligations of the postal services and Customs may be decided upon by mutual agreement between the two administrations and, as required by Standard 2, must be laid down in national legislation.

• Many customs administrations enter into formal memoranda of understanding with their postal services committing to agreed standards of service delivery and delineating practical responsi­bilities in detail. These agreements should be encouraged and their development fostered. In many instances, the level of detail established under these agreements would fall outside the scope of this provision; nevertheless, it is good practice to make the details publicly available for interested parties (see also paragraph 10.3).

• The postal services are usually responsible for the conveyance, storage and production to Customs of postal items and, at the request of Customs, may open them for the purposes of Customs control. However, in some countries, the actual conveyance, storage and production to Customs of postal parcels is undertaken, by agreement, not by the postal services themselves but by railway authorities and other approved enterprises. Such practical arrangements would mean that, in these countries, certain of these obligations may become the responsibility of the approved enterprise."

– The UPU customs-related rules are contained in the UPU Convention (articles 20 and 24.3), Letter Post Regulations (articles 149.2.4, 150.7.2, 156, 157, 158, 165.6 and 172.4.3) and Parcel Post Regulations (articles RC 125, 131.3.4, 151, 152 and 153).

– A reference should be made to the Memorandum of Understanding signed between the WCO and the UPU in 2007, which seeks to improve cooperation between Posts and customs authorities and repre­sents a new chapter in the collaboration between the two organizations that has existed since 1965.

*b National legislation*

The Revised Kyoto Convention Specific Annex J, Chapter 2 on Postal Traffic, Standard 2 provides the fol-lowing:

"National legislation shall specify the respective responsibilities and obligations of the Customs and of the postal service in connection with the Customs treatment of postal items."

The title/name of the national legislation specifying the respective responsibilities and obligations of Customs and designated operators with regard to customs procedures in respect of postal items must be mentioned.

**III. Definitions**

The parties may wish to examine the items/terms defined below. Some definitions may need to be amended to reflect national require­ments, procedures and operational conditions.

*Memorandum of understanding (MOU)*: it is the framework for cooperation between the designated operator and a customs authority for which these guidelines have been written.

*Parties*: a country's designated operator and customs authority entering into the MOU.

*Parcel*: item conveyed under the conditions of the Universal Postal Convention and the Parcel Post Regulations.

*Postal item*: generic term referring to anything dispatched by the Post's services (letter post, parcel post, money orders, etc.).

*Letter-post item*: item conveyed under the conditions of the Universal Postal Convention and the Letter Post Regulations.

*Small packet*: item conveyed under the conditions of the Universal Postal Convention and the Letter Post Regulations.

*EMS*: optional supplementary postal express service for documents and merchandise, whenever possible the quickest postal service by physical means. This service is provided for in the UPU Convention and Letter Post Regulations and may be provided on the basis of the EMS Standard Multilateral Agreement or by bilat­eral agreement in relations between designated operators which have agreed to provide this service. EMS shall take priority over other postal items.

*CN 22*: customs declarations attached to postal items whose contents are less than 300 SDR in value as described in the UPU Letter Post Regulations.

*CN 23*: customs declarations attached to postal items whose contents exceed 300 SDR in value as described in the UPU Letter Post and Parcel Post Regulations.

*Designated operator*: any governmental or non-governmental entity officially designated by the member country to operate postal services and to fulfil the related obligations arising from the Acts of the UPU on its territory.

*Universal Postal Union (UPU)*: specialized agency of the United Nations, formed in 1874, whose aim is to secure the organization and improvement of postal services and to promote the development of international collaboration in this sphere.

*Primary inspection*: presentation of items to Customs by designated operators, or making postal items avail­able for customs inspection.

*Secondary inspection*: the inspection carried out by Customs with regard to the postal items presented by the designated operator for examination.

*Customs or customs authorities*: the government service which is responsible for the administration of cus­toms laws and the collection of duties and taxes and which also has the responsibility for the application of the other laws and regulations relating to the importation, exportation, movement or storage of goods.

*Duties and taxes*: import and/or export duties and taxes.

*Risk assessment*: the systematic application of management procedures and practices which provide Customs with the necessary information or use of non-invasive techniques to address movements or con­signments which present a risk.

*Clearance*: the accomplishment of the customs formalities necessary to allow goods to enter home use, to be exported or to be placed under another customs procedure.

*Customs formalities in respect of postal items*: all the operations to be carried out by the interested party and Customs in respect of postal traffic.

*Customs control*: measure applied by Customs to ensure compliance with customs law.

*Customs duty (and taxes)*: the duties (and taxes) laid down in the customs tariff to which goods are liable on entering or leaving the customs territory.

*Customs law*: the statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to Customs, and any regulations made by Customs under its statutory powers.

*World Customs Organization (WCO)*: intergovernmental organization whose mission is to enhance the effec­tiveness and efficiency of Customs authorities.

*Revised Kyoto Convention*: the international Convention on the simplification and harmonization of Customs procedures, adopted by the Customs Cooperation Council in 1999. The definitions below have been taken from the Revised Kyoto Convention, Chapter 1:

– "Standard": a provision, the implementation of which is recognized as necessary for the achievement of harmonization and simplification of Customs procedures and practices.

– "Recommended Practice": a provision in a Specific Annex which is recognized as constituting progress towards the harmonization and simplification of customs procedures and practices, the widest possible application of which is considered to be desirable.

– "General Annex": the set of provisions applicable to all the customs procedures and practices referred to in this convention.

– "Specific Annex": the set of provisions applicable to one or more customs procedures and practices referred to in this convention.

– "Guidelines": a set of explanations of the provisions of the General Annex, Specific Annexes and Chapters therein which indicate some of the possible courses of action to be followed in applying the Standards, Transitional Standards and Recommended Practices, and in particular describing best practice and recommending examples of greater facilities.

**IV. Training**

Paragraph 10.4 of the Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic states that "Customs authorities should consider offering specific training to postal staff responsible for accepting postal items for international shipment and to postal staff in offices of exchange. At the same time, designated operators should ensure that such staff remain in their jobs for some time to ensure this training is put to best use".

