

Board of Governors and par. (2) of subsec. (a) effective Jan. 20, 1971, pursuant to Resolution No. 71-10 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

REFERENCES TO POSTAL RATE COMMISSION

Pub. L. 109-435, title VI, § 604(f), Dec. 20, 2006, 120 Stat. 3242, provided that: "Whenever a reference is made in any provision of law (other than this Act [see Tables for classification] or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission."

§ 404a. Specific limitations

(a) Except as specifically authorized by law, the Postal Service may not—

(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.

(Added Pub. L. 109-435, title IV, § 403(a), Dec. 20, 2006, 120 Stat. 3226.)

§ 405. Printing of illustrations of United States postage stamps

(a) When requested by the Postal Service, the Director of the Government Publishing Office shall print, as a public document for sale by the Superintendent of Documents, illustrations in black and white or in color of postage stamps of the United States, together with such descriptive, historical, and philatelic information with regard to the stamps as the Postal Service deems suitable.

(b) Notwithstanding the provisions of section 505 of title 44, stereotype or electrotype plates, or duplicates thereof, used in the publications authorized to be printed by this section may not be sold or otherwise disposed of.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 724; Pub. L. 113-235, div. H, title I, § 1301(d), Dec. 16, 2014, 128 Stat. 2537.)

CHANGE OF NAME

"Director of the Government Publishing Office" substituted for "Public Printer" in subsec. (a) on author-

ity of section 1301(d) of Pub. L. 113-235, set out as a note under section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

§ 406. Postal services at Armed Forces installations

(a) The Postal Service may establish branch post offices at camps, posts, bases, or stations of the Armed Forces and at defense or other strategic installations.

(b) The Secretaries of Defense and Transportation shall make arrangements with the Postal Service to perform postal services through personnel designated by them at or through branch post offices established under subsection (a) of this section.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 724.)

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

§ 407. International postal arrangements

(a) It is the policy of the United States—

(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and

(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services and shall have the power to conclude postal treaties, conventions, and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

(A) shall coordinate with other agencies as appropriate, and in particular, shall give full consideration to the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

(C) shall maintain continuing liaison with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;

(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit its views on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with the views submitted by the Commission pursuant to paragraph (1), except if, or to the extent, the Secretary determines, in writing, that it is not in the foreign policy or national security interest of the United States to ensure consistency with the Commission's views. Such written determination shall be provided to the Commission together with a full explanation of the reasons thereof, provided that the Secretary may designate which portions of the determination or

explanation shall be kept confidential for reasons of foreign policy or national security.

(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—

(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be international law; and

(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

(e)(1) In this subsection, the term “private company” means a private company substantially owned or controlled by persons who are citizens of the United States.

(2) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

(3) In exercising the authority under subsection (b) to conclude new postal treaties and conventions related to international postal services and to renegotiate such treaties and conventions, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of U.S. Customs and Border Protection in carrying out this paragraph.

(4) The provisions of this subsection shall take effect 6 months after the date of enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 724; Pub. L. 105-277, div. A, §101(h) [title VI, §633(a)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-523; Pub. L. 109-435, title IV, §405(a), Dec. 20, 2006, 120 Stat. 3229; Pub. L. 114-125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(3), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of enactment of this subsection, referred to in subsec. (e)(4), is the date of enactment of Pub. L. 109-435, which was approved Dec. 20, 2006.

AMENDMENTS

2006—Pub. L. 109-435 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to responsibilities of the Secretary of State and the Postal Service for international postal arrangements.

1998—Pub. L. 105-277 substituted “International Postal Arrangements” for “International postal arrangements” in section catchline and amended text generally. Prior to amendment, text read as follows:

“(a) The Postal Service, with the consent of the President, may negotiate and conclude postal treaties or conventions, and may establish the rates of postage or other charges on mail matter conveyed between the United States and other countries. The decisions of the Postal Service construing or interpreting the provisions of any treaty or convention which has been or may be negotiated and concluded shall, if approved by the President, be conclusive upon all officers of the Government of the United States.

“(b) The Postal Service shall transmit a copy of each postal convention concluded with other governments to the Secretary of State, who shall furnish a copy of the same to the Public Printer for publication.”

