

## COMMUNICATION FROM THE UNITED STATES

### Express Delivery Services

The attached communication has been received from the delegation of the United States with the request that it be circulated to Members of the Council for Trade in Services.

#### I. INTRODUCTION

1. The United States presents this proposal on express delivery services for consideration of all WTO Members. It is intended to stimulate discussion and liberalization of this important sector in the world economy.

#### II. IMPORTANCE OF EXPRESS DELIVERY SERVICES

2. The world market for express delivery services, a multibillion dollar market, is projected to grow rapidly over the next several years, partly fueled by the increasing use of online purchasing by businesses and consumers and the need for vendors to match the speed of electronic ordering with rapid physical delivery. The express delivery industry is deeply engaged in the supply chains that have become an integral part of consumer and industrial product manufacturing and marketing. These supply chains constitute an essential feature in the infrastructure of modern economies, connecting businesses and customers around the world, moving hundreds of thousands of packages and documents daily, and employing hundreds of thousands of workers worldwide. Consumers benefit, not only from speed of delivery, but from lower costs, resulting from efficiencies of operation. Innovations such as overnight deliveries and time-definite deliveries have spurred global competition both by private carriers and by traditional national postal administrations.

#### III. PURPOSE

3. Modern economies require capabilities to move goods between and among manufacturers, wholesalers, retailers, and the consuming public expeditiously and cost-effectively. The most efficient economies, where consumers enjoy high standards of living, a wide selection of consumer goods, and low consumer prices, are those in which the distribution sector is competitive and has been left relatively free of burdensome regulation and barriers to investment and market entry.

4. The purpose of this proposal is to help create conditions favorable to economic growth and trade by removing and reducing obstacles to the establishment and operation of facilities needed for efficient movement of goods and services to businesses and individual consumers. Doing so will lead to increased production and employment in the local economy.

#### **IV. SECTOR COVERAGE**

5. Express delivery services are not separately identified in the informal WTO classification list (W/120). This industry, which is relatively new and is especially significant in terms of revenues and employment worldwide, merits its own classification. It goes beyond courier services, which is one of the classifications under “communications” in the WTO classification list. Courier services consist mainly of messenger services: messages and packages carried by personal messengers. Although in some respects, postal services (another classification under “communications”) include some “products” which compete with express delivery services, many WTO Members classify postal services separately because they are performed by postal administrations. The Central Product Classification system (CPC), used by numerous countries, generally classifies services performed by postal administrations separate and apart from any other services.

6. Under the U.S. classification proposal, currently under review in the WTO Committee on Specific Commitments (CSC), the WTO classification list for “communications services” would consist of six categories: (1) telecommunications; (2) postal services; (3) courier services; (4) express delivery services; (5) audiovisual services; and (6) “other.” At present, only the fourth is not listed under the WTO “communication services” heading.

7. Proposed Definition: Express delivery services are time-sensitive, utilize advanced technologies for communication, and are integrated or controlled from end-to-end. Express delivery services consist of the expedited collection, transport, and delivery of documents, printed matter, parcels, and/or other goods, while tracking the location of, and maintaining control over, such items throughout the supply of the service. Services provided in connection with express delivery services include, but are not limited to, customs facilitation and logistics management. Customs facilitation consists of practices and procedures used to avoid delay of customs processing or to obtain rapid release of shipments, while satisfying customs requirements. Logistics is the process of planning, implementing, managing, and controlling the flow and storage of goods, services, and related information from the point of origin to the point of consumption. Express delivery services may include one or more value added elements, such as collection from an address designated by the sender; release upon signature; guarantee of delivery within a specified time; electronic and/or other advanced technologies; and ability of the sender to confirm delivery.

8. Express delivery services do not include (1) services to which the Annex on Air Transport Services applies; (2) services supplied in the exercise of government authority, as defined in GATS Article I:3; or (3) maritime transport services.

#### **V. PROPOSAL**

9. This paper proposes discussion of various aspects of an open regime in the express delivery sector. This would entail countries considering to apply existing GATS market access and national treatment disciplines, as well as additional GATS disciplines addressing sector-specific regulatory issues, including transparency and fairness of administration. Consistent with the provisions of the GATS, governments would retain the right to regulate to meet domestic policy objectives.

10. The paper proposes that WTO Members (1) adopt the above definition of express delivery services; and (2) consider formulating commitments on express delivery services based on the following list. In formulating commitments, Members could consider inscribing in their schedules “no limitations” on market access and national treatment. Further, the paper proposes that Members consider undertaking additional commitments relating to regulation of this sector.

11. This proposal is not presented as a legal text, but rather as a list of obstacles identified in reviewing this service sector. Some items on the list may be market access restrictions, or national treatment limitations, or both. In addition, some obstacles, although not limitations on market access

or national treatment *per se*, may result from regulatory provisions or other measures which make it difficult for foreign suppliers to market their services.

Obstacles in this sector

- Local equity requirements in excess of 49 percent
- Limitations on the purchase or rental of real estate
- Economic needs tests for service suppliers in this sector
- Mandatory requirements for partnerships and other cooperative arrangements with locals as a condition for establishment and, in other cases, denial of opportunity to form partnerships and other cooperative arrangements with locals on a voluntary basis
- Denial of permission for service suppliers to enter into and exit from joint ventures with local or non-local, private or government partners
- Discriminatory treatment with respect to the scope of business and transportation licenses that may be required
- Lack of transparency of domestic laws and regulations and fairness of administration, including the lack of pre-determined, objective criteria for licensing requirements
- Exceptionally long delays when government approval is required, and, if approval is denied, no reasons are given and no information is given on what must be done to obtain approval in the future
- Restrictions on the geographic scope of operations of an express provider within a Member's territory
- Denial of access to government programs available to domestic service providers
- Discriminatory tax treatment for foreign suppliers
- Discriminatory treatment for foreign suppliers with respect to choice of form of business organizations available to domestic suppliers
- Discriminatory treatment for foreign partners in a joint venture
- Restrictions or excessive fees/taxes on international currency transactions
- Restrictions or excessive fees/taxes on licensing or royalty payments
- Denial of access to, and use of, facilities essential to this sector (e.g., highways, airports, railroads) on reasonable and non-discriminatory terms and conditions
- Denial of access to radio frequencies for express delivery operations
- Lack of readily available information on zoning and lack of an opportunity for service suppliers to meet with local officials and community representatives to discuss location of facilities

- Discriminatory treatment with respect to size, configuration, and/or location of terminals, warehouses and other facilities and denial of authorization to such facilities under prescribed conditions (e.g., warehouse access for goods in transit)
  - Restrictions on the geographic scope of operations of an express service provider within a Member's territory
  - Lack of consumer choice in selection of delivery services
  - Inability to expedite delivery service through adoption of rapid release customs procedures for express consignments for which immediate or expedited release is requested
  - Minimum requirements for local hiring
  - Lack of means to facilitate temporary entry and exit of specialized, skilled personnel (including managers)
  - Cross-subsidization of express delivery services by suppliers granted special or exclusive rights by a Member in another service sector
  - Licensing of or imposition of taxes or levies on express delivery service providers by entities that compete with express delivery service providers
  - Discriminatory treatment with respect to customs-related activities affecting the provision of express delivery services.
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