The MOU should consider some degree of training and cross-training for both customs and postal staff to ensure greater coordination in the performance of their duties in their respective missions. Emergency procedures, including procedures relating to dangerous goods and hazardous materials, could be part of such training.

Arrangements between the parties regarding training should be reflected in the MOU. It would be worth mentioning the tenure of trained officials. Efforts should also be made to impart training on EDI–related matters. The training should be imparted at the clerical and managerial level. Customs and postal officials should consult the joint WCO–UPU Postal Customs Guide and UPU module on customs, available at the following website: [www.upu-trainpost.com/fr/detail\_cours20.htm](http://www.upu-trainpost.com/fr/detail_cours20.htm).

**V. Contact**

In resolution C 11/1989, the UPU Washington Congress urged member countries to do everything possible to establish national postal contact committees to resolve any local problems.

The WCO and UPU signed a new MOU in 2007, which recognized the need "to encourage designated oper­ators and Customs to form joint Customs–Post committees at the national level to:

– ensure efficient customs clearance of postal items, in particular packets and parcels, by ensuring improved compliance with the rules regarding customs declarations;

– adopt a joint strategy to combat smuggling of drugs, money laundering, counterfeit goods, illicit materi­als and other contraband;

– facilitate a productive exchange of information between the two parties with a view to encouraging the resolution of problems at the national level".

As a result, designated operators that have not yet set up national contact committees with their respective national customs authorities should do so as soon as possible. The committees should be formed to discuss operational, policy and technical matters, including matters enumerated in the above-mentioned MOU between the WCO and the UPU. The timing of the meetings should be agreed mutually.

Arrangements between the parties regarding the formation of contact committees should be reflected in the MOU.

The parties shall meet regularly at an agreed venue to promote cooperation and ensure the expeditious and efficient handling of goods through the post, and to discuss issues of mutual interest, including the obliga­tions of each party. It is recommended that the meetings should encompass the following:

i strategy defining future cooperation between the parties;

ii performance management at a tactical level (performance of the parties in undertaking agreed pro-cesses);

iii operational planning, such as handling during peak volume periods.

**VI. Provision of information/intelligence**

All information disclosed should be treated as confidential and not disclosed to third parties without the permission of the originating party or as required by law. The information should be used by Customs solely for customs risk assessment and customs clearance of postal items, thus respecting the sender's privacy rights. Where there is no customs EDI, the postal operator may be required to present to Customs the information contained on the CN 22/23 (either in advance or at the time of customs clearance) for the purpose of risk assessment.

It may be added for information that the 2012 UPU Congress adopted a new article 12 on the processing of personal data, which will come into effect on 1 January 2014. Postal activities are becoming increasingly globalized, and the security and processing of data are frequently discussed at international forums. The article has been created for the confidentiality, protection and security of the data gathered by designated operators. The aim is to emphasize the need to inform and obtain the authorization of customers for the use of their personal data. It is specified that it is the purpose for which the personal data has been gathered that should be notified to customers.

**VII. Attendance**

It is suggested that the availability of staff at working hours other than those specified be mentioned in the agreement. Attendance of staff shall be determined with regard to the usual mail arrival times, handover times and mail receipt patterns at each international office of exchange. Working hours may include regular periods outside standard business hours, on weekends and public holidays. Parties should notify each other of any changes in working hours. It should be specified that working hours may change in accordance with new mail receipt arrangements.

**VIII. Examination[[5]](#footnote-5) of postal items**

However, depending on national legislation, Customs may request designated operators to open the mail for examination. It should be opened by the postal official in close proximity to and in view of customs officials in accordance with the requirements of national law. Any damage or loss incurred during inspection should be observed and recorded, and efforts made to repair the article for its safe postal carriage.

The applicable procedure for examination of postal items should be detailed in the MOU, including the proce­dure to follow in the event of damage or loss incurred during examination.

**IX. Liability**

The relevant UPU regulations on liability may be considered.

In accordance with articles RL 156.11 of the UPU Letter Post Regulations and RC 151.1 of the UPU Parcel Post Regulations, UPU member countries and designated operators shall accept no liability for customs declarations in whatever form these are made or for decisions taken by Customs on examination of items submitted for customs control.

Additionally, articles 23.3 and 23.4 of the UPU Convention set the liability of the sender for damages caused by an item even if the office of posting has accepted such item unless the sender has observed the condi­tions of acceptance and there has been a fault or negligence in handling the item on the part of the desig­nated operator after acceptance.

The liability of the parties should be considered during discussions aimed at establishing an MOU and laid down in the MOU established.

**X. Roles and responsibilities of the designated operator and customs**

*a Roles and responsibilities of the designated operator*

*At export*

To promote fast customs clearance of postal items in the country of destination, designated operators in the country of origin must check the presence and correct, full completion of the CN 22 and CN 23 customs declarations. In particular, they must take all reasonable steps to inform their customers on how to comply with customs declarations and specifically to ensure that the customs declarations are completed in full, as stipulated in the Regulations. When the declarations are missing or obviously incomplete, designated operators must draw the sender's attention to the relevant customs regulations and may, as nec­essary, refuse the relevant item.

Guideline 7.5 to the Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic, provides addi­tional information regarding the control of documentation:

– "7.5 Documentation – Practical difficulties

The difficulties experienced by Customs officers because of the inexact or inadequate Customs decla­rations are largely due to the sender's ignorance of Customs requirements. It is recommended that the postal services be requested to lend their assistance in order to improve this situation. To facilitate co-operation between Customs and the postal service in the country of destination, it is essential that the sender should make out a Customs declaration in accordance with the provisions of the Acts of the UPU and that his attention should be drawn to the necessity of strictly observing the instructions on the back of forms CN 22 and CN 23. For this purpose, it is recommended that postal services:

a check that all letter-post items containing goods and all postal parcels are accompanied by a CN 22 or CN 23 as prescribed in the Acts of the UPU;

b ensure that the CN 22 or CN 23 are completed in accordance with the instructions given on the back of these forms;

c when a CN 22 or CN 23 is obviously incomplete, draw the sender's attention to the Customs reg­ulations and accept only items accompanied by complete declarations; and

d advise exporters of commercial items of the need, where appropriate, to attach a certificate of origin to each parcel.

