



**COMMENTS BY FEDERAL EXPRESS CORPORATION
REGARDING THE PREPARATIONS FOR THE FOURTH MINISTERIAL
CONFERENCE OF THE WORLD TRADE ORGANIZATION,
NOVEMBER 9-13, 2001 IN DOHA, QATAR**

May 10, 2001

Federal Express Corporation ("FedEx") appreciates the opportunity to submit these comments in response to the U.S. Trade Representative's ("USTR") solicitation of public comments regarding the U.S. objectives and preparations for the upcoming meeting of the World Trade Organization ("WTO") Ministerial Conference in Doha, Qatar, on November 9-13, 2001. 66 Fed. Reg. 18142. This document supplements our past submissions concerning the treatment of express delivery services in the various WTO negotiations.

The sections below describe the issues FedEx would appreciate the U.S. Government including in its objectives for the Ministerial. Specifically, FedEx believes that it is paramount to the express delivery services industry that the U.S. negotiate: 1) a proper classification and definition for express delivery services; 2) facilitation measures which will streamline and expedite the clearance of goods through Customs; 3) an end to the trade barriers negatively affecting the industry worldwide; and 4) competition policies which prevent anti-competitive behavior by bodies such as national postal administrations. Although we understand that the Air Transport Annex ("ATA") of the General Agreement on Trade in Services ("GATS") was not included in the final draft of the GATS negotiating guidelines (an action that FedEx supports), FedEx has nonetheless provided its position regarding the ATA.

Importance of Express Delivery Services in a Global Economy

In today's speed-driven global economic context, express delivery services have become a critical element of the global trade infrastructure. Express delivery services include fast and reliable pick-up, transport, and delivery of a wide variety of documents and/or goods of all sizes and weights on a door-to-door, integrated, and time-sensitive basis. They are also inextricably intertwined with four fundamental macro-economic forces at play in international trade today:

- Growth of high-tech, high-value goods
- Integration of the global economy

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- Widespread adoption of fast-cycle logistics
- Continued evolution of e-commerce

Although U.S. economic output by weight has barely changed in the past half-century, its value has increased fivefold. It is therefore quite significant that even though international air cargo may account for about 2% of the tonnage moved, it moves over 40% of the total value of those goods.

Moreover, world trade in goods and services is growing faster than the aggregate world GDP. Indeed, if not for growth in international imports and exports over the past two decades, economies of almost every industrialized country would be flat or declining. It is express delivery services that bring together distant sellers and purchasers, bridging global supply chains, and contributing directly to this growth.

Through the use of global networks, the express delivery services sector has become part of a major revolution in manufacturing. Businesses are increasingly turning to fast-cycle logistics or just-in-time manufacturing to take time and cost out of the supply chain. While these concepts are not new, express delivery services have transformed them. Production processes are now based upon securing parts and raw materials on an as-needed basis, and the need to maintain inventories with associated high administrative, warehousing, and labor costs is reduced or eliminated.

Electronic commerce is also a major factor in international trade. Together, the Internet and express delivery services define the electronic market. As such, express delivery services are vital to trade liberalization and trade expansion throughout the world.

Classification and Definition of the Express Delivery Services Sector in the GATS

What distinguishes express delivery services from those provided by traditional freight companies is that express delivery services consist of door-to-door, integrated, time-sensitive shipment of goods. That is, companies such as FedEx handle all aspects involved in express shipments, including pick-up of the item, ground and air transport, delivery, warehousing, distribution, customs brokerage and clearance, and the completion of all kinds of required administrative and customs procedures.

To achieve full trade liberalization, a proper and distinct classification for express delivery services is required. Presently, the WTO Services Sectoral Classification List ("W/120") contains separate sectors under "Communication" for "postal services" and "courier services" (express delivery services are classified as courier services). Based on the Central Product

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Classification ("CPC") definitions underlying W/120, both of these services are currently limited to letters, parcels, and packages. Moreover, the only difference between "postal" and "courier" is whether the services are being provided by a national postal administration. With the increase in privatizations of postal authorities or parts thereof, the distinction between postal and courier (e.g., public versus private mail services) has become increasingly unclear, and the liberalization of these sectors has become increasingly controversial. Neither postal services nor courier services capture express delivery services, especially as such services have evolved into critical infrastructure for e-commerce and for modern manufacturing techniques. Also, the courier services classification includes bicycle messengers, intra-city package deliverers, and on-board couriers. Needless to say, it is grossly impractical and unreasonable for express delivery services to be treated, for purposes of international trade negotiations, in the same context as a bicycle messenger service.

One of the supposed purposes of the GATS is to open market access for services sectors such as the express delivery services sector. However, because of the problems as discussed above, many WTO Members have simply chosen to either take limited commitments for courier services or have taken none at all. By reviewing the list of commitments by Members regarding the current classification of express delivery services, one can clearly see that Members are unwilling to make commitments under the current classification scheme in this area.

