



TRADE AGREEMENTS: LONG-TERM OBJECTIVES OF THE EXPRESS DELIVERY INDUSTRY

This paper summarises the Global Express Association's long term objectives regarding the treatment of express delivery services in trade agreements (whether bilateral, regional, plurilateral or indeed multilateral).

The GATS has proved useful in bringing legal certainty to service providers, and GEA is hopeful that further commitments will be made under it. In addition to GATS, bilateral and regional trade agreements have been negotiated and new approaches are being discussed and explored between negotiating parties.

The GEA leaves it up to negotiators to determine the most appropriate form of the negotiations but invites them to consider the following elements when doing so. Regardless of the form a negotiation takes, the most important objective is to secure strong commitments for the express industry.

Main objectives: Market Access, Legal Certainty and Trade Facilitation

The industry's prime expectations from trade agreements are:

- Increased market access for its services in as many markets as possible.
 - Through increased market access, the express delivery industry seeks to improve its ability to serve the needs of its customers, and in so doing increase their ability to compete in global markets.
- Legal certainty for its investments and services in those markets: clear and stable rules governing investments and the provision of such services in those markets.
 - Where these services are already allowed (either in practice or under national laws), trade agreements should bind this practice so as to increase the level of legal certainty for service providers.
- Trade facilitation measures: The provision of express delivery services is contingent upon the ability to guarantee expedited delivery. This is highly dependent on government-controlled services affecting pre-clearance, inspection, release, and secure trade.



Service definition / classification

The UN classification system no longer accurately covers the express delivery sector. In the UN classification system (used in the GATS for instance) our industry falls under the 'postal and courier' category. However, business and markets have moved on significantly since the GATS came into force. Today, neither of the current UN CPC classification headings captures such services accurately.

Furthermore, many countries have allowed express delivery providers to operate in their countries (sometimes with full market access), but have not entered any commitments under 'postal and courier' in the GATS.

There are different options regarding market access:

- One (under a "positive list" approach) would be to open the market to a combination of services that are required in order to run a modern logistic supply chain (such as trucking, warehousing, express delivery services, handling of cargo, freight forwarding, etc.). This would require a specific schedule of various related services (sometimes referred to as the "bundle" or "checklist" approach).
- Another possibility would be to open a market to the provision of cross-border services generally and only define, clearly and narrowly, exceptions to that general rule (referred to as the "negative list" approach, and usually the preferred one because the assumption is that everything is covered unless explicitly excluded).
 - As far as EDS is concerned, these exceptions generally relate to the parties' universal postal service, distinct from express services.

Apart from the out-dated CPC, there is no internationally agreed definition for express delivery services. Under the 'negative list' approach described above, there is no need for one and under the 'positive list' approach above, each member – as per the scheduling guidelines, can use its own definition, as long as it is clear what is covered by the commitment.

We recognize that there may be a third, or "hybrid" option, which utilizes elements of both "positive" and "negative" lists approaches. In fact, the GATS itself represents a "hybrid" approach. As long as the resulting commitments are strong, any of these approaches can be effective.

Trade agreements are an opportunity to ensure a distinction between universal postal services and express services

The express delivery industry does not question the right of foreign governments to maintain exclusive rights for national postal administrations to provide basic postal services for letters. However, these exclusive rights should not encompass express delivery services.



The negotiation of a trade agreement provides an opportunity for a country to review its postal policy and make sure it continues to be consistent with its overall economic growth and competition objectives.

The objective should be for a country to make sure that its postal policy achieves its results in terms of a basic universal postal service while avoiding unnecessary burdens on express delivery services which are key for global supply-chains and for ensuring the country's competitiveness and growth targets.

In general, a trade agreement should ensure that

- The express delivery industry's ability to provide express services is not limited
- There is a level playing field for express services whether provided by public postal administrations or by competitors.

Where certain postal services are excluded from market access in the trade agreement, the exclusion should be defined as narrowly and clearly as possible, for instance by using reasonable price/weight criteria that allow private delivery firms to provide value-added services outside of the reserved area

- For example: Letters up to 50 grams or tariffs under 2.5 times the basic tariff are excluded. A reasonable combined price/weight multiple is key to exclude express services from the postal monopoly. In addition, all providers of express delivery services should compete on an equal footing.

Competition provisions

Trade agreements should also oblige the contracting parties to have a regulatory framework that :

- Prevents anti-competitive practices that could result from cross-subsidization from monopoly or market-dominant segments.
- Ensures that operators do not abuse their dominant position in a market to alter competitive conditions.

Licensing regime

Preferably, no special licenses should be required for express delivery services.

- Where they are required, the trade agreement should specify that the licensing process is to be public, transparent and based on objective criteria, and should not represent a disguised trade barrier or other form of discrimination.



- Express delivery services should not be made subject to postal licenses that may be required from providers of universal postal services and should not be made subject to contributions to a universal postal service fund.

Independent postal regulator

Express delivery services need no special postal regulation as they are already amply covered by general business regulations such as transport, consumer rights, commercial law, etc.

- Where a country believes it necessary to regulate express delivery services, the trade agreement should specify that the regulator will be independent and not any national providers of similar services or the post office.

Foreign Direct Investment

Express Delivery Services work best when the companies control the supply chain from end to end, that is, not only between two countries but also inside them. This requires an express delivery company to be able to own and control companies in the territory of the country where the service will be delivered.

A trade agreement should lift all restrictions on foreign ownership of companies in the services sector ancillary to the provision of express delivery services.

Global Express Association

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