The problems with missing or incomplete Customs declarations can be usefully discussed between Customs and postal administrations[[6]](#footnote-6) in an effort to find solutions. Some Customs administrations insert a note for the addressee in any such parcel that was opened explaining that the parcel had been examined because the CN 23 declaration was missing or was not sufficiently complete for Customs clearance purposes and suggesting that they advise senders to ensure that the declaration be properly completed."

Under the Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic, Standard 7, the desig­nated operator will not be required to produce postal items to Customs at export for the purpose of customs control, unless they contain: goods whose exportation must be certified; goods which are subject to export prohibitions or restrictions or to export duties and taxes; goods having a value exceeding an amount specified in national legislation; or goods which are selected for Customs control on a selective or random basis.

*At import*

Designated operators are usually responsible for the conveyance, storage and provision of postal items and, depending on national legislation and if so agreed with Customs, may open them in their presence for the purposes of customs control.

The actual submission of postal items to Customs varies from country to country. In some countries, national legislation allows Customs to delegate certain powers to designated operators, which permits them to screen certain classes of mail on behalf of Customs and not to submit those items to Customs. The legal basis for delegating performance of this customs function to the designated operator should be mentioned in the MOU. The screening process, including agreed timelines, as well as the arrangements regarding assignment of the costs of such process, are to be described in the MOU.

Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic, Recommended Practice 8: "Posts should not, as a general rule, submit to Customs postcards and letters containing personal messages only, literature for the blind and printed papers not subject to import duties and taxes".

Congress resolution C 4/1957 asked designated operators to use their good offices with the appropriate national authorities to ensure that books, catalogues, newspapers and periodicals are not subject to customs duty.

However, in the case of letters, Customs usually request designated operators to submit envelopes that obvi­ously contain something other than correspondence (e.g. passports, small items such as jewellery, money or powders which postal officials usually detect on the basis of touch, appearance or smell).

A designated operator should physically present to Customs dutiable goods or goods subject to control.

If a designated operator is entrusted with carrying out primary inspection of mail, it should refer to Customs any suspicious packages, regardless of whether the class of mail has been routinely exempted from submis­sion. Whilst a suspicious package may contain illicit goods, it is important to mention that designated opera­tors supports Customs in their role in identifying illicit goods.

It should be spelled out clearly whether the customs procedures apply uniformly to letters, parcels, small packets and EMS items, or whether EMS items are to be treated in the same way as items carried by private operators.

Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic, Standard 11: "The Customs shall make the simplest possible arrangements for the collection of duties and taxes on the goods contained in postal items".

The method agreed between the parties for the collection of duties and taxes should be documented. The designated operator normally collects the import duties and taxes from the addressee at the time of delivery before handing over the item to the addressee.

Designated operators which are authorized by Customs to clear items through Customs on behalf of custom­ers may charge customers a customs clearance fee based on the actual costs according to national legisla­tion (UPU Convention article 20.3). Authorization by Customs to the designated operator to perform this cus­toms function, as well as associated fees, could be mentioned in the MOU. The legal basis for providing such authorization should also be indicated.

*Transit*

– Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic (Standard 10):

"Postal items shall not be subject to Customs formalities whilst they are being conveyed in transit".

– Guideline to Standard 10:

"Standard 10 applies only to those transit movements carried by postal services that form part of the truly international movement of the items and are carried out under cover of an international consign-ment document. The expression "whilst they are being conveyed in transit" is to be interpreted in this sense. Thus, notwithstanding Standard 6.1 of the General Annex which provides that all goods are subject to Customs control, by virtue of Standard 10 these items are not subject to the normal Customs transit procedure and formalities in Specific Annex E, Chapter 1.

Subsequent internal movements carried out under cover of a national document are excluded and the Standard does not prevent Customs from imposing Customs formalities in respect of such purely national movements. In accordance with the WCO/UPU formal opinion on items in transit in closed mails or à découvert suspected of containing narcotics or psychotropic substances, Customs in the transit country may take appropriate measures to inform Customs in the country of destination of their suspicions".

*d Roles and responsibilities of Customs*

The agreement should describe the roles and responsibilities of Customs for each individual process.

*At export*

Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic, Standard 4: "Goods which are subject to export duties and taxes are usually cleared by Customs before passing, with the export duties being paid before the goods are passed to the postal service for exportation. The exportation of goods in postal items shall be allowed regardless of whether they are in free circulation or are under a customs proce­dure."

*At import*

Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic, Standard 3: "The clearance of postal items shall be carried out as rapidly as possible."

Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic, Standard 5: "The importation of goods in postal items shall be allowed irrespective of whether they are intended to be cleared for home use or for another Customs procedure."

Revised Kyoto Convention, Specific Annex J, Chapter 2 on Postal Traffic, Standard 6: "The Customs shall designate to the postal service the postal items which shall be produced to them for the purposes of Customs control and the methods of production of these items."

Customs officials will review the postal items and make a preliminary decision as to which items are poten­tially dutiable, restricted, prohibited or require examination by Customs or another Government Department/Agency (e.g. Agriculture, Health, etc.). Usually these items will be segregated and taken to a separate Customs area for secondary inspection. Customs makes the decision on which items require further processing based on the CN 22/23 customs declarations and other factors such as risk management. The processing of packages that have no CN 22/23 takes longer as such items have to be thoroughly examined by Customs.

If possible, the MOU may wish to consider addressing the issue of time and the number of days likely to be taken by Customs or the Government Department/Agency involved to clear the postal items in question.

The remaining items, or the cages, etc. holding them, should be marked as "cleared Customs", and should be released and delivered without delay.

**XI. Facilities provided to Customs**

Customs would normally insist on having a separate secure area to carry out customs clearance of postal items.

The Guidelines on cooperation between Customs Authorities and Postal Administrations, which are annexed to the MOU between the WCO and the UPU signed on 5 July 2007, contain two sections regarding measures to ensure security of facilities recommended to designated operators and to customs authorities:

– "4 Measures recommended to UPU member countries

(…)

Security of facilities

4.10 Postal administrations should be able to provide Customs with information on measures taken to ensure the security of their facilities.

4.11 They should draw up a list, by category, of staff employed in post offices and sorting centres.

4.12 They should limit the parking of vehicles belonging to the postal service, customers and staff to the designated areas.