Therefore, FedEx endorses the following definition that is contained within the U.S. classification proposal to the WTO regarding express delivery services:

Express delivery services means: (i) 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; and (ii) services provided in connection therewith, including but not limited to, customs facilitation and logistics services. Express delivery services may also include 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. Express delivery services do not include (1) services which are excluded from the GATS by the Annex on Air Transport Services; (2) services supplied in the exercise of government authority as defined in GATS Article 1.3; or (3) maritime transport services.

This definition applies to any entity providing express delivery services, including national postal authorities in their capacity as commercial express operators.

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Negotiations in the express delivery services sector, based upon the definition above, must address all applicable services, and all applicable governmental measures, in one undertaking. This can only be accomplished under a sector-specific approach. Governmental measures that restrict trade in express delivery services are of such a diverse and complex nature that meaningful trade liberalization will occur only to the extent that sector-specific rules and principles are developed for the express delivery services sector. This means that the sector must receive sector-specific treatment/examination during the negotiations. Further, given the complex and technical nature of the sector, the development of rules and obligations requires participation by applicable non-governmental organizations and representatives of the private sector.

Customs Facilitation

FedEx has taken a two-track approach in dealing with the Customs facilitation issue. First, we believe that the issue should be covered by the GATS, as onerous barriers affecting our ability to clear items through Customs negatively affect our operations, and therefore our service. Also, many WTO Members have Customs regulations that are intended to benefit their national postal administrations that are also our competitors. Because these regulations are aimed at the service suppliers and not the actual clearance of goods, FedEx believes that the GATS should apply.

However, we are also cognizant of certain Members who believe that Customs facilitation is a "goods" issue, and is more appropriately covered by the General Agreement on Tariffs and Trade ("GATT"). Therefore, FedEx has been working in support of the Colorado Group, of which the U.S. is a member, regarding Customs and trade facilitation, and we have promised to continually provide real examples of trade barriers that negatively affect our operations.

Below is a list of facilitation measures that FedEx, and the express delivery services industry as a whole, believe will assist us in clearing items through Customs in an expedited and efficient manner. The implementation of these measures will also help Customs administrations operate in an effective manner.

- FedEx believes that Members should maintain appropriate measures to ensure efficient and fair Customs facilitation of goods that are imported and/or exported by express delivery services suppliers. At a minimum, such measures should require the relevant Customs administration or authority, with respect to such goods, to:

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- separate the physical control (admissibility and release) from the fiscal control (duty and tax payments, statistical reporting) by permitting release of the goods prior to completion of administrative requirements and giving the declarant the option to secure immediate or rapid release by filing entry data in advance of the arrival of the goods;
- have the legal authority and procedures to process essential control data in advance of the arrival of shipments;
- use reasonable selectivity criteria to identify shipments subject to physical examination thereby minimizing the percentage of physical exams;
- apply *de minimis* regimes whereby goods not exceeding specified values are exempted from import duties and taxes, and from formal declaration and entry. The initial specified values for triggering the *de minimis* regimes should be no less than those that were in effect in each Member's territory on January 1, 2000. These benchmark *de minimis* levels should be regularly reviewed and adjusted upward, and in no circumstances should the levels at which goods are exempted be reduced. In calculating the value of a good for purposes of this provision, there should be excluded all costs, charges, and expenses for the following: (1) transportation, insurance and related services incident to international transportation of the good from the country of exportation to the place of importation; (2) transportation after importation; and (3) services with respect to such good that are performed or to be performed after importation;
- accept data from express delivery services suppliers electronically in lieu of paper. With respect to developing countries that do not currently have the technical capability to accept such data electronically, such Members should undertake to implement this obligation within five years and to provide interim expedited procedures for data supplied via paper forms;
- require expedited customs procedures for those importers and exporters meeting certain compliance levels in the context of customs risk assessment systems, with the objective of focusing customs enforcement activities on high-risk goods while facilitating the clearance and movement of low-risk goods;

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- release goods at the express delivery services supplier's point of arrival without requiring their interim transfer to a government-operated or -designated warehouse other than an express delivery services facility;
- expand its regular working hours to correspond to ascertained commercial needs and operational requirements;
- provide for a single decision point at the time of import for Customs and other government agencies to perform their respective regulatory functions in a coordinated manner, and link all other agencies with a mandated regulatory function at the border to Customs automated systems and databases for targeting and risk-assessment purposes;
- fix, in the absence of any evidence of fraud, a reasonable limit on the time during which it can demand additional duties and/or redelivery of goods from an express delivery services supplier and/or user;
- maintain administrative and judicial tribunals and procedures for the purpose of the rapid review and correction of administrative action relating to customs matters. Such tribunals and procedures should be independent of the agencies entrusted with administrative enforcement and their decisions should be implemented by, and should govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed for appeals to be lodged by importers. Administrative appeals should be decided within a fixed time period and subject to review in a judicial tribunal;
- ensure that exports are not impeded by statistical reporting or recordkeeping requirements;
- establish standards for employee integrity in the administration of Customs and provide a mechanism for enforcing those standards, as well as mechanisms to prevent and punish bribery and corruption;
- give the importer the option to file entries himself or to use an authorized agent;
- to the maximum extent feasible, develop the use of non-intrusive examination techniques, such as X-ray; and

