



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

This paper summarises the Global Express Association's (GEA)¹ long term objectives regarding the treatment of express delivery services (EDS) in free trade agreements (whether bilateral, regional, plurilateral or indeed multilateral), trade frameworks, and other sector- or issue-specific trade initiatives (collectively referred to as trade agreements in this paper).

The World Trade Organization's General Agreement on Trade in Services (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, trade agreements have been negotiated and new approaches, such as trade frameworks and sector- or issue-specific negotiations, 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 in as many of the areas mentioned below.

Market Access

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.

Express Delivery Services work best when the companies manage their supply chains 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 operate in the territory of the country where the service will be delivered.

In order to enable such operations, a trade agreement should lift all restrictions on foreign ownership of companies in services sectors necessary for the provision of express delivery services, including ancillary services, as more fully discussed below.

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.

¹ The Global Express Association represents the three leading express delivery carriers (DHL, FedEx and UPS).

Approach to Market Access Negotiations

The UN CPC 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.

The lack of an internationally recognized definition of express delivery services presents differently, depending on the different options for committing to market access in trade agreements:

- One option (under a “positive list” approach) would be to open the market to a [combination of services](#) that are required 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). APEC has suggested a definition of ‘logistics-related services’² to facilitate further discussions on this issue.
- Another option 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’ postal monopolies and/or universal postal service, distinct from express services.

Under the ‘negative list’ approach described above, there is no need for an internationally recognized definition.

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 and reflect that modern logistics require market access to a bundle of various services, any of these approaches can be effective.

² See APEC Ministers Responsible for Trade, Statement of the Chair ([Annex A](#)), Bangkok, Thailand, May 2022

Trade Facilitation

The provision of express delivery services is contingent upon the ability to guarantee expedited delivery. This in turn is highly dependent on the efficiency of border authorities in areas such as pre-clearance, targeting and inspection, revenue collection, and release of shipments.

The World Trade Organisation's Agreement on Trade Facilitation (TFA) provides an internationally agreed baseline in this area. Initially, TFA signatory States should focus on an ambitious, full implementation of the treaty, including so-called 'best endeavours' clauses. To that end, they should avail themselves of the opportunities for technical and financial assistance the treaty makes possible.

Governments should also work towards a fully electronic, [paperless](#) environment for cross-border trade regardless of the size, weight and value of the shipment, or the mode of transport used to convey it. Trade agreements should build on the TFA baseline by including trade facilitation commitments that address new areas (like paperless trade) or improve upon existing disciplines.

Clearly distinguish universal postal services and express services

The express delivery industry understands the need for some foreign governments to maintain exclusive rights for national postal administrations to provide basic postal services often called universal postal services. 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 ensure a basic universal postal service while avoiding unnecessary burdens on express delivery services, which are key for global supply-chains and for the country's competitiveness and growth targets.

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 quantitative price/weight criteria that allow private delivery firms to provide value-added services outside of the excluded area/services:

- 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 any postal monopoly.

Competition provisions

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

- Prevents anti-competitive practices including those that could result from cross-subsidization from monopoly or market-dominant segments to the services provided by national postal operators in direct competition with express delivery companies.
- Otherwise ensures that operators do not abuse their dominant position in a market to alter competitive conditions.
- In line with the [WTO's Reference Paper on Services Domestic Regulation](#), ensures that any authority responsible for regulating express or courier service providers is independent from any supplier of similar services and the procedures and decisions of the authority are administered in a transparent, impartial and non-discriminatory manner.

Licensing regime

Preferably, no special licenses should be required for express delivery services, who are already subject to general business licensing regimes and other applicable licensing regimes relevant for the express delivery sector such as for example in the areas of transport or customs.

- Where they are required, the trade agreement should align with the [WTO's Reference Paper on Services Domestic Regulation](#). In particular, it 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 for providers of universal postal service, nor should they be subject to make contributions to a universal postal service fund.

Geneva, May 2024