4.13 Any vehicle allowed one-time access to postal premises should be issued with a dated pass, and parking should be restricted to the authorized or controlled areas; vehicle registration num­bers should be recorded and made available to customs authorities on request.

4.14 Where the facilities have electronic security systems, such as closed-circuit television, customs authorities should be given access on request.

4.15 Postal administrations should permit only authorized staff and vehicles displaying proper identi­fication within postal premises and parking areas.

(…)

– 5 Measures recommended to customs authorities

(…)

Security of facilities

5.4 Customs authorities should seek to foster cooperation with postal employees.

5.5 Customs authorities should encourage postal administrations to ensure that lists are kept of the staff employed at post offices and sorting centres.

5.6 Customs authorities should encourage postal administrations to ensure that the parking of vehi­cles with regular access to their facilities is limited to designated areas.

5.7 Customs authorities should encourage postal administrations to ensure that control is exercised over one-time vehicle access to postal facilities, through the issuing and recording of dated passes, or recording of vehicle identification details in a register.

5.8 Customs authorities should regularly discuss the security of postal facilities, procedures and items with postal administrations and with the other bodies involved (airlines, shipping compa­nies, etc.) with a view to identifying and correcting any reported deficiencies.

5.9 Customs authorities should ensure that publicity materials highlighting the dangers of, and pen­alties for, smuggling are available and widely circulated."

**XII. Exploring performance protocols and timeframes**

Mutually agreed performance goals might be considered to promote greater reliability in the time required for the customs control of postal items (including primary and secondary inspections) and processing by designated operators and customs.

For example, when using EDI messages in customs processes, the designated operator and customs authority may wish to establish mutually agreed timeframes, according to which the designated operator is informed of when Customs wishes to examine a postal item.

**XIII. Conflict resolution**

The dispute should be resolved within a specified number of days. The agreement should identify a body/forum where the dispute should be referred to in case the parties are unable to resolve the dispute.

Experience has shown that the likelihood of entering into a conflict is reduced if designated operators have developed a good working relationship with their national customs authority. Designated operators should try to inform Customs about the potential problem from the start.

**XIV. Performance and reporting**

There should be some mechanism in place to report the performance of designated operators and Customs. Describe the actions and counteractions to be taken for each of the processes if the service performance levels are not met.

**XV. Health and safety rules**

The parties should identify and monitor existing types of safety risks and develop and implement an effective and relevant global response to emerging risks to ensure customers' continued confidence in mails. The parties may wish to refer to S58 (Postal security standards – General security measures*),* which defines the minimum physical and process security requirements applicable to critical facilities within the postal network.

The parties should exchange information regarding illicit goods, which should remain confidential.

**XVI. Seizures, detention and destruction of mail and ownership**

In accordance with article 5.1 of the UPU Convention, it should be kept in mind that 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 legislation of the country of origin or destination or seized in accordance with the legislation of the country of transit when the item seized during transit contained "narcotics and psychotropic sub­stances, as defined by the International Narcotics Control Board, or other illicit drugs which are prohibited in the country of destination" (article 18.2.1.1 of the UPU Convention), or when it contained explosives, flamma­ble or radioactive materials or other dangerous goods (article 18.3 of the UPU Convention).

**XVII. Requesting deviations to the MOU**

During peak periods or periods when external factors impinge on the normal processes, such as strikes or the operation of a national disaster plan, the MOU could specify how such exemptions should be regulated and agreed.

**XVIII. Risk assessment**

The parties should identify ways of carrying out risk assessment. In this regard, they should define the postal products which would be subject to risk assessment. It is understood that the parties cannot write all the details about how the risk assessment should be carried out, but it would be desirable to outline the arrangements made. The parties may wish to agree on how to improve compliance with the customs declarations. The parties may wish to consult Risk Indicators and Manual on Postal/Express Consignments, a WCO publication which was finalized recently and which will be incorporated into Volume 2 of the WCO Customs Risk Management Compendium.

**XIX.** **EDI information**

The parties should explain if the EDI information is exchanged via UPU and WCO–UPU agreed standards, namely ITMATT, CUSITM and CUSRSP. In addition, the system used to exchange the data (e.g. CDS, ASYCUDA) should be identified. It would not be irrelevant to mention about advance information about security: Article 9 of the UPU Convention.

**XX. WCO–UPU Customs publications**

The parties should take timely measures to send their contributions to the UPU International Bureau for updating the joint WCO–UPU Electronic Customs Matters Guide. The parties should make efforts to place the joint WCO–UPU Postal Customs Guide on their websites.

**XXI. Accession to the WCO Revised Kyoto Convention and Specific Annex J, Chapter 2 on Postal Traffic**

The parties should make constant efforts to convince government authorities concerned to accede to the RKC and to Specific Annex J, Chapter 2 on Postal Traffic. The Specific Annex J on postal traffic contributes to the execution of the UPU's universal service obligation and to the realization of the concept of a single postal territory. It protects universal exchange of mail and complements UPU acts and regulations. In an era in which the speed of customs clearance is a crucial determinant of quality of service, it is desirable to have a maximum number of countries accede to the RKC and to Chapter 2 of its Specific Annex J. The greater the number of countries acceding to the RKC and to Chapter 2 of its Specific Annex J, the better the quality and speed of the global postal supply chain.

**XXII. Customer service (how to contact Customs)**

Customers' complaints, queries and requests for operational information regarding customs clear­ance can be best answered by creating a single point where customers can send their complaints by e-mail, telephone or mail. Where a customer pays duties and taxes directly to Customs, the customer should be provided with the facility to make the payment online. This process should be described in the MOU or han­dled through the national regulations of the designated operator and customs authority.

A clear distinction should be drawn between the designated operator's responsibility to the customer and that of the customs authority. An MOU should consider customer contact roles and responsibilities, as well as which Post–Customs information (and contact lists) could be made available to the public. Where the cus­toms authority undertakes tax and duty assessment, all queries or challenges relating to this assessment should be directed to the customs authority.

**XXIII. Duration, amendment and termination of the agreement**

It should be specified whether the agreement can be changed by the parties by mutual agreement in writing. Either party should have the right to terminate the agreement by giving advance notice and justification in writing to the other within a specified period of time.