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- allow importers or their authorized agents to make a single filing covering all their importations in a given period, and replace transaction-by-transaction treatment with account-based, post-import procedures for importers with proven compliance histories and consistent import patterns (e.g., types of goods and origins).
- With respect to the implementation, administration and/or enforcement of laws, regulations or practices governing the import, export, processing, clearance or any other customs-related activity, each Member should accord to express delivery services suppliers treatment no less favorable than the Member accords, with respect to the provision of express delivery services, to any undertaking that has been granted special or exclusive rights.

Trade Barriers Affecting the Operation of Express Delivery Services

Unfortunately, the express delivery services sector's ability to provide efficient and reliable service is adversely affected by a large number of governmental measures. Given the integrated nature of express delivery services, a governmental measure that adversely affects a single service in the integrated chain of services effectively impedes the provision of express delivery services. The removal of impediments to the efficient operation of express delivery services will stimulate trade expansion and produce a dynamic effect on all international business sectors. Please see Attachment A for an illustrative list of barriers affecting the express delivery services industry worldwide. This list was provided to USTR by the Air Courier Conference of America ("ACCA"), of which FedEx is an active participant, on December 29, 2000 in connection with the preparation of the annual *National Trade Estimate Report on Foreign Trade Barriers* ("NTE"). Please note that this list is by no means exhaustive.

Competition Policy

In previous submissions, FedEx has explained that, in many countries, special or exclusive rights granted to public postal operators result in distortions in the international delivery services market that harm U.S. consumers generally and FedEx's customers in particular. Restrictions that provide preferential treatment or otherwise assist national postal authorities at the expense of private express delivery providers adversely affect the efficiency of the global delivery services network. Such restrictions result in a patchwork of regulations in national markets that affect public and private suppliers that are providing the identical service. Consumers are faced with less than optimal choices among inefficient providers and higher prices caused by unnecessary government intrusion into the express delivery services market.

To achieve meaningful trade liberalization in the GATS negotiations, special or exclusive rights for public postal operators should be limited to domestic postal services, and an independent regulatory mechanism should ensure that privileges at the national level do not infect the international operations of public postal operators. The following represent examples of important objectives that should be considered in developing disciplines relating to competition policy and national postal authorities:

- Profits from services provided by national postal authorities should not be allowed to cross-subsidize those services that compete with the express delivery services sector
- Parcel, express, and non-monopoly document services of national postal authorities should be fiscally separate from monopoly services and should be subject to the same laws and regulations imposed upon the private sector
- Taxation of private companies of the express delivery services sector should not be used to subsidize the services provided by a national postal authority
- Private sector companies competing with national postal authorities should not be subject to discriminatory fees
- Again, customs laws should apply equally to national postal authorities and private operators

The GATS Air Transport Annex ("ATA")

FedEx's Position Generally

FedEx believes that the ATA should remain in effect. Specifically, the ATA must remain in force with respect to air traffic rights. Air traffic rights were excluded from GATS coverage on the basis of a number of legitimate reasons based on international trade law, rules, and principles. That basis has not changed. In addition, developments in air transportation since the entry into force of the GATS do not warrant altering the application of the ATA with respect to air traffic rights. As noted in greater detail below:

- it is unlikely that negotiations on air traffic rights under the current structure of the GATS legal framework would result in meaningful trade liberalization
- there continues to exist an international organization that provides a high level of specialized expertise and regulation in air traffic rights

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- air traffic rights are intertwined with national and state concerns regarding national sovereignty, national security, and other activities traditionally reserved to the state under international arrangements
- the application of traditional trade rules and principles to the air traffic rights is inherently difficult, and in some instances impractical, due to the nature of air transport services, the manner in which the sector operates

Therefore, FedEx believes that the basis on which WTO Members based their consensus to exclude measures affecting air traffic rights from coverage under the GATS has not changed. In addition, liberalization has resulted, and trade dramatically increased under the existing bilateral air agreement regime, notwithstanding the application and operation of the ATA.

