



Discussion Paper on Express Delivery Services

February, 2010

As the World Trade Organization prepares to update its 1998 paper on Postal and Courier Services (S/C/W/39) and as negotiations on the Doha Development Agenda embark on their 9th year the members of the Global Express Association offer this paper to further inform the discussion regarding global express delivery services and to lay out the negotiating objectives of the industry and the rationale for meaningful progress in the negotiations.

Doha Development Agenda

The Express Delivery Services (EDS) industry has been a strong supporter of the Doha Development Agenda since its inception. The EDS industry operates in 220 countries and territories around the world. We share the view of many WTO Members that the DDA can and should be a Win-Win-Win situation where increased trade in goods opens opportunities for services suppliers to deliver the benefits of quality and value to global consumers.

The express industry has three primary objectives in the DDA: 1) increasing global trade opportunities and market security for our customers that produce and export goods, 2) securing WTO market access commitments and legal protections for the express delivery sector, and 3) facilitating the movement of goods across borders through an ambitious outcome in the DDA Trade Facilitation negotiations. This paper will focus on the second of those objectives, achieving meaningful market access commitments in the express delivery sector.

Our sector is pleased that express delivery services (EDS) is included as one of the main negotiating tracks within the Services negotiations. Like many other service sectors, however, the industry is disappointed in the lack of overall progress in the DDA, and especially in the Services negotiations.

During 2009, however, there was a notable spike of political attention on services, as evidenced by the Services Signaling Conference in July 2008. While the Conference itself did not produce specific and tangible results, it succeeded in drawing Ministerial attention to services for the first time in many years. Other events, such as the Services Summit in October of 2009 in Washington, D.C. have underscored the now widely acknowledged fact that in order for the DDA to conclude it will need a strong outcome in the services negotiations. As EDS is one of the main negotiating tracks within the services negotiations, the DDA will need to show results in this growing and economically important sector in order to secure sufficient political support for the DDA agreement in key Member countries.

The purpose of this paper is to demonstrate that WTO commitments in EDS will help WTO Member countries attract investment and improve their economic performance; that EDS commitments need not impact a WTO Member's reserved postal services; and that WTO commitments are necessary to ensure fair competition and to prevent future roll-backs of market access for the express industry. It is also important to point out that while EDS are value-added services that are fundamentally different from basic postal services, many of the regulatory challenges and threats faced by the express industry result from the changing environments faced by postal administrations.

The Changing World of Postal and Express Delivery Services

Much has changed since the WTO published its first paper on Postal and Courier Services in 1998. At that time many of the technological and business trends that have changed the way world economy operates were still emerging. The volume of electronic mail in the U.S. had just surpassed the number of letters delivered by the US postal service.

Since 1998 there have also been fundamental changes in the postal and related physical delivery service sectors around the world. Traditional letter mail volume carried by postal operators has declined while the volume of low-weight, high-value shipments carried by the express industry has increased dramatically. As a result, posts are increasingly expanding the products and services they offer, including express mail services ("EMS"), in order to improve their financial position. This has increased the areas of competition between posts and express operators, but it has also generated new models of cooperation between the two sectors that can produce real benefits for postal and express operators, as well as for consumers.

Many countries are embracing the new market realities and are making their postal services leaner and more competitive through corporatization or privatization. Some countries, notably those in the European Union, have decided to liberalize completely their postal markets by removing legal monopolies (reserved areas) traditionally enjoyed by posts and opening the entire market up to competition. These more liberal reformers have determined that the potential gains in terms of enhanced economic competitiveness and greater consumer choice outweigh the benefits of defending the status-quo.

Other countries are not prepared to go that far and instead are focusing on measures to support the traditional role of the incumbent postal operator. Some of these reforms are well designed and attempt to balance the desire to maintain a national postal operator with the need to promote a vigorous private delivery market to fill demand not served by the post.

A number of other countries however have embarked on regulatory changes characterized by expanded monopolies, overly burdensome regulation of competitive delivery markets, discriminatory taxes, and restrictive foreign investment policies for the express delivery sector. These more defensive types of reform may appear to be a “quick fix” to a struggling incumbent postal operator but they take a larger toll on the competitiveness of the country’s economy by reducing consumer choice and placing unnecessary burdens on the more efficient EDS business. In light of the potentially trade-restrictive direction of some of these more defensive approaches, WTO commitments in EDS are important to the industry and their customers around the world.