SECTION 3 – Example of MoU

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| C:\Users\quan kathleen\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\G9KPCIEM\DAFF481_0812 AG-Customs-DAFF crest-01.jpg |
|  |
|  |

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE**

**AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE**

**THE**

**Department of Agriculture, Fisheries and Forestry**

**and**

**AUSTRALIA POST**

**April 2013**

**Part I - INTRODUCTION**

1. **Principles**
	1. This Memorandum of Understanding (MOU) (including its attached Schedules) is made between the Australian Customs and Border Protection Service (Customs and Border Protection), the Department of Agriculture, Fisheries and Forestry (DAFF) and Australia Post (AP) (collectively, the ‘parties’) and sets out:
2. the respective roles and responsibilities of the parties in relation to their mutual co-operation in maintaining appropriate compliance with legislative provisions and international treaty obligations in respect of the importation and exportation of goods consigned through the post;
3. the over-arching administrative and procedural arrangements agreed between the parties in respect of the importation and exportation of goods consigned through the post;
4. the terms and conditions under which the parties will seek to maintain appropriate compliance with legislative provisions and international treaty obligations which may be imposed upon any party; and
5. guidelines for regional Customs and Border Protection, DAFF and AP facility managers to develop and maintain complementary Facility Level Agreements (FLAs).
	1. This MOU is intended to set out the principles upon which the parties agree to conduct business in a manner which, as far as practicable, meets the needs of all parties and fosters a co-operative approach.

1.3 In entering this MOU, each party recognises and acknowledges the following elements:

1. that DAFF and Customs and Border Protection (hereinafter referred to as the ‘Border Agencies’) have a responsibility to secure and protect Australia’s borders;
2. that the Border Agencies’ resources are determined through Government budget processes; and
3. that AP has domestic and international service obligations and responsibilities to deliver mail in accordance with agreed service standards and Universal Postal Union (UPU) standards.

1.4 The parties agree that they will work in a co-operative manner and consult with each other in a timely manner to ensure that forward planning for initiatives is regularly undertaken to achieve joint business outcomes and efficiencies. This includes matters relating to gateway infrastructure changes, and changes to mail routing and mail volumes. This will enable the parties to have a greater strategic focus in establishing common goals and achieving the required business outcomes.

1.5 The parties agree that the processing, handling and delivery of international mail will be facilitated in a manner which simultaneously protects Australia’s borders and minimises, as far as practicable, impediments on mail processing.

1.6 Terms used in this MOU are explained in the Glossary (Schedule 1).

1. **Parties’ Functions and Legislative Requirements**
	1. **Functions**
2. Customs and Border Protection is responsible for facilitating trade and the movement of people and goods across the Australian border, while protecting the community and maintaining appropriate compliance with Australian law. Customs and Border Protection’s role at the border is to regulate trade and travel; collect revenue owed to the Government, and enforce relevant Australian Government laws.
3. DAFF provides biosecurity risk management services for the arrival of international vessels, passengers, cargo, mail, animals and plants or their products into Australia. DAFF also provides inspection and certification for a range of agricultural products exported from Australia and inspects imported food to ensure compliance with Australia’s food safety standards.
4. AP’s primary functions under the *Australian Postal Corporation Act 1989*, are:
5. to supply postal services within Australia, and between Australia and places outside Australia;
6. to fulfil Australia's international obligations under bilateral and multilateral postal agreements and the Acts and Conventions of the UPU; and
7. to operate commercially as required by section 26 of the *Australian Postal Corporation Act 1989*.

**2.2 Legislative Requirements**

1. Each party acknowledges that each and every party to this Agreement is subject to the direction of a Minister of the Commonwealth Government of Australia.
2. Customs and Border Protection has administrative responsibility for the *Customs Act 1901*, the *Customs Tariff Act 1995* and related legislation (including delegated legislation). Customs and Border Protection also assists other government agencies in the administration of their legislation, principally in relation to the movement of goods and people across the Australian border and the collection of revenue related to these movements.
3. DAFF has administrative responsibility for the *Quarantine Act 1908*, *Export Control Act 1982*, *Imported Food Control Act 1992* and related legislation in order to protect Australia’s animal, plant and human health status and to maintain market access for Australian food and other agricultural exports.
4. AP is required pursuant to the *Australian Postal Corporation Act 1989* to:
5. supply postal services within Australia, and between Australia and places outside Australia;
6. comply with bilateral and multilateral postal agreements to which it is a party; and
7. comply with Australia’s obligations under any international convention, including the *Universal Postal Convention*.
8. the processing of international mail is carried out in an international mail gateway that is licenced under section 77G of Customs Act. Australia Post must adhere to the conditions that are stipulated in the licence.

**Part II - RESPONSIBILITIES**

**3 Agreed Mutual Responsibilities**

* 1. Each of the parties agrees to:
1. conduct Border Agency assessment and clearance of international mail at the gateway associated with the port of arrival;
2. promote a process of continuous flow of international mail, and process goods subject to legal requirements; having due regard to the gateway facility’s internal operating standards, and the priorities and service standards of AP;
3. provide, within its available resources, staff to perform duties in accordance with the relevant FLA and the ‘Principles for Determination of Working Hours at International Mail Centres’ for the screening, examination and assessment of mail outlined in Schedule 2;
4. facilitate the collection and provision of information and data required where practicable;
5. maintain appropriate licence, maintenance, monitoring and training schedules in accordance with ARPANSA standards for cabinet x-ray equipment;
6. advise appropriate staff when international mail of a suspicious biosecurity and/or Customs and Border Protection nature is identified in the mail system. This may include some items of international mail which have entered the domestic mail delivery system; but only when, and to the extent that, a border agency has clear legal authority and responsibility over that mail;
7. consult with each other in relation to the introduction of new technologies which might assist all parties to improve compliance with legislation and services to the Australian community. In the absence of any other agreement the agency responsible for the introduction and use of new technology or process changes shall bear associated costs;
8. consult with each other in relation to any proposed infrastructure or mail delivery schedules. This will assist all parties with resource planning and will contribute to mail processing efficiency;
9. support the implementation of on-going collaboration and improved processes to enhance risk assessment and improve efficiency;
10. support the implementation of new technology where efficiencies can be achieved or where implementation is required by Government initiatives;
11. work collaboratively to respond to the requirements of processing Direct Access product including associated agreements;
12. work collaboratively to respond to the requirements of item level reporting, including the introduction of systems and/or structural changes as mutually agreed, and as required individually by each agency to enable item level reporting to occur; and
13. respond to the requirements of Government initiatives; in particular, the recommendations of the Low Value Threshold (LVT) Taskforce.

