United States International Trade Commission

Express Delivery Services:

Competitive Conditions Facing U.S.-based Firms in Foreign Markets

Investigation No. 332-456
USITC Publication 3678
April 2004

U.S. International Trade Commission

COMMISSIONERS

Deanna Tanner Okun, Chairman
Jennifer A. Hillman, Vice Chairman
Marcia E. Miller
Stephen Koplan
Charlotte R. Lane
Daniel R. Pearson

Robert A. Rogowsky
Director of Operations
Acting Director, Office of Industries

This report was prepared by the Office of Industries
Michael Nunes, *Project Leader*
michael.nunes@usitc.gov

Joann Tortorice, *Deputy Project Leader*
joann.tortorice@usitc.gov

Staff assigned
Russell Hillberry, Amanda Horan, Diane Manifold, Benjamin Randol,
Heather Sykes, and Michelle Vaca-Senecal

With special assistance from:
Lynette Gabourel and Cynthia Payne

Under the direction of
Richard W. Brown, *Division Chief*

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436

www.usitc.gov

Express Delivery Services: Competitive Conditions Facing U.S.-based Firms in Foreign Markets

Investigation No. 332–456

Publication 3678 **April 2004**

ABSTRACT

Following receipt on July 1, 2003 of a request from the House Committee on Ways and Means (the Committee) (see appendix A), the United States International Trade Commission (USITC or the Commission) instituted investigation No. 332-456, Express Delivery Services: Competitive Conditions Facing U.S.-based Firms in Foreign Markets under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). As requested by the Committee, this study examines the composition of the global industry, major market participants, and factors driving change, including regulatory reform, in major foreign markets; examines the extent to which competition among express delivery suppliers in foreign markets may be affected by government-sanctioned monopolies competing in those markets; and identifies additional impediments to trade encountered by U.S.-based express delivery service suppliers in foreign markets. At the request of the Committee, for the purpose of the study, the Commission defined express delivery services as: (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, such as customs facilitation and logistics services.

In its examination, the Commission found that demand for express delivery services is increasing rapidly as a result of electronic commerce growth, the internationalization of business, and rising demand by manufacturers for outsourced logistic services. U.S.-based express delivery providers increasingly compete with foreign postal firms that provide express delivery services in addition to monopoly-protected letter mail delivery services. In such instances, competition may be impeded by anticompetitive monopoly practices, such as postal firms' use of profits from monopoly-protected services to support services offered in competition. U.S.-based express delivery service firms also face impediments in the form of operational restrictions, investment limitations, discriminatory access to essential facilities, and poor customs environments. Some of these impediments may be addressed through trade disciplines contained in the General Agreement on Trade in Services (GATS), where a negotiating round is currently underway. Bilateral and other multilateral free trade agreements may also serve to remedy impediments.

In its analysis of customs impediments, the Commission quantified the effect of foreign customs procedures on express delivery services. The analysis shows that poor customs environments impede time-sensitive deliveries more than other shipments, and that improved customs environments may increase the likelihood that a particular good would be shipped by air. One series of econometric experiments shows that improved customs environments would result in increased U.S. exports, thereby benefitting U.S.-based express delivery providers.

Table of Contents

Table of Contents–*Continued*

Page

Chapter 3. Impediments to trade in express delivery services–continued

Table of Contents–*Continued*

Page

Appendices

Box

Figures

Tables

Table of Contents–*Continued*

Page

Tables–*Continued*

ITC READER SATISFACTION SURVEY

Express Delivery Services: Competitive Conditions Facing U.S.-based Firms in Foreign Markets

The U.S. International Trade Commission (USITC) is interested in your voluntary comments (burden less than 10 minutes) to help assess the value and quality of our reports, and to assist in improving future products. Please **return survey by facsimile (202-205-2359) or by mail** to the USITC, or visit the USITC Internet home page (*http://reportweb.usitc.gov/reader_survey/readersurvey.html*) to electronically submit a Web version of the survey.

(Please print; r*esponses below not for attribution):*

Your name and title: ____________________

Organization (if applicable): ____________________

Which format is most useful to you? ❑ CD-ROM ❑ Hardcopy ❑ USITC Internet site

Circle your assessment of each factor below: **SA** = strongly agree, **A** = agree, **N** = no opinion, **D** = disagree, or **SD** = strongly disagree.