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” in subsec. (e)(3) on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-435, title IV, § 405(b), Dec. 20, 2006, 120 Stat. 3232, provided that: “Notwithstanding any provision of the amendment made by subsection (a) [amending this section], the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

“(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

“(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.”

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

TRANSFER OF FUNDS TO STATE DEPARTMENT

Pub. L. 105-277, § 101(h) [title VI, § 633(d)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-524, provided that: “In fiscal year 1999 and each fiscal year hereafter, the Postal Service shall allocate to the Department of State from any funds available to the Postal Service such sums as may be reasonable, documented and auditable for the Department of State to carry out the activities of Section 407 of title 39 of the United States Code.”

MODERNIZING THE MONETARY REIMBURSEMENT MODEL FOR THE DELIVERY OF GOODS THROUGH THE INTERNATIONAL POSTAL SYSTEM AND ENHANCING THE SECURITY AND SAFETY OF INTERNATIONAL MAIL

Memorandum of President of the United States, Aug. 23, 2018, 83 F.R. 47791, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Homeland Security[,] the Postmaster General[, and] the Chairman of the Postal Regulatory Commission

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Definitions.* (a) “Good” means any tangible and movable object that can be conveyed by the international postal system, excluding (i) written, drawn, printed, or digital information recorded on a tangible medium that is not an object of merchandise and (ii) money.

(b) “Non-postal operator” means a private express carrier, freight forwarder, or other provider of services for the collection, transportation, and delivery of international documents and packages, other than a postal operator.

(c) “Postal operator” means a governmental or non-governmental entity officially designated by a Universal Postal Union (UPU) member country to operate postal services and to fulfill the related obligations arising out of the Acts of the UPU on its territory.

(d) “Terminal dues” means the rates or fees determined through the UPU and paid by the postal operator in the country of origin to the postal operator in the country of destination to compensate for costs incurred in the country of destination for processing, transportation, and delivery of international “letter post” items, which may include documents or goods and generally weigh up to 4.4 pounds.

SEC. 2. *Policy.* (a) The UPU was established in 1874 by 21 countries. The United States played an integral role in the UPU’s creation and, since that time, the United States has actively participated in all phases of the UPU’s work. The United States is a party to the current Constitution of the UPU—which was adopted in 1964—and intends to continue to participate fully in and financially contribute to the UPU, as provided in Article 21 of the UPU Constitution. As a member country of the UPU, the United States recognizes the importance of this long-standing organization and is proud of the United States’ unbroken record of participation in it.

The Congress has provided that the Secretary of State (Secretary), in concluding postal treaties, conventions, or other international agreements, shall, to the maximum extent practicable, take measures to encourage governments of other countries to make available to the United States Postal Service (USPS) and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers (39 U.S.C. 407(e)(3)).

The Congress has likewise directed that responsible officials shall apply the customs laws of the United States and all other laws relating to importation or exportation of goods in the same manner to shipments of goods that are competitive products of the USPS and to similar shipments by private companies (39 U.S.C. 407(e)(2)).

It is the policy of the United States to promote and encourage the development of an efficient and competitive global system that provides for fair and non-discriminatory postal rates.

(b) It is in the interest of the United States to:

(i) promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes (39 U.S.C. 407(a)(1));

(ii) promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by the laws of the United States (39 U.S.C. 407(a)(2));

(iii) promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member (39 U.S.C. 407(a)(3)); and

(iv) participate in multilateral and bilateral agreements with other countries to accomplish these objectives (39 U.S.C. 407(a)(4)).

(c) Some current international postal practices in the UPU do not align with United States economic and national security interests:

(i) UPU terminal dues, in many cases, are less than comparable domestic postage rates. As a result:

(A) the United States, along with other member countries of the UPU, is in many cases not fully reimbursed by the foreign postal operator for the cost of delivering foreign-origin letter post items, which can result in substantial preferences for foreign mailers relative to domestic mailers;

(B) the current terminal dues rates undermine the goal of unrestricted and undistorted competition in cross-border delivery services because they disadvantage non-postal operators seeking to offer competing collection and outward transportation services for goods covered by terminal dues in foreign markets; and

(C) the current system of terminal dues distorts the flow of small packages around the world by incentivizing the shipping of goods from foreign countries that benefit from artificially low reimbursement rates.

(ii) The UPU has not done enough to reorient international mail to achieve a clear distinction between documents and goods. Without such a distinction, it is difficult to achieve essential pricing reforms or to ensure that customs requirements, including provision of electronic customs data for goods, are met. Under the current system, foreign postal operators do not uniformly furnish advance electronic customs data that are needed to enhance targeting and risk management for national security and to facilitate importation and customs clearance. My Administration's Initiative to Stop Opioids Abuse and Reduce Drug Supply and Demand, launched in March of this year [2018], requires accurate advance electronic customs data for 90 percent of all international mail shipments that contain goods and consignment shipments within 3 years, so that the Department of Homeland Security can better detect and flag high-risk shipments.

(d) It shall be the policy of the executive branch to support efforts that further the policies in this memorandum, including supporting a system of unrestricted and undistorted competition between United States and foreign merchants. Such efforts include:

(i) ensuring that rates charged for delivery of foreign-origin mail containing goods do not favor foreign mailers over domestic mailers;

(ii) setting rates charged for delivery of foreign-origin mail in a manner that does not favor postal operators over non-postal operators; and

(iii) ensuring the collection of advance electronic customs data.

SEC. 3. Relations with the UPU. (a) The United States must seek reforms to the UPU that promote the policies outlined in this memorandum. Such reforms shall provide for:

(i) a system of fair and nondiscriminatory rates for goods that promotes unrestricted and undistorted competition; and

(ii) terminal dues rates that:

(A) fully reimburse the USPS for costs to the same extent as domestic rates for comparable services;

(B) avoid a preference for inbound foreign small packages containing goods that favors foreign mailers over domestic mailers; and

(C) avoid a preference for inbound foreign small packages containing goods that favors postal operators over private-sector entities providing transportation services.

(b) If negotiations at the UPU's September 2018 Second Extraordinary Congress in Ethiopia fail to yield reforms that satisfy the criteria set forth in subsection (a) of this section, the United States will consider taking any appropriate actions to ensure that rates for the delivery of inbound foreign packages satisfy those criteria, consistent with applicable law.

SEC. 4. Actions by the Secretary. (a) The Secretary shall notify the Director General of the UPU of the policies and intentions of the United States described in this memorandum.

(b) The Secretary or his designee shall, consistent with 39 U.S.C. 407(b)(1), seek agreement on future Con-

vention texts that comport with the policies of this memorandum in meetings of the UPU, including at the September 2018 Extraordinary Congress.

(c) No later than November 1, 2018, the Secretary shall submit to the President a report summarizing the steps being taken to implement this memorandum. If the Secretary determines that sufficient progress on reforms to promote compatibility of the Acts of the UPU with the policy of this memorandum is not being achieved, the Secretary shall include recommendations for future action, including the possibility of adopting self-declared rates.

SEC. 5. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary is authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 408. International money-order exchanges

The Postal Service may make arrangements with other governments, with which postal conventions are or may be concluded, for the exchange of sums of money by means of postal orders. It shall fix limitations on the amount which may be so exchanged and the rates of exchange.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 725.)

EFFECTIVE DATE

Section effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

§ 409. Suits by and against the Postal Service

(a) Except as otherwise provided in this title, the United States district courts shall have original but not exclusive jurisdiction over all actions brought by or against the Postal Service. Any action brought in a State court to which the Postal Service is a party may be removed to the appropriate United States district court under the provisions of chapter 89 of title 28.

(b) Unless otherwise provided in this title, the provisions of title 28 relating to service of process, venue, and limitations of time for bringing action in suits in which the United States, its officers, or employees are parties, and the rules of procedure adopted under title 28 for suits in which the United States, its officers, or employees are parties, shall apply in like manner to suits in which the Postal Service, its officers, or employees are parties.

(c) The provisions of chapter 171 and all other provisions of title 28 relating to tort claims shall apply to tort claims arising out of activities of the Postal Service.

(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—