**4 Agreed Individual Responsibilities of the Parties**

4.1Subject to any legal requirements to the contrary, under this MOU, **Customs and Border Protection** agrees that it will:

1. carry out a risk assessment of all goods consigned through the international post maximising, as far as possible, the use of its resources at gateway facilities in meeting its border protection and revenue collection responsibilities, whilst facilitating the clearance of mail with no revenue liability or other risk;
2. work collaboratively with DAFF to deliver the level of biosecurity intervention required by the Australian Government;
3. hold mail subject to Customs and Border Protection control where clearance requirements remain outstanding;
4. Standardise practices across gateways when best practice has been identified;
5. where permitted by law and policy guidelines to do so, advise AP of the mail seized by Customs and Border Protection so as to enable AP to perform its obligations under the *Australian Postal Corporation Act 1989*, the *Universal Postal Convention* and bilateral postal agreements; and
6. investigate possible breaches of relevant legislation, working on behalf of or in conjunction with the relevant agency concerned.
	1. Subject to any legal requirements to the contrary, under this MOU, **DAFF** agrees that it will:
7. carry out risk assessment of all goods consigned through the international post maximising the use of its resources at gateway facilities in meeting its responsibilities, whilst minimising the delays to the clearance of mail to the extent possible whilst managing biosecurity integrity;
8. work collaboratively with Customs and Border Protection to deliver the level of border protection intervention required by the Australian Government;
9. examine and treat mail ‘subject to quarantine’ in the most efficient manner practicable, returning non-quarantinable mail into the custody of AP as expeditiously as resources allow;
10. Standardise practices across gateways when best practice has been identified;
11. work with relevant agencies in the investigation of breaches of relevant legislation; and
12. where permitted by law and policy guidelines to do so, advise AP of the mail seized by DAFF to enable AP to perform its obligations under the *Australian Postal Corporation Act 1989*, the *Universal Postal Convention* and bilateral postal agreements.

4.3Subject to any legal requirements to the contrary, under this MOU, **AP** agrees that it will:

1. comply with legislative requirements of Border Agencies’;
2. store any uncleared mail at the gateway facility for processing and clearance by Border Agencies under relevant legislative requirements;
3. present all in-bound international mail to Border Agencies’ at gateway facilities for screening and subsequent processing. Mail is to be presented as agreed by the parties at a facility level to achieve mutually acceptable efficiency and Border Agency outcomes;
4. make out-bound international mail available to Customs and Border Protection for screening and examination upon reasonable request and in accordance with the relevant FLA;
5. open and close articles for examination by Border Agencies in compliance with the provisions of the *Australian Postal Corporation Act 1989* and the ‘Guidelines for Opening and Inspection of International Mail’ set out in Schedule 3;
6. make all reasonable endeavours to have an AP authorised examiner available during Border Agency detector dog screening so that any suspect item can be examined immediately;
7. keep in safe custody articles where revenue is to be collected;
8. keep as required by law all records for compliance purposes to account for in-bound and out-bound international mail, including all documentation related to border reporting and clearance;
9. make all reasonable endeavours to have adequate Closed Circuit Television (CCTV) coverage of operational areas of gateway facilities and make CCTV recordings available to Border Agencies;
10. provide accommodation, facilities and appropriate biosecurity measures, which meet Border Agencies’ legislative requirements and complies with appropriate Workplace Health and Safety (WH&S) standards;
11. provide available resources and physical mail delivery mechanisms to enable the examination and processing of international mail by Border Agencies;
12. develop and manage emergency procedures and facility-specific Workplace Health and Safety (WH&S) issues in consultation with Border Agencies;
13. develop and manage business continuity plans in consultation with Border Agencies
14. be responsible for the transport of mail (within each gateway facility); and
15. comply with regulatory requirements in respect of mail which is moved underbond, and which thus remains subject to Customs and Border Protection control.

**5 Continuous Flow of Mail**

* 1. The Border Agencies’ acknowledge that:
1. Australia has treaty obligations under the *Universal Postal Convention*; and
2. AP has certain service standards that it is required to meet in relation to in-bound and out-bound international mail, including under the *Australian Postal Corporation Act 1989*; the *Universal Postal Convention* and various bilateral postal agreements.
	1. For the reasons set out in clause 5.1, all parties will promote the continuous flow of mail so as to support AP to meet its obligations and service standards.

Part III – ADMINISTRATIVE ARRANGEMENTS

**6 Public Relations and Media Releases**

6.1 Each party undertakes that no media releases or public statements regarding the activities or efficiency of the other parties shall be made without first consulting the other parties involved.

6.2 As far as practicable, the parties will co-operate with the media and public relations activities undertaken by one or more of the parties.

6.3 Media representatives will not be granted permission to visit AP facilities without the express permission of AP’s Corporate Public Affairs Group.

**7. Customer Service and Training**

* 1. The parties agree to abide by the ‘Guidelines for Handling Complaints Regarding Lost or Damaged Mail’ as set out at Schedule 4.
	2. In order to improve the level of referrals between each agency, the Border Agencies, in consultation with each other, will provide appropriate training for those officers of the other agency who may require it. Information sessions will be provided to AP staff as required.
	3. AP will provide training and information in relation to emergency procedures, including procedures relating to dangerous goods and hazardous materials.
	4. AP must provide adequate training to AP staff for awareness of their obligations in dealing with goods subject to biosecurity under the legislative requirements of DAFF.

**8. Contact between Organisations**

8.1 Matters that relate to international/national policy or procedure will be dealt with at the National Tripartite Forum or Tripartite Operations Working Group within and between each party. Each party will advise the other of contact details for this purpose.