Value of this report:

▶ Statistical data are useful	SA	A	N	D	SD
▶ Other non-numerical facts are useful	SA	A	N	D	SD
▶ Analysis augments statistical data/other facts	SA	A	N	D	SD
▶ Relevant topic(s)/subject matter	SA	A	N	D	SD
▶ Primary or leading source of information on this subject	SA	A	N	D	SD
Quality of this report:					
▶ Clearly written	SA	A	N	D	SD
▶ Key issues are addressed	SA	A	N	D	SD
▶ Charts and graphs aid understanding	SA	A	N	D	SD
▶ References cite pertinent sources	SA	A	N	D	SD

Other preferred source of information on this subject: ____________________

Specify chapters, sections, or topics in report that are most useful: ____________________

____

____

Identify any type of additional information that should have been included in report: ____________________

____

____

Suggestions for improving report: ____________________

____

____

Please update your mailing and electronic addresses below (voluntary)-

Mailing address: ____________________

City, state, and zip code: ____________________

E-mail address: ____________________

OMB No.: 3117–0188

FOLD

UNITED STATES
INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC 20436

OFFICIAL BUSINESS
PENALTY FOR PRIVATE, USE $300

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL

FIRST CLASS PERMIT NO. 12840 WASHINGTON, DC

POSTAGE WILL BE PAID BY ADDRESSEE

U.S INTERNATIONAL TRADE COMMISSION
500 E STREET, SW.
WASHINGTON, DC 20277–2840

ATTN:
OFFICE OF INDUSTRIES
Express Delivery Services: Competitive Condi-
tions Facing U.S.-based Firms in Foreign Markets

EXECUTIVE SUMMARY

On July 1, 2003, the United States International Trade Commission (USITC or the Commission) received a request letter from the House Committee on Ways and Means (the Committee) (see appendix A) to conduct a fact-finding investigation under section 332(g) of the Tariff Act of 1930 to examine competitive conditions in foreign markets for express delivery services (EDS). The Committee stated that it requested this investigation in response to concerns that foreign governments are discriminating against U.S.-based firms with respect to conditions of market access and regulatory treatment. Specifically, concerns stem from continued discriminatory treatment in areas such as licensing, burdensome establishment requirements, and additional distortions that may arise as a result of insufficient transparency and fairness of administration.

Industry Overview

The U.S. express delivery services (EDS) industry comprises firms that provide expedited movement of documents, parcels, and other goods. These firms maintain control over the shipments throughout the delivery process and often use technology to monitor the location of each item. The industry includes large firms that integrate ground and air networks to provide a broad range of door-to-door delivery services and smaller firms that compete within niche industry segments, such as same-day or specialized freight delivery services. Where items are shipped internationally, express delivery providers are involved in customs clearance procedures, including the payment of required duties and taxes. The predominant form of EDS firms' participation in foreign markets is through the establishment of a foreign affiliate in the market to be served, and subsequent sales to local consumers. Within geographic markets, ground transport is generally limited to deliveries of no more than 500 miles, while air transport is reserved for longer distances and "time-sensitive" deliveries.

The EDS industry originated in the United States during the late 1960s in response to increasing demand for fast and reliable document delivery services. The industry grew rapidly after the deregulation of the U.S. air cargo industry in the late 1970s. Expansion into other market segments, such as parcels and freight, and investment in new technologies, such as tracking and tracing, have enabled EDS firms to meet manufacturers' and retailers' increasing demand for just-in-time delivery and logistic-related services. The advent of the Internet, and related growth in electronic commerce, has contributed to the industry's rapid expansion as well. The four largest U.S.-based EDS firms are UPS, FedEx, Menlo Worldwide, and BAX Global. The U.S. EDS industry now employs over 519,000 people and generates annual revenues exceeding $50 billion.[1]

U.S.-based carriers have been expanding their international operations to meet

---

[1] United Parcel Service (UPS) estimates that, with 360,000 employees, they are the third largest U.S. employer behind Walmart and General Motors. Selina Jackson, Vice President, International Public Affairs, UPS, testimony before the Commission, Nov. 5, 2003, hearing transcript, p. 14.

growing demand for international air cargo services, of which express delivery is a part, and to diversify their revenue base beyond the mature U.S. market. Projected growth rates for air cargo services are highest for domestic China, intra-Asia routes, and specific routes between North America and Asia on one hand, and North America and Latin America on the other. To meet this growth U.S.-based EDS firms have invested heavily in Asia and Latin America, and are steadily increasing operations in the emerging and potentially lucrative Chinese market. U.S.-based EDS firms' geographic expansion underscores the importance of clear and effective international disciplines on foreign investment and cross-border trade.