The Express Delivery Industry Today

The express industry was created just over 35 years ago to meet the demand for expedited delivery services that national postal operators could not provide. The sector has grown and prospered since then because it continues to serve the ever-growing demands of its customers. But even as late as 1998 when the WTO published its paper on Postal and Courier Services, there was no comprehensive data on the size, scope and economic impact of the express industry. In an effort to better document the express business the industry undertook several economic studies over the past decade to highlight the economic impact it was generating. The industry commissioned several national and regional studies in Europe, Latin America and Asia. The first global assessment was completed in 2005. The industry updated that report with its 2009 report entitled The Impact of the Express Delivery Industry on the Global Economy.

The 2009 report characterized the industry as follows: “Express operators provide guaranteed, fast, reliable, on-demand, world-wide integrated, door-to-door movement of shipments which are tracked and controlled throughout the journey. It organizes collection, usually at the end of the business day, allows the sender access to information on the progress of the shipments from pick-up to delivery and provides proof of delivery. Where shipments cross international borders, the express industry handles customs clearance as well as the payment of duties and taxes as required.”

The characteristics that make EDS different from basic postal services include: greater speed and reliability, person-to-person delivery, end-to-end control by offering for instance the ability to change the destination en route, track and trace, customer service, time-definite delivery, customs clearance, global and fully integrated multi-modal networks.

The express industry is made up of many national, regional and global players, the largest of which are DHL, FedEx, TNT and UPS. The express industry remains one of the fastest growing sectors in the world economy and is growing faster than world trade. As of 2008 the industry employed roughly 1.3 million people with estimated global revenues of US\$175 billion. It made a direct contribution to the world GDP of US\$80 billion in 2008.

The drivers of this growth parallel the drivers of the modern global economy: increased specialization, just-in-time manufacturing, increased global trade and an explosion of innovative, high-tech, high-value-added goods that depend upon fast and reliable transportation. But the express industry does not just benefit from these trends, it enables them. The modern, specialized, globally disbursed manufacturing model, and the expanding world trade that it generates, would not be feasible without the global delivery networks provided by the express industry. Indeed, the gains to be enjoyed from lower tariffs and other barriers to trade that the DDA promises cannot be fully realized without the efficient transportation networks that are required to carry that increased trade.

The quality and efficiency of a country’s transport and logistics infrastructure, including EDS, is also an important factor in attracting foreign direct investment. One of the critical factors that high-tech companies look for in assessing new investment opportunities in developing countries is the degree of connectedness between that country and the company’s major supplier and global markets. Speed and reliability of the transportation linkages are of critical importance to these companies so countries seeking to attract investment in these high-growth sectors must have direct access to these global express networks. This is also true for many other fast growing industries such as pharmaceuticals, biotech, automotive, apparel and others. Major service industries such as finance, banking and architecture also rely heavily on express document delivery services.

EDS is also a critical enabler of small and medium size enterprises or SMEs. Whether it’s a cheese shop in Paris, a crafts maker in Cambodia or an auto parts maker in India, a small business with access to the internet and express delivery can compete in the global

marketplace. The advent of specialization and global supply chains have opened up huge opportunities for SMEs in countries that up until 10 years ago had little chance of building and growing an international business.

Private express delivery services are thus an increasingly important part of the modern economy. Their services connect consumers and producers across the globe and open opportunities for businesses small and large, and improve the competitiveness of the countries where they operate.

EDS Objectives

The primary objective of the industry, whether in the context of domestic postal reform or in the DDA negotiations has always been very simple – to preserve and improve its ability to serve the needs of its customers, and in so doing improve their ability to compete and grow their business. The industry's view is that whatever a nation's goals are with respect to its national postal service, it should avoid limiting the growth and vitality of the express delivery industry and ensure a level playing field where private operators compete with public postal providers.

The express industry does not question the right of any foreign government to maintain exclusive rights for national postal administrations to provide basic postal services for letters. The express industry does not seek to provide basic letter mail service. The industry does desire to continue to meet the market's demand for a high-value-added express service for which its customers, small and large businesses, are willing to pay a premium.

The industry's main message on postal reform for the purposes of this paper is that governments should ensure that postal reform efforts undergo a thorough review by ministries responsible for finance, economy, trade and others to ensure that postal reform is consistent with the country's overall economic growth and competitiveness objectives. The objective of any reform should be to achieve the desired results for the postal administration while avoiding unnecessary burdens on global supply-chains and ensuring the vitality and growth of the express delivery sector. Furthermore, prospective postal reform need not be an excuse to avoid EDS commitments in the DDA. Indeed, EDS commitments can be undertaken consistent with postal reform and can even reflect important principles and best-practices drawn from other reform efforts.

Express Delivery Services in the DDA.