Regarding soft rights (*i.e.*, ground handling), we understand that a handful of Members would like for there to be greater liberalization. We have concerns with this viewpoint, some of which are embodied in the section directly below. The ATA also excludes from GATS coverage services directly related to the exercise of air traffic rights. FedEx emphasizes that this language was carefully negotiated by Members during the Uruguay Round, and continues to provide a useful standard for determining which activities are excluded from GATS coverage. Any discussion about including soft rights services in the GATS must be tied to the requirement that those services are not directly related to the exercise of air traffic rights. FedEx continues to believe that this standard was intended to be difficult to overcome. We are currently developing a position paper on the soft rights issue and will forward it to you as soon as it is completed.

Review of the ATA

FedEx urges WTO Members to ensure that utmost care is exercised in the current Review of the ATA. The international regulation of air transport through an efficient and effective bilateral, regional, and plurilateral regime should not be put to risk by prematurely introducing a new complex framework of regulations and exemptions. The Review of the ATA should be limited to a review of the operation of the ATA and an objective analysis of the implications of further application of the Agreement. Members should not prematurely propose negotiations on sectors affecting air transport without first conducting the review and analysis envisioned by the ATA and necessary to ensure the safety, efficiency, and stability of the air transport network.

Purpose and Function of the Review

The Review of the ATA is provided for under Paragraph 5 of the ATA, which states:

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“The Council for Trade in Services shall review periodically, and at least every five years, developments in the air transport sector and the operation of this Annex with a view to considering the possible further application of the Agreement in this sector.”

As we have stated, during the Uruguay Round negotiations, the negotiators recognized that the air transport sector, unlike other sectors, was already governed by a complex system of internationally agreed rules based on a myriad of bilateral, regional, and plurilateral air agreements. These negotiators decided that the GATS should not adversely affect this system and should expressly address the relationship between the GATS and the existing system.

The purpose and function of the ATA Review is to analyze developments in the air transport sector and operation of the ATA. In other words, the first step of the Review is to examine the interaction between the existing bilateral, regional, and plurilateral system, the ATA, and the GATS. The Review's objective is therefore first and foremost an analysis. While it is clear that this analysis in the context of the GATS/WTO system is done with a view to further liberalization in the sector, this must not be confused with a mandate to negotiate before and, worse, independent of the crucial analytical work that is the fundamental basis for the Review.

Attempts to “Renegotiate” are Dangerous and Premature

Some Members' statements seem to ignore the objective analysis that is required under the Review and want to proceed at the same pace as other sectors with a re-negotiation of the ATA. Such an approach would not only be premature but dangerous. The current system of sector-specific bilateral, regional, and plurilateral air agreements has evolved over time on the basis of well-understood principles of reciprocity, sovereignty, security and safety, which are all especially critical in this sector.

Beyond these general concerns, the current framework has facilitated the creation of a very liberal regime. The degree of liberalization, however, could be undermined by introducing complex and overlapping disciplines under the GATS/WTO system, which itself is only just evolving. Among other things, the working of the unconditional Most Favored Nation principle (Article II of the GATS) must be carefully analyzed before any consideration can be given to disrupting the working of the current regime. The liberal nature of commitments based on unique bilateral, regional and plurilateral relationships would be adversely affected by the premature multilateralization of the sector.

Certain WTO Members propose to mitigate any adverse effects by allowing for substantial MFN exemptions in Members' schedules. From a systemic perspective, this approach undermines the object and purposes of the GATS itself to minimize the use of such exemptions and phase them out within 10 years. From a more practical perspective, the approach would result in a highly

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complex web of MFN exemptions and the consequent requirements both for negotiations regarding new exemptions and modifications to existing ones and for potentially disruptive and resource intensive requirements to continually justify such exemptions.

Importantly, developing countries also have a strong interest in the existing bilateral, regional, and plurilateral regime. The regime allows them to secure often very liberal access to certain target markets in developed countries, to secure the operation of crucial traffic links and to secure their national air transport infrastructure. Thus, developing countries stand to lose significantly in a multilateralization of the sector.

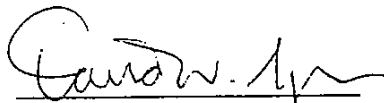
Finally, it would be very difficult, if not impossible, at this stage in the development of the international air transport regime to establish the necessary clear demarcation between GATS and the bilaterals regime. This may lead to concurrent jurisdictions of both regimes, to which the primacy of bilateral dispute settlement in Paragraph 5 of the ATA is an insufficient answer. Further, Members will have to consider very carefully if they want to allow the air transport sector to be included in the overall trade system in view of the fact that this makes it vulnerable to other attacks, in particular cross-retaliation.

Conclusion

Future WTO negotiations on trade in services are of great importance to FedEx and the express delivery services industry as a whole. Therefore, FedEx believes that it is crucial that the U.S. objectives for the upcoming Ministerial include the issues affecting our industry as discussed above. The main objective for the Ministerial and future negotiations must be the full liberalization of trade, thereby allowing the express delivery services industry to expand markets and operate as freely and efficiently as possible. FedEx appreciates the opportunity to provide comments and continue to be a part of this historic process.