International Trade Impediments

The international trade of express delivery services is affected by a broad range of issues, including laws and regulations in the areas of freight transportation, cargo-handling services, storage and warehousing services, freight agency services,[2] telecommunication services, postal and courier services, and customs clearance. Impediments in any one of these areas holds the potential to hinder market entry, reduce geographic coverage, narrow the scope of service offerings, or otherwise adversely affect the competitive posture of U.S. firms in foreign markets.

U.S.-based firms increasingly compete with postal service monopolies in foreign markets. Many of these monopolies provide express delivery services in addition to traditional letter mail delivery services. U.S.-based firms claim that postal monopolies may act to impede competition, sometimes by cross-subsidizing competitive services with profits gained from their monopoly-protected operations. In some cases, these claims have been supported by foreign regulators.

U.S.-based express delivery firms market their services as premium delivery services that are expedited in nature. As such, express delivery shipments are particularly sensitive to impediments in customs processing. In an econometric analysis, the Commission confirms results from existing literature that countries with poor customs environments import less than countries with more efficient customs environments. Further, the analysis shows that poor customs environments impede time-sensitive deliveries more than other shipments, and that improved customs environments may increase the likelihood that a particular good would be shipped by air as opposed to shipment by sea to that market. These results indicate that U.S.-based EDS suppliers would benefit from improved customs procedures in many foreign countries.

Evolving Remedies to Impediments

As noted in the Committee's letter, the United States is currently negotiating trade agreements that may reduce impediments faced by U.S.-based firms. Service negotiations began in the World Trade Organization (WTO) in January 2000, as mandated by Article XIX of the General Agreement on Trade in Services (GATS). During the current trade round, U.S.-based express delivery industry representatives

---

[2] Freight agency service firms engage in arranging transportation of freight between shippers and carriers.

are hopeful that negotiations will achieve a greater degree of liberalization for their industry. In addition to seeking commitments from a greater number of countries, express delivery representatives seek to create a separate category for the industry, thereby enhancing the classification system to better reflect the integrated nature of the industry and ensure national treatment for express delivered goods. Although the September 2003 WTO ministerial conference in Cancun, Mexico ended without consensus, progressive services liberalization under the WTO is mandated by the GATS. Therefore, the current services round will likely continue, although the time-frame for concluding the round is now uncertain.

U.S.-based express delivery firms appear to have achieved substantial liberalization through free trade agreements (FTAs) with Singapore and Chile. These agreements apply to all services, unless explicitly stated otherwise. Although both Singapore and Chile made some reservations related to express delivery, the reservations do not represent significant impediments to the industry. Further, Singapore commits to prevent the cross-subsidization of Singapore Post's express letter delivery with profits derived from its monopoly mail business, and Chile's commitments suggest that it, too, will act to curb cross-subsidization. In future U.S. bilateral FTAs, U.S.-based express delivery providers hope to achieve similar results.

Customs processing improvements, resulting from bilateral negotiations, multilateral negotiations, or unilateral adherence to World Customs Organization (WCO) guidelines, would likely increase the number of countries that purchase U.S. exports and increase demand for commodities along established trade routes (see Appendix C). Modest improvements in perceived customs environments would result in a 1 to 2 percent increase in the likelihood that a country would import a particular good from the United States. Further, commodities that are typically shipped by air, such as the majority of EDS firms' international shipments, would experience the largest increases in the probability of trade. For countries that already import a particular good from the United States, customs improvements would increase the level of trade by as much as 17 percent in some countries. Such results would increase business opportunities for U.S.-based EDS firms, which handle a large percentage of international shipments. Additionally, improved customs environments would likely reduce costs and improve delivery speeds for U.S.-based express delivery firms, which offer guaranteed delivery times.

CHAPTER 1
INTRODUCTION

Objective and Scope

On July 1, 2003, the United States International Trade Commission (USITC or the Commission) received a formal request from the House Committee on Ways and Means (the Committee) (see appendix A) to conduct a factfinding investigation on competitive conditions in foreign markets for express delivery services (EDS). According to the request letter, the Committee initiated this request in response to concerns that foreign governments are discriminating against U.S.-based firms with respect to conditions of market access and regulatory treatment. In its letter, the Committee noted the importance of the world express delivery services market in terms of its present size and growth potential, and noted that in light of current trade negotiations it would be useful to have more information on these matters.

As requested by the Committee, this study examines the composition of the global industry, including major market participants and factors driving change, including regulatory reform, in major foreign markets; examines the extent to which competition may be affected by government-sanctioned monopolies in foreign markets; and identifies additional impediments to trade encountered by U.S.-based EDS providers when operating abroad. Also at the request of the Committee, the Commission defines express delivery services as: (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, such as customs facilitation and logistics services. Consequently, the report examines impediments over a broad range of EDS-related areas, such as freight transportation, cargo-handling, storage and warehousing, freight agency services, telecommunication services, postal and courier services, and customs-related services.