The Hong Kong Ministerial Declaration adopted on 18 December 2005 established objectives for the Services negotiations for cross-border and commercial establishment modes of supply including respectively commitments at existing levels of market access on a non-discriminatory basis and enhanced opportunities for equity investments and ownership by foreign services companies. Binding existing market access for cross-border services trade has therefore already been set as a goal by Ministers as the minimum outcome for the services negotiations. The industry urges WTO Member countries to live up to this commitment and bind existing market access that they already grant to the express delivery sector. This binding should cover both national treatment and full market access disciplines. Given that international EDS providers are already offering their services in most WTO Member countries binding this existing access will have little commercial impact on domestic providers.

However, where market access restrictions do exist in the private EDS sector, such as FDI limits, Member countries are strongly encouraged to commit to reducing or eliminating those restrictions, possibly subject to a reasonable phase-in period, consistent with established Ministerial guidance. Allowing international EDS operators to own and operate their local businesses ensures the greatest possible service quality and encourages increased inward capital investment.

One of the challenges faced by the express industry in the DDA process is that it has never had its own classification like most other established service sectors. Nor has the nature of the industry been well understood by policy makers and trade negotiators. This has created several challenges for the industry. First, it has led to inconsistent regulatory treatment, including efforts by some countries to regulate EDS as though it were a postal service; second it has led to gaps in legal protections within the WTO scheduling regime; and third, it has contributed to the lack of progress in securing new WTO commitments within the DDA negotiations.

The express industry has worked diligently with WTO Members over the past several years to clarify the treatment of EDS within the WTO services classification system in order to achieve more reliable WTO coverage for our sector. Currently, the delivery services are classified under two headings of the UN provisional Central Product Classification (CPC) system: 7511 relates only to “postal” services “as rendered by the national postal administration,” and 7512 covers “courier” services that are rendered by courier “other than by the national postal administration.” The difficulty with these two classifications is

that they focus on the nature of the operator rather than the nature of the service provided. As a result, they do not reflect the fact that posts increasingly compete alongside express operators, and they do not necessarily ensure fair competitive terms between postal and express delivery operators.

The industry hopes that the DDA negotiations will resolve this anomalous situation and provide the sector with a set of firm WTO protections in global markets. Several countries, including the European Union, Japan, New Zealand and the United States, have made a collective request in the DDA for commitments on EDS. The US and the European Union have each submitted revised classification proposals for EDS in order to better define express delivery services. The collective request countries have issued a guidelines document to facilitate WTO Members' internal debate and consideration with respect to making commitments on EDS.

These co-sponsors of the collective request have also developed a set of additional commitments that countries are encouraged to make in order to ensure fair competitive conditions where public and private operators compete and to attract increased investment in the EDS sector. In order to provide greater legal certainty, WTO Members are encouraged to provide a clear statement somewhere in their schedule that the EDS commitment, "subject to any limitations, shall apply to all competitive services and service suppliers, including holders of postal monopoly rights if they should compete in the schedule service."

Making EDS commitments need not have any impact on a Member's reserved postal regimes or universal service obligations. A CPC 7512 or other EDS commitment does not in any way obligate a WTO Member to open up reserved postal sectors to competition. EDS Commitments simply afford the private express industry with assurances that their existing markets will remain open in the future. Additional commitments in the DDA should be undertaken to confirm that if a monopoly postal operator decides to offer a service in the competitive arena, like EMS, the terms of that competition will be fair and non-discriminatory.

It is important to point out that use of the CPC classifications is not mandatory for WTO Members. Members are free to schedule commitments without reference to the CPC, as long as the schedule is clear in terms of the description of the service, the commitments involved and any reservations to those commitments (i.e. a clear description of services

currently reserved to the postal operator). The industry recognizes that some WTO members may be hesitant to discard the CPC system. But given the weakness of the current CPC classification with respect to EDS, alternative classification schemes should be considered. Even when Members wish to retain the CPC heading, they should work with demandeur countries to design commitment language that reflects modern commercial realities and provide clear legal protections for the industry. Precise and detailed scheduling will also provide greater confidence to WTO members that their commitments will accurately reflect their true intentions.

Conclusion

The express delivery industry has become a critical component of the modern, globalized economy. Global EDS networks provide companies small and large fast and reliable connections to their suppliers and customers around the world. These services are increasingly important to a country's overall competitive position in today's global supply chains. Members therefore have a strong interest in encouraging and supporting competition and investment in EDS.

The DDA presents an excellent opportunity for WTO Members to improve their economic competitiveness by making full EDS commitments as part of their WTO Services offers.