Respectfully Submitted,

FEDERAL EXPRESS CORPORATION



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DWS/dws/392654
Attachments

Attachment A

**STATEMENT BY THE
AIR COURIER CONFERENCE OF AMERICA
REGARDING FOREIGN BARRIERS TO
EXPRESS DELIVERY SERVICES**

December 29, 2000

This statement is submitted by the Air Courier Conference of America ("ACCA") in response to USTR's solicitation of public comments regarding significant barriers to U.S. exports of goods and services in connection with preparation of the annual *National Trade Estimate Report on Foreign Trade Barriers* ("NTE"). ACCA is the trade association representing the air express industry; its members include large firms with global delivery networks, such as DHL Worldwide Express, Federal Express, TNT U.S.A. and United Parcel Service, as well as smaller businesses with strong regional delivery networks, such as International Bonded Couriers, Midnite Express and World Distribution Services. Together, our members employ approximately 510,000 American workers. Worldwide, ACCA members have operations in over 200 countries; move more than 25 million packages each day; employ more than 800,000 people; operate 1,200 aircraft; and earn revenues in excess of \$50 billion annually.

As a general principle, ACCA strongly supports free and open trade and investment worldwide. Our operations provide integrated, door-to-door delivery service for documents and packages, and our customers expect and receive value-added services like time guarantees, electronic information, brokerage services and more. Our customers are not as concerned with how their documents or parcels are moved -- just that they arrive on time. This could be by plane, train, truck, van, automobile, motorcycle, or even gondola. Consequently, a broad spectrum of issues affects our industry, including laws and regulations in the areas of intermodal transportation, air auxiliary services, distribution, warehousing, customs, postal, telecommunications, logistics, brokerage, insurance, and freight forwarding. For this reason, barriers to international trade in our industry can involve trade restrictions and trade distortive measures in any of these pertinent service sectors.

As detailed below, non-tariff barriers in many markets impede our ability to provide express service and thus hinder our ability to grow our business. This also limits growth in other industries, as the express delivery industry facilitates trade by expanding and promoting trade in both goods and services. The availability of efficient express delivery services encourages and enables small, medium and large businesses to expand their operations through

trade. The non-tariff barriers adversely affecting our industry generally fall into three of the nine categories addressed by the NTE: import policies; services barriers; and anticompetitive practices.

As discussed in the following pages, the principal *import barriers* encountered by the express delivery industry are inconsistent customs clearance policies that add costs and delays to our services. These barriers include:

- o restrictions on the value and weight of express shipments;
- o delays from lengthy customs clearance procedures;
- o cargo handling restrictions that force express carriers to use local handling companies -- rather than our own employees -- to transport our express shipments from the baggage collection area to warehouses where they can clear local customs; and
- o imposition of a variety of charges and fees for express shipments, including shipments that are transiting one country on their way to their ultimate destination.

In the area of services barriers, the principal problems for ACCA members relate to transportation. Our members often face severe limitations on the airport slots and parking rights provided by foreign airports. As a result, express service is restricted and companies often bear the expense of flying empty aircraft between airports. ACCA members frequently face other aviation restrictions, as well as limitations on other modes of transportation. These non-tariff barriers create a variety of problems for express operators, including restrictions on American companies' use of their own aircraft to transport express shipments and increases in transportation costs.

Finally, ACCA members face anticompetitive practices in many markets, particularly with respect to postal operations. Because some of the industry's operations are postal-related (e.g., the delivery of documents and small packages), we are frequently affected by postal policies in foreign countries. While ACCA is not advocating that U.S. policymakers seek the dissolution of national monopolies for domestic postal services, we do believe that the domestic monopoly claim should not be extended unfairly and unreasonably to encompass cross-border services, nor should postal authorities be able to cross-subsidize their express-related, commercial operations from revenues derived from their monopoly services. Additionally, postal authorities should not be allowed to impose taxes and fees on private express operators, and they should not benefit from discriminatory customs procedures that treat postal shipments more favorably than those of express and other private operators.

The following pages detail some of the non-tariff barriers ACCA members face in several foreign markets. While we recognize that USTR prefers NTE submissions to include an estimate of the potential export increase that would result from removal of the barrier, this is impossible to do in the case of our industry because we are neither a manufacturer of goods nor a traditional service provider. Instead, we are carriers of others' goods and services, and therefore cannot estimate how much overall exports would increase. We can, however, state our belief that elimination of the non-tariff barriers highlighted in this report would significantly improve our ability to provide express delivery service in these markets and would thus increase not only the volume of our enterprises, but the volume of U.S. exports as well.

ARGENTINA

Customs Procedures: Argentine Customs sets a weight limitation of 50kg and a value limitation of US\$3,000 for express clearance. In addition, it does not perform risk assessment but rather inspects all shipments, significantly lengthening the customs clearance process. Argentina does not allow for post-clearance payment of duties and taxes. These customs policies create unnecessary delays that increase costs and decrease efficiency for express operators.

AUSTRALIA

Hush Kit Sales: The Australian Department of Transport has proposed a regulatory regime restricting the use of aircraft for domestic transport which exceed certain noise levels. The standard proposed is greater than that agreed by IATA and ICAO.

Airport Privatization: The Government has franchised some of its major airports to private operators by granting them a 50-year renewable lease. The purchasers of these franchises will need to recover their investment by: higher fees and rents; restricting the ability of tenants to provide their own services and charging monopoly rates for those services; and introducing new and innovative fees -- all of which will increase operating costs for express companies.

Customs Procedures: Australia grants preferential customs treatment to postal versus express shipments. For example, the formal clearance threshold for express shipments is A\$250 versus A\$1,000 for postal; express operators must obtain an export clearance for shipments valued over A\$500 versus A\$2,000 for postal shipments; and Australian customs charges express operators A\$45 on the reporting of consolidated shipments but does not impose a comparable charge on the post office.

BRAZIL

Customs Procedures: Brazil's documentation requirements and custom procedures are highly bureaucratic. There is no pre-arrival processing, no reasonable selectivity criteria for physical inspection (inspections are sometimes conducted on 100% of shipments), no separation of physical and fiscal control, no *de minimis* level, no account-based processing, and no means to appeal Customs' decisions in a fixed time period. These customs policies create unnecessary delays that increase costs and decrease efficiency for express operators.

CANADA

Customs Valuation Requirement: Canada Customs requires valuation of intangible items, such as documents. This causes customer confusion due to inconsistency of valuation requirements worldwide for document traffic.

CHINA

Self-handling Rights: Express operators are not afforded self-handling rights and must use a limited number of vendors in certain regions. The vendors do not provide as efficient or secure a service as express operators could provide themselves; express shipments are not given handling priority which results in delays when there is insufficient equipment or personnel.

FEC'S Business License: Currently, the business licenses issued to express operators do not allow express operators to contract directly with freight forwarders and shippers in China to provide their services. The inability to offer services directly to potential customers requires working through local agents whose fees and commissions increase costs.

Cargo Sales Agents: Express operators are not permitted to contract with agents who provide cargo sales services unless those agents have a license from the government agency to provide such services. The licenses issued by the government are issued to agents which are subsidiaries or affiliates of local airlines and to a select group of other agents the government deems suitable. This relationship restricts the sales services the agents provide to express operators which are in competition with the local airlines.

Wholly-owned Companies: Although this is hopefully to be remedied by China's accession to the WTO, Chinese law does not currently permit foreign companies, or companies incorporated in China which are wholly-owned or controlled by foreign companies, to: carry on a courier business in China; hold a customs broker's license; hold a bonded warehouse license; or provide other freight forwarding and warehousing services. Express operators are required to do business through a Chinese agent or through a joint venture in which express operators' shareholding cannot exceed 50% - such a requirement results in limitations on the development of business.

Nationality of Employees: Although this is hopefully to be remedied by China's accession to the WTO, the U.S.-China bilateral agreement currently permits express operators to hire only Chinese or U.S. nationals in its operations. This artificially restricts the potential labor pool, and prevents express operators from hiring Mandarin-speaking nationals from other countries such as Taiwan and Singapore.

COLOMBIA

Customs Procedures: Colombian customs policies set a weight limitation of 20 kg and a value limitation of US\$50 for express clearance. In addition, there is no *de minimis* level and no post-clearance payment of duties and taxes. These customs policies create unnecessary delays that increase costs and decrease efficiency for express operators.

Postal policies: A postal tax of 5% of gross sales is levied on express shipments of less than 2 kg. (There are attempts underway to introduce a similar tax in Uruguay, Venezuela, Honduras and Costa Rica).

EGYPT

Postal levy: The PTT levies a licensing fee of 10% of revenue with a minimum of approximately US\$70,000 per year on private express operators. The fee significantly increases the cost of doing business in Egypt and negatively affects the competitiveness of express operators.

HUNGARY

Customs Procedures: Hungarian documentation requirements and custom procedures are very difficult and unclear. Publication of regulations is often late, and there is no consultation with the trade community. There is also no pre-arrival processing, and no regular review of the *de minimis* regime. The major difficulty is the absence of a unified (and audited) practice for customs; instead, the practice depends on the individual customs officer. These customs policies create unnecessary delays that increase costs and decrease efficiency for express operators.

HONG KONG

Airport Surcharges: The Hong Kong Airport Authority began levying surcharges on airlines in 1991. Airlines allege the Airport Authority has acted outside the scope of its legal authority. The estimated surcharges paid by airlines amount to millions of dollars. The removal of surcharges would substantially decrease operating costs in Hong Kong.

INDIA

Customs Procedures: India's customs procedures are complex and time-consuming. There is no separation of physical and fiscal control: goods are only released after payment of duty. The *de minimis* level is very low: US\$50, based on CIF. There is no EDI, no release of goods at carriers' point of arrival, no account-based processing and no reasonable limit on time for additional duties/redelivery of goods. These customs policies create unnecessary delays that increase costs and decrease efficiency for express operators.

Groundhandling: Restrictions apply to the express industry in terms of obtaining tarmac passes and performing their own groundhandling services.

Taxes: The Indian postal service does not pay a service tax on gross billings or income tax, whereas the express industry must pay a 5% service tax on these items.

INDONESIA

Ownership of the Business: Foreign companies are not permitted to wholly own or control express businesses in Indonesia. The ASA between Indonesia and the U.S. does not provide intermodal rights to U.S. carriers. Indonesian regulations do not permit foreign companies to obtain courier licenses, freight forwarder's licenses, customs brokerage licenses or bonded warehouse licenses. Customers cannot therefore receive the benefit of a number of services which express operators provide in other countries and customers do not receive the benefit of services which express operators control.

Self-handling Rights: Express operators do not have the right to self-handle their aircraft in Indonesia.

Customs procedures: Because of the low *de minimis* value range set by Customs, duties and taxes are levied on the majority of shipments. Raising the *de minimis* value would substantially increase the percentage of packages released by Customs for same day delivery. In general, Indonesian documentation requirements and custom procedures can be difficult and unclear: the paperwork is complex, and originals must be provided. There is no transparency of customs regulations, and no consultation with trade community. Furthermore, there is no pre-arrival processing, no reasonable selectivity criteria for physical inspection, no separation of physical and fiscal control for general cargo, and no account-based processing. Customs imposes a charge of US \$5 per kilogram for documents.

JAPAN

Customs procedures: A new electronic customs clearance system, NACCS, to be introduced in October 2001 will be based on a per-transaction basis with no cap and no discount for large volume users. Express operators whose volumes increase could have dramatic increases in costs. In addition, Japanese customs treats postal shipments more favorably than express shipments. For example, the *de minimis* level is approximately 30,000 yen for postal shipments, but only 10,000 yen for private operators; private operators must provide detailed manifests for all documents, whereas the Post Office has no such requirement; and the Post Office is subject to less stringent customs inspection procedures (limited documentation and no electronic data required).

Intermodal Rights: The Japanese government allows very limited intermodal rights: it recognizes the ability of direct air carriers to contract for carriage on a door-to-door basis with shippers, and to further contract with licensed domestic trucking companies for the door-to-airport portion of the transportation. Current Japanese regulatory practice prohibits direct air carriers from directly operating ground vehicles for revenue purposes. Express operators desire the ability to operate in Japan on a fully intermodal basis, the benefit of which includes a more efficient operation and lower administrative costs.

Failure of Government to Grant Freight Forwarding Licenses to Airlines and/or "Foreign" Companies: The Japanese government does not grant freight forwarding licenses. Obtaining such a license will allow express operators certain operational flexibility.

KOREA

Radio Frequency Access: The Korean telecommunications industry has been regulated in an especially strict manner, in that access to radio frequencies for commercial use has been extremely limited (a legal restriction exists prohibiting foreign access to radio frequencies). Although the telecommunications sector was liberalized in 1995 (i.e., Korea committed to the expansion of radio frequency licenses for commercial use), there is no current plan to grant radio frequency licenses directly to the public.

Customs Procedures: As with other countries many restrictions and barriers exist within Korean customs concerning the clearance of goods.

LEBANON

Postal levy: Express operators must pay a tax of US \$12 per kg for documents up to 10 kg and parcels up to 2 kg. There is a minimum levy of US \$12 per shipment.

MALAYSIA

Bumiputras: Local law requires that express operators operate pick-up, delivery and customs clearance services through separate locally incorporated subsidiaries which are partly owned by local Malaysian individuals or companies (bumiputras or "bumis"). Express operators are obliged to pay their bumi partners for their services and suffer lack of control of the services offered by their bumi partners. Malaysian regulations do not permit express operators to own a domestic express business without bumi partners. Thus, express operators are restricted to performing only international transportation.

Custom Procedures: A new customs form requires officers of importers of dutiable shipments exceeding RM10,000 to sign a form confirming the accuracy of the stated value. As a result, customers may experience long delays in customs clearance which will be detrimental to their business. In addition, there are no reasonable selectivity criteria for physical examinations, resulting in random selection of a high percentage of shipments (35%, on average). There is no separation of physical and fiscal control: documentation plus payment of all duty and tax must be completed before consignments can be physically released. Malaysian customs will not release goods at carriers' point of arrival, only at designated warehouses, resulting in significant time delays and cost increases for express operators.

Licensing requirements: Express operators must obtain a special license from the ministry of domestic trade to operate commercial vehicles. These licenses are not easily obtainable, and the application and approval process is long. In contrast, postal vehicles do not require any special license from the ministry of domestic trade.

PARAGUAY

Customs Procedures: Paraguayan customs policies set a weight limitation of 50 kg and a value limitation of US\$3,000 for express clearance. In addition, there is no *de minimis* level and no post-clearance payment of duties and taxes. Furthermore, Paraguayan customs does not practice selectivity, instead inspecting all inbound shipments. These customs policies create unnecessary delays that increase costs and decrease efficiency for express operators.

PERU

Customs Procedures: Peruvian customs policies set a value limitation of US\$2,000 for express clearance. In addition, there is no *de minimis* level and no post-clearance payment of duties and taxes. Furthermore, Peruvian customs does not practice selectivity, instead inspecting all inbound shipments. These customs policies create unnecessary delays that increase costs and decrease efficiency for express operators.

PHILIPPINES

Customs procedures: Philippine customs is concerned principally with revenue collection rather than trade facilitation and hence maintains a variety of policies detrimental to express delivery. There is no transparency of regulation and no consultation with the trade community, virtually no pre-arrival processing and 100% physical inspection. There is no separation of physical and fiscal control. The *de minimis* level is extremely low (US \$0.10) and has not been raised in 40 years. There is no release of goods at carriers' point of arrival and no account based processing. Furthermore, there is no mechanism to ensure the integrity of custom officers.

POLAND

Customs procedures: Poland's documentation requirements and custom procedures are very difficult and unclear. Its regulations are not accessible; there is no pre-arrival processing of shipments and no separation of physical and fiscal control. The *de minimis* level, set at 10 euros, is far too low. Furthermore, there is no periodic account-based processing.

RUSSIA

Licensing: Russia imposes extremely complex, arbitrary and time-consuming licensing requirements. Express operators must often obtain licenses in each city or region in which they operate, as well as a national license.

Customs procedures: Russia's documentation requirements and custom procedures are very difficult and unclear, and there is no transparency in Russian customs regulations. Customs clearance itself is quite difficult due to Russia's certification requirement. There are large discrepancies in classification and valuation rules across the country -- and even within the same city. There is no pre-arrival processing, no reasonable selectivity criteria for physical inspection, no separation of physical and fiscal control, no *de minimis* regime, no EDI, no

account-based processing, no time limit for imposition of additional duties, and no mechanism to ensure the integrity of customs officers.

SINGAPORE

Permit and License: Telecommunications equipment, medical products, pharmaceutical and drug, video, publication, foods and liquor are controlled commodities and as such, Customs requires licensing and permit applications. Elimination of these controls would improve the percentage released by Customs for same day delivery.

Inspection by Customs: The cargo complex at the airport is a Free Trade Zone. While shipments are cleared and released prior to flight, trucks are often stopped at the exit checkpoint for random checks, delaying packages by 20 to 30 minutes. Elimination of this inspection would mean faster delivery times thereby increasing customer satisfaction.

TAIWAN

Import duty threshold: Customs duties are levied on some express inbound shipments which, if shipped by post, would be duty-free. This discriminatory treatment of postal versus express shipments increases customer costs for shipping via express.

THAILAND

Postal Fines: Thailand's Postal Act of 1934 permits the Communications Authority of Thailand ("CAT") to levy a fine on a company providing transportation services for letters and documents imported into Thailand. This fine significantly increases operating expenses for express door-to-door services.

Ownership Restrictions: The Alien Business Law does not permit express operators to wholly own a ground transportation business, thereby forcing express operators to operate ground transport through a separate Thai company partly owned by Thai shareholders. The ownership prohibition raises the costs of doing business in Thailand.

Customs Procedures: The process of physical formality shipment is lengthy and requires the original customer's signature. To release a formality shipment, three different customs departments must approve. Removing this barrier would help to improve the percentage of packages released by Customs for same day delivery. In addition, the Thai Post Office enjoys a *de minimis* of 500 baht; there is no *de minimis* level for private shipments. Furthermore, there is no release of goods at the carriers' point of arrival, no account-based processing, and no reasonable limit on time for additional duties/redelivery of goods.

Groundhandling: Groundhandling at Thai airports can only be done by one of two Thai government approved vendors (TAGS and Thai International Airways). This leads to significant delays in express shipments and increase costs for express operators.

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URUGUAY

Customs Procedures: Uruguayan customs policies set a weight limitation of 20 kg and a value limitation of US\$50 for express clearance. In addition, there is no post-clearance payment of duties and taxes, and all inbound shipments are inspected. These customs policies create unnecessary delays that increase costs and decrease efficiency for express operators.