Although there are thousands of U.S.-based companies involved in the expedited movement of goods, this study focuses on the relatively small number of U.S.-based companies that provide end-to-end delivery services in foreign markets using ground- and air-transportation networks. These firms are United Parcel Service (UPS), FedEx Corp. (FedEx), BAX Global and Menlo Worldwide. However, owing to the scope of express delivery services, the impediments identified and examined in this report may have bearing on the competitive posture of the many U.S.-based firms that provide one or several of the services encompassed by EDS in foreign markets.

Methodology

Commission staff have used primary and secondary data sources to develop the information and analysis contained in this report. To collect information pertinent to the request, Commission staff conducted interviews with multilateral institutions and domestic and foreign EDS providers, government regulatory and trade agencies, and industry consultants. The discussions of cross-border trade and industry growth principally rely on secondary sources. In many cases, data for the air cargo services industry, of which express delivery services are a part, have been used as a proxy for EDS data. The Commission also elicited the views of interested parties through a public hearing on November 5, 2003 (see appendix B).[1]

In its customs analysis, Commission staff utilized a survey that was distributed by the Air Courier Conference of America (ACCA)[2] to its members. Staff have used data from the survey in an econometric model that investigates the relationship between customs procedures and the time-sensitivity of U.S. exports.

Report Structure

Chapter 2 provides an overview of the EDS industry, identifying industry activities, industry participants, terms of competition, and factors driving change in the industry. The chapter also analyzes international trade and investment in express delivery services. Chapter 3 identifies and examines impediments to trade in express delivery services, and where possible examines the impact of impediments on the U.S. industry. Chapter 4 discusses postal reform and the treatment of express delivery services in bilateral and multilateral trade agreements, focusing on the GATS, one of the Uruguay Round Agreements, and recently concluded U.S. FTAs with Singapore and Chile. Additionally, the chapter discusses customs facilitation efforts in the WCO. Chapter 4 concludes by summarizing an econometric examination of the effect of customs barriers on time-sensitive U.S. exports. Chapter 5 summarizes the report.

[1] Hearing participants included Susan M. Presti, Executive Director, Air Courier Conference of America; Selina Jackson, Vice President of International Public Affairs, United Parcel Service; Matthew A. Vega, Senior Attorney, Federal Express Corporation; Robert Vastise, President, Coalition of Service Industries; Robert B. Cohen, Fellow, Economic Strategy Institute; Laura Lane, Vice President, Time Warner, Inc.; and Fred Beljaars, Senior Vice President for Operations, DHL Express.

[2] ACCA is the trade association that represents the interest of the air courier and express delivery industry.

CHAPTER 2
INDUSTRY OVERVIEW AND INTERNATIONAL TRADE FLOWS

Introduction

The express delivery services (EDS) industry comprises companies that provide expedited movement of documents, parcels, and other goods. Express delivery operators maintain control of the goods throughout the delivery process, often using tracking and tracing technology to monitor the location of each item. Additional services and value-added elements include, for example, collection from a point designated by the sender, release upon signature, specific delivery time guarantee, and delivery confirmation. Where items are shipped internationally, express delivery providers are involved in customs clearance procedures, including the payment of required duties and taxes. The predominant form of EDS firms' participation in foreign markets is through the establishment of a foreign affiliate in the market to be served, and subsequent sales to local consumers. Within geographic markets, ground transport is generally limited to deliveries of no more than 500 miles, while air transport is reserved for longer distances and "time-sensitive" deliveries.

Industry overview

The U.S. EDS industry began in the 1960s in response to demand for reliable document and parcel delivery services. The EDS industry grew significantly following deregulation of the U.S. air transport market in 1978, which removed operational and pricing restrictions on passenger and all-cargo airlines. Firms specializing in the door-to-door transport of low-weight, high-value goods emerged, and became separate and distinct from all-cargo carriers.[1] These firms combined the use of both air and ground fleets to transport packages, and guaranteed delivery within standard time frames. At present, two of the largest U.S.-based firms that offer door-to-door, integrated[2] express delivery service are United Parcel Service, Inc. (UPS) and FedEx Corporation, with 2002 revenues of $31.3 billion and $20.6 billion, respectively (table 2-1).[3] Two other large U.S. firms that offer integrated, time-definite delivery service primarily for heavy freight are Menlo Worldwide and BAX Global. In 2002, Menlo Worldwide generated revenues of $2.7 billion, and

---

[1] Air Transport Association, *Airline Handbook Chapter 2: Deregulation*, found at Internet address *http://www.airlines.org/*, retrieved Nov. 14, 2003.

