

Decision on the request put by CTT, pursuant to Article 6 of the Convénio de Qualidade (Quality Convention) of the Universal Postal Service of 10 July 2008, to discount inputs covering distribution of correio normal (non-priority mail) and correio azul (priority mail) impacted by the general strike held on 22 March 2012, for the purposes of calculating the QSI defined under said Quality Convention

1. The Convénio de Qualidade (Quality Convention) of the Universal Postal Service, concluded on 10 July 2008 between ICP - Autoridade Nacional de Comunicações (ICP-ANACOM) and CTT - Correios de Portugal, S.A. (CTT), as amended on 10 September 2010, sets out the parameters and minimum levels of quality of the universal postal service which CTT undertake to provide¹.
2. Paragraph 1 of article 6 of the Quality Convention sets out that “should any force majeure or phenomenon situation take place, the occurrence and evolution of which are clearly outside the control of CTT, and have an impact on the quality of service provided by CTT, the latter may request, for the purpose of calculation of the quality of service indicators (QSI) comprised in [the Convention], the deduction of the inputs for the concerned periods of time and geographic flows.”
3. Paragraph 2 of the same article sets out that such force majeure or phenomenon situations as mentioned in paragraph 1 “... shall be deemed to mean unpredictable or insurmountable natural events and/or facts attributable to third parties, that occur, evolve, or the effects of which occur regardless of CTT’s will and ability to control, such as war, subversion, epidemics, cyclones, earthquakes, fire, lightning, floods, general strikes and any other similar events that may impair normal conditions of clearance, sorting, transport and distribution of postal items”.
4. In accordance with paragraph 4 of article 6, the request to effect the discounting of inputs is to be submitted by CTT, in a substantiated manner, within a period not exceeding 60 days following the date on which the events in question took place.
5. Under paragraph 5 of article 6, the decision whether or not to grant CTT’s request is incumbent upon ICP-ANACOM, and it must be notified to CTT no later than 30 days after the request is received. In case the request is rejected, justifications must be provided. Irrespective of the presentation of a request to discount inputs, CTT must find the best alternatives during the period on which situations referred to in paragraphs 1 and 2 of article 6 occur.
6. Given its wide reporting, it is general knowledge that a general strike of workers took place on 22 March 2012, which, according to the media, included CTT workers.
7. By letter of 31.05.2012, CTT reported that a general strike had taken place on 22.03.2012, which was convened by the central union CGTP and supported by trade unions representing CTT employees, whereby a stoppage was reported as occurring at CTT with an overall participation of 19.4% and high levels of participation among the operational sorting and transport services (of 32.6%) and distribution services (28.7%), having this stoppage impaired the normal functioning of the postal network at national level.
8. In the same letter, CTT reported also that in order to minimize the expected impact of the referred stoppage on the postal service, in the days preceding the general strike, it engaged a plan to strengthen operational activities, consisting of the intensification of

¹ Vide <http://www.anacom.pt/render.jsp?categoryId=190302>.

sorting operations during the days preceding the strike (Monday to Wednesday) and additional distribution on those same days, in order to accelerate delivery of items accepted in the period preceding the strike. CTT further declared that these prior measures were maintained in the days that followed the strike, including the week-end.

9. According to CTT, and notwithstanding the measures taken, in light of the transit time of the different services, the stoppage that occurred on 22.03.2012 impacted the normal performance of the quality of the corresponding distribution of correio azul (priority mail) (the service most affected by the strike action) and of correio normal (non-priority mail) (albeit affected to a lesser extent).
10. CTT, arguing that the stoppage of 22.03.2012, caused by the general strike, constitutes a situation of force majeure, triggered regardless of CTT's ability to control and causing delays in the routing and distribution of postal items, impacting performance of quality of service during the month of March 2012, submitted a request to ICP-ANACOM, pursuant to and for the purposes of article 6 of the Convénio de Qualidade, whereby it sought that inputs covering the distribution of correio azul and correio normal be discounted from calculation of QSI in respect of March 2012 and with regard to the following national routes and periods:
 - i) correio normal sent from 19 to 22 March (inclusive) on all routes;
 - ii) correio azul sent on 21 and 22 March (inclusive) on Mainland routes;
 - iii) correio azul sent from 20 to 22 March (inclusive) on CAM routes (Mainland, Azores and Madeira).
11. Items covered by the request to discount inputs made by CTT, correio normal and correio azul items, on all routes in the first case and on Mainland and CAM routes in the second, may impact QSI1 (Transit time for Non-Priority Mail), QSI2 - Transit time for Priority Mail - Mainland, and QSI3 (Transit time for Priority Mail - CAM²).
12. In light of the required standards of the services:
 - a) correio normal - delivery within 3 working days following item acceptance -, the stoppage in question may have affected normal mail distribution occurring between 19 and 22 March;
 - b) correio azul on Mainland routes - delivery within 1 working day subsequent to item acceptance - the occurrence may have affected correio azul distribution occurring between 21 and 22 March on the Mainland;
 - c) correio azul on CAM routes - delivery within 2 working days following item acceptance -, the reported occurrence may have affected priority mail distribution occurring between 20 and 22 March on routes between Mainland Portugal, the Azores and Madeira.
13. The facts reported by CTT constitute a situation of force majeure, since the occurrence of the general strike is covered by paragraph 2 of article 6 of the Convénio de Qualidade, insofar as it was triggered, evolved, or had effects occurring regardless of CTT's will and

² CAM consists of mail routes between any point on the Mainland and the Autonomous Regions of the Azores and Madeira (and vice versa) or between the Autonomous Regions.

ability to control, impairing the normal conditions of sorting, transport and distribution of postal items of correio normal and correio azul on all national routes.

14. Therefore, considering:

- i) The information communicated by CTT, by letter dated 31.05.2012;
- ii) The provisions of paragraphs 1 and 2 of article 6 of the Convénio de Qualidade;
- iii) That a general strike convened by the central unions CGTP occurred in Portugal on 22.03.2012;
- iv) That the stoppage caused by the general strike impacted the distribution of correio normal and correio azul in March 2012, causing delays in the routing of items and affecting quality of service performance:
 - on national routes of correio normal sent from 19 to 22 March (inclusive);
 - correio azul on Mainland routes sent on 21 and 22 March;
 - correio azul sent from 20 to 22 March (inclusive) on CAM routes.
- v) That the facts reported by CTT constitute a situation of force majeure, since the occurrence of the general strike is covered by paragraph 2 of article 6 of the Convénio de Qualidade, insofar as it was triggered, evolved, or had effects occurring regardless of CTT's will and ability to control, impairing the normal conditions of sorting, transport and distribution of postal items of correio normal and correio azul;
- vi) That, in accordance with article 10 of the Convénio de Qualidade, CTT is required to send to ICP-ANACOM quarterly reports, by the end of the month following the end of the quarter, with the evolution of values achieved for the QSI, to enable the monitoring of those values,

the Management Board of ICP-ANACOM, in exercise of the assignments conferred by points b), d), h) and n) of paragraph 1 of article 6 and point b) of article 26, all of its Statutes, as approved by Decree-Law No 309/2001 of 7 December, and pursuant to paragraph 5 of article 6 of the Convénio de Qualidade governing the Universal Postal Service of 10 July 2008, as amended on 10 September 2010, hereby determines:

1. To approve the discounting of the inputs covering distribution of correio normal (non-priority mail) and correio azul (priority mail) directly impacted by the general strike held on 22.03.2012, in respect of distribution of correio normal and correio azul, on the following national routes and in the following periods:

- i) correio normal sent from 19 to 22 March (inclusive) on all national routes;
- ii) correio azul sent on 21 and 22 March (inclusive) on Mainland routes;
- iii) correio azul sent from 20 to 22 March (inclusive) on CAM routes (Mainland, Azores and Madeira).

2. To order CTT:

- i) To send to ICP-ANACOM, within fifteen working days:
- the annual QSI values for the 1st quarter of 2012, obtained with and without these discounted inputs;
 - Detailed information on each inputs discounted by CTT in the calculation of the respective QSI, namely: mail item identifying code, expected and actual routing date, mail item origin and destination, distribution date, transit time;
- ii) To submit to ICP - ANACOM, when calculating QSI figures for the whole year of 2012, annual QSI figures achieved with and without these discounted inputs, as well as a copy of the database used to calculate the QSI defined in the Convénio de Qualidade, with and without inputs discounted in 2012 by application of the present decision.