8.2 The parties will meet regularly at the regional and national level to promote cooperation, the expeditious and efficient handling of goods consigned through the post and to discuss issues of mutual interest, including the obligations of each of the parties.

8.3 For Customs and Border Protection, the liaison position for regional procedural and enforcement activities will be the Customs and Border Protection Manager, International Mail, at the gateway facility.

8.4 For DAFF, the liaison position for regional procedural and enforcement activities will be the DAFF, Mail Manager at the gateway facility, or the regional DAFF Director, Mail for that gateway facility.

8.5 For AP, the liaison position for regional procedural and enforcement activities will be the Manager of the gateway facility.

8.6 Consultation regarding planning and development of any new gateway facility or changes to any existing gateway facilities including infrastructure changes will be initiated by AP to the Border Agencies at the national level as soon as practicable.

* 1. Consultation regarding planning and development or removal of any new, updated or superseded screening capability will be initiated by the Border Agencies at the national level as soon as practical.
	2. Each gateway facility will have in place a FLA which will detail facility-specific agreements on matters relating to operating hours, staffing levels, WH&S and emergency procedures, etc. Each FLA must be consistent with this MOU.
	3. For any proposed visits to AP gateway facilities by third parties, approval of such proposed visits must be obtained from AP’s Gateway Facility Manager with as much notice as possible before the proposed visit.

**9 Provision of Information/Intelligence**

9.1 The parties acknowledge the importance of an open and continuing exchange of information in assisting each other in the performance of their respective obligations, and agree to exchange information on the understanding that:

1. information will only be disclosed in accordance with any statutory or other legal requirements, including section 16 of the *Customs Administration Act 1985,* part 7B of *the Australian Postal Corporation Act 1989* and the *Privacy Act 1988*;
2. any information disclosed will only be used or further disclosed for the purpose for which it was disclosed;
3. any information disclosed will be treated as confidential and only disclosed to a third party with the permission of the originating party or as required or authorised by law; and
4. where information is requested, the requesting party will provide such information as is necessary to enable the requested information to be collected.

Part IV – DISPUTE RESOLUTION

**10 Dispute Resolution**

* 1. The parties agree to abide by the following dispute resolution procedure:
1. The parties will use their best endeavours to resolve any dispute arising under or in connection with this MOU, or a FLA, through discussions among facility representatives, at the gateway facility. The facility representatives will attempt to settle the dispute through discussions within five (5) business days of the dispute being referred to them (or such other period of time as the facility representatives may agree).
2. If the facility representatives are unable to resolve the dispute, the dispute is to be referred to the relevant agency representative on the National Tripartite Forum (Tripartite Representative).
3. If the Tripartite Representative referred to in paragraph (b) is unable to resolve the dispute within a further five (5) business days, or other such period as is agreed by the National Tripartite representatives, the dispute will be referred to senior management of the parties, and, if the dispute remains unresolved after a further five (5) business days, or such other period as is agreed, the dispute will be referred to the CEO of Customs and Border Protection, the Executive Director of DAFF and the Managing Director of AP.

10.2 Despite the existence of a dispute, each party will continue to perform its obligations under this MOU.

10.3 Information exchanged, and statements made, during any part of any dispute resolution process, shall be regarded, subject to law, to have been made or given on a without prejudice basis in order to facilitate settlement of a dispute, and the information or statements shall not be used against a party outside the dispute resolution process without that party’s consent.

10.4 Dispute resolution process hierarchy (see attached).



Part V – GENERAL PROVISIONS

**11 Variation to the MOU**

11.1 This MOU may be varied by mutual agreement between the parties.

11.2 Any variation to this MOU must be in writing and signed by the parties.

11.3 Schedules and attachments to this MOU may be varied by mutual agreement through the exchange of letters by the parties.

**12 Commencement, Review and Termination of the MOU**

12.1 This MOU will replace the previous MOU which was signed on 24August 2009.

12.2 This MOU will come into effect on the day that it is signed by the party signing last.

12.3 This MOU will be reviewed whenever there is a change of law, policy or practice affecting its operation and will, in any event, be reviewed at two-year intervals from the date of signing.

12.4 Any party can terminate this MOU by giving 30 days notice in writing of its intention not to be bound by the MOU.

**SIGNED AND DATED:**

|  |  |  |
| --- | --- | --- |
| **……………………………** **(M Pezzullo)** | **……………………………** **(R Mellor)** | **……………………………****(A Fahour)** |
|  Chief Executive Officer | Deputy Secretary  | Managing Director and Chief Executive Officer  |
| Australian Customs and Border Protection Service | Department of Agriculture, Fisheries and Forestry (DAFF) | Australia Post |

**SCHEDULE 1**

**Glossary of Terms**

|  |  |
| --- | --- |
| **ARPANSA Standards** | Standards set by the Australian Radiation Protection and Nuclear Safety Agency |
| **Border Agencies** | Australian Customs and Border Protection Service and DAFF |
| **Gateway Facility** | The first port of entry and the place of examination of international mail, and includes offices of exchange |
| **Gateway Screening (Principles)** | Where practicable conducting all border clearance activities at the gateway facility  |
| **Mail**  | Letters, parcels and EMS courier articles, as defined by the *Australian Postal Corporation Act 1989* and the Acts of the UPU. Mail is defined as cargo for the purposes of Customs and Border Protection control and reporting requirements as defined by the *Customs Act 1901*. ‘Mail’ includes: |
|  | * LC/OA (LC/AO in French) - letter class and other articles; UPU collective term for letter-post articles
 |
|  | * LC – Letter class: enveloped letters, aerogrammes and postcards
 |
|  | * OA – Other articles: printed papers, small packets and literature for the blind
 |
|  | * Parcels – Articles up to 30kg
 |
|  | * EMS – Postal courier articles up to 30kg
 |
|  | * Registered – LC/OA stream only
 |
|  | * Insured – Parcel articles may be insured
 |
| **Post** | Australia Post. In the wider international context, an entity designated by national governments to fulfil obligations arising from the Acts of the UPU |
| **Risk Assessment** | An assessment made by a Border Agency officer of mail with regard to the risk it represents and as to what action is appropriate to treat that risk |
| **UPU** | Universal Postal Union – a specialised agency of the United Nations |

**SCHEDULE 2**

**Principles for Determination of Working Hours at international mail centres**

Hours of attendance for all parties at international mail gateway facilities shall be determined at a local level by mutual agreement, giving consideration to relevant legislation, and according to the following principles:

* Attendance shall be determined having regard to usual arrival times of mail volumes, handover times and mail volume receipt patterns at each international gateway facility, and acknowledging AP obligations and service standards for international mail.
* DAFF regional representatives will be required to report changes to staffing arrangements at a national level
* Working hours may include regular periods outside standard business hours, on weekends and public holidays.
* The cost of any additional attendance outside the hours agreed to in the relevant FLAs will be discussed and agreed to by the parties.
* Where there are changes to working hours, these changes will be dealt with via the FLAs.

**SCHEDULE 3**

**GUIDELINES FOR THE OPENING AND INSPECTION OF INTERNATIONAL MAIL**

• When a Border Agency officer requires an international mail article to be opened for examination, an AP authorised examiner will open the article in close proximity to and in view of Border Agency officers and in accordance with the *Australian Postal Corporation Act 1989*.

• An article or its contents that contravene border legislation may be removed from the normal course of carriage. Any such items will be dealt with and appropriate advice provided in accordance with the relevant legal requirements and Australia’s treaty obligations.

- The above procedures do not apply to articles opened and examined by Customs and Border Protection Officers pursuant to section 90T of the *Australian Postal Corporation Act 1989*.

- If packaging material (e.g. a fruit carton) contravenes border regulations an AP officer will arrange suitable repacking of the contents. Addressee notification of the reason for repacking will be provided by DAFF.

• If the Border Agencies’ decide that no further inspection is required, the contents of the article will be restored as closely as possible to their original state and the article returned to an AP authorised examiner.

- If any damage to, or loss of, contents is observed by a Border Agency officer, the damage or loss will be reported immediately to an AP authorised examiner.

• An AP authorised examiner will close up the article and place an official endorsement on the article indicating the date, facility and the purpose for which it was opened.

- An authorised examiner is permitted to repair an article or its contents so that the article may be made safe for postal carriage.

- Any damage to, or loss of, contents will be made the subject of a formal AP report.

**SCHEDULE 4**

**GUIDELINES FOR HANDLING COMPLAINTS REGARDING LOST OR DAMAGED MAIL**

**PURPOSE**

• These guidelines are for use by customer service personnel in AP, Customs and Border Protection or DAFF whichever party is the first point of contact for postal customer enquiries.

• The guidelines have been formulated to ensure consistency and appropriateness of advice provided to postal customers in relation to lost or damaged mail.

• The guidelines specifically seek to provide guidance on the allocation of responsibility to the appropriate tripartite agency (AP, Customs and Border Protection or DAFF) when dealing with complaints from postal customers.

**GENERAL PRINCIPLES**

• **AP** is liable to pay compensation if the cause of loss or damage was the result of processes for which AP is responsible.

• **Customs and Border Protection** is liable to pay compensation if the cause of loss or damage was the result of processes for which Customs and Border Protection is responsible.

• **DAFF** is liable to pay compensation if the cause of loss or damage was the result of processes for which DAFF is responsible.

Where there is any doubt as to which agency is responsible, customer service staff should avoid attributing unknown causes of loss or damage to another agency’s actions. Staff should not admit any liability for damage in the first instance. In particular, it should not be automatically assumed that potential liability associated with mail that has been opened by AP for Customs and Border Protection or DAFF inspection lies with another agency.

It is important that postal customers not be ‘given the run around’ through referral from one agency to another. For this reason, the agency which is the first point of contact should serve as the sole contact point for the customer’s enquiry, where possible. Referral of customer enquiries to another agency should be made only after pertinent facts are obtained from the customer to ensure that advice given or action taken is appropriate to the circumstances.

**PROCEDURES FOR REFERRING CUSTOMER ENQUIRIES TO ANOTHER AGENCY**

For guidance on when it is appropriate to refer a postal customer to another agency, please refer to the FLA attachment (customer complaint scenarios).

**AP** When it is necessary to put the customer in direct contact with AP, the free call contact number should be used.

**CUSTOMS AND BORDER PROTECTION** When it is necessary to put the customer in direct contact with Australian Customs and Border Protection Service, the Complaints and Compliments contact should be used. Customers should not be directed to mail centres.

**DAFF** When it is necessary to put the customer in direct contact with DAFF the Complaints and Compliments contact should be used. Customers should not be directed to mail centres.

**SOME FINAL POINTS**

• Complaints need to be handled with sensitivity, understanding and tact in order to deliver good customer service as well as to facilitate good working relationships with partner agencies.

* The agency which initially receives the complaint should conduct a face value investigation on the nature of the complaint first before referring it to another agency.

• Compliance with Government requirements must be maintained at all times.

• This advice will be subject to review in light of feedback from customers, staff and partner agencies.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. The Acts of the Universal Postal Union comprise the UPU Convention, its Detailed Regulations and the Agreement on Postal Parcels. [↑](#footnote-ref-1)
2. \* Established in 1952 as the Customs Cooperation Council. [↑](#footnote-ref-2)
3. The General Annex of the Revised Kyoto Convention defines "Examination of goods" as follows: "Examination of goods means the physical inspection of goods by the Customs to satisfy themselves that the nature, origin, condition, quantity and value of the goods are in accordance with the particulars furnished in the Goods declaration". [↑](#footnote-ref-3)
4. In the Revised Kyoto Convention and its Guidelines, the term "postal service(s)" is used and has the meaning of "designated operator(s)" as defined in this MOU. [↑](#footnote-ref-4)
5. The General Annex of the Revised Kyoto Convention defines "Examination of goods" as follows: "Examination of goods means the physical inspection of goods by the Customs to satisfy themselves that the nature, origin, condition, quantity and value of the goods are in accordance with the particulars furnished in the Goods declaration". [↑](#footnote-ref-5)
6. In the Revised Kyoto Convention and its Guidelines, the term "postal administration(s)" is used and has the meaning of "designated operator(s)" as defined in this MOU. [↑](#footnote-ref-6)