[2] The term 'integrated' refers to the door-to-door shipment of goods often using multiple modes of transport and employing information technology to track shipments while they are in transit.

[3] FedEx Corporation, *Annual Report 2002*, found at Internet address *http://www.fedex.com/*, retrieved Aug. 15, 2003; and United Parcel Service, *UPS Annual Report 2002*, found at Internet address *http://www.ups.com/*, retrieved Aug. 15, 2003.

Table 2-1
Comparison of operating characteristics of the largest global express delivery service firms, 2002

Company	Revenues	Number of countries served	Delivery volume	Employees	Fleet	
					Vehicles	Aircraft
	Millions		*Millions of shipments*			
UPS	31,272	200	3,400	360,000	88,000	265
FedEx	20,607	215	1,400	134,000	70,000	643
DHL	[1]15,200	220	[1]1,000	[1]170,000	[1]75,000	[1]250
TPG	[2]8,541	200	94	150,000	20,000	43
Menlo Worldwide . . .	2,748	200	([3])	15,000	1,500	13
BAX Global	1,872	123	([3])	10,000	([3])	([3])

[1] Estimate incorporates the operation of DHL's Danzas and EuroExpress subsidiaries, but does not include DHL's acquisition of Airborne in 2003.
[2] Includes 2002 revenues for TPG subsidiaries, TNT Express, and TNT Logistics.
[3] Not available.

Source: Compiled by the Commission from data provided in company annual reports, 10-K's, press releases, and interviews with industry representatives.

BAX Global, $1.9 billion.[4] The two largest foreign-based express delivery firms are DHL Worldwide Express, a subsidiary of the German postal service operator Deutsche Post,[5] and Netherlands-based TNT Express, a subsidiary of the Dutch postal provider, TPG. In 2002, these firms generated revenues of $15.2 billion[6] and $8.5 billion, respectively.[7] Although these firms are strong competitors internationally, they have a relatively small presence in the U.S. express delivery

[4] Menlo Worldwide is a division of CNF, Inc., and was formed in December 2002 as a result of a merger between Emery Forwarding (now called Menlo Forwarding) and Menlo Worldwide Logistics. Menlo Worldwide provides express delivery and logistics services. BAX Global is a division of the Pittston Company. The Pittston Company, *2002 Annual Report*, found at Internet address *http://www.pittston.com/*, retrieved Aug. 19, 2003; CNF Inc., *2002 Annual Report*, found at Internet address *http://www.cnf.com/*, retrieved Aug. 19, 2003; and industry representative, telephone interview with USITC staff, Sept. 16, 2003.

[5] In August 2003, DHL Worldwide completed its acquisition of the ground transportation operations of Airborne Inc. For more information see Appendix D. "DHL Completes Acquisition of Airborne's Ground Operations," found at Internet address *http://www.dhlairborne.com/*, retrieved Aug. 22, 2003.

[6] Revenue data for DHL includes Danzas, its freight forwarding and logistics subsidiary, and EuroExpress, which operates a ground-based express delivery network in Europe. Industry representatives, interviews with USITC staff, Oct. 6, and Dec. 11, 2003.

[7] Revenue data for TPG includes subsidiaries TNT Express and TNT Logistics. In 2002, TNT Express and TNT Logistics had revenues of $4.8 billion and $3.7 billion, respectively. *2002 TPG Annual Report*, found at Internet address *http://www.tpg.com/*, retrieved Aug. 25, 2003; and industry representatives, telephone interview with USITC staff, Oct. 6, 2003.

market. In addition to the large integrated firms, there are more than 2,000 smaller firms that compete within niche segments of the U.S. EDS industry.[8]

Over the last 20 years, the express delivery services market has been the fastest-growing segment in the U.S. transportation industry.[9] During 1995-2000, revenues for U.S-based express delivery firms grew at an average annual rate of 8.5 percent.[10] The ratio of receipts for the expedited delivery of documents and small parcels to the U.S. national freight bill, the latter of which measures total revenue generated by freight transportation, increased from 2 percent in 1970 to nearly 8 percent in 1998.[11] Growth in the express delivery market in the past two decades is partly attributable to the spread of just-in-time (JIT) manufacturing techniques and manufacturers' efforts to reduce warