

government intervention.

44. As indicated in footnote 46 on page 17 of Canada's First Submission, the Canadian and international commercial categories of rates have been set by Canada Post outside of the regulations since March 1994 and March 1992, respectively. Non-subsidized publications formerly subject to the rates set out in the *Newspapers and Periodicals Regulations* are now subject to commercial Canadian Publications Mail and International Publications Mail rates, respectively, which are established and approved by Canada Post senior management. They are not established by Canadian Government regulations.³¹

45. Canada Post is a corporation with a distinct legal personality. It can contract separately from the Government. It contracts with the Government for the supply of postal and other services. The Corporation is obligated to pay corporate income tax to the Government on its revenues.³² Contrary to U.S. assertions, employees of the Corporation are not employees of the Government. Indeed, section 12 of the *Canada Post Corporation Act* authorizes Canada Post to hire employees, fix the terms and conditions of their employment and pay them their remuneration. The statutory regime³³ applicable to employees of the Government does not apply to employees of Canada Post, whose employment conditions and labour relations are governed by the same provisions of the Canada Labour Code that apply to the federal private sector.³⁴ Furthermore, if Canada Post employees had government employee status, there would have been no need to include a special "deeming" provision in the Act in order to preserve employees' pension rights at the time of the creation of the Corporation. The above attributes are certainly not those of a corporation over which the Canadian Government maintains a "hands-on" level of administrative control as the United States would like the Panel to believe.

46. The degree of control that the Government exercises over Canada Post's commercial operations is one dictated by the Government shareholder's interests. The Government

³¹ Exhibit P of Canada's First Submission is an amendment to the *Newspapers and Periodicals Regulations* published in the Canada Gazette. The amendment approved the removal of the Canadian non-subscriber publications rate (rate code 4) from the regulations. Exhibit Q is another amendment to the *Newspapers and Periodicals Regulations* which approved the removal of the international publications rate (rate code 5) from the regulations. As stated in the Regulatory Impact Analysis Statement, which accompanied the amendments, these items are now subject to commercial rates (which are set by the Corporation). Paragraph 44 addresses issues raised by the Panel in Question 14.

³² *Income Tax Regulations, amendment*, SOR/94-405 (Exhibit F).

³³ Employees of the Government are appointed by the Public Service Commission under the unique provisions of the *Public Service Employment Act*. Employment conditions and labour relations are governed by the *Public Service Staff Relations Act* and the *Public Service Employment Act*.

³⁴ The federal private sector includes such industries as banks; interprovincial trucking, radio, television, railways, ports and the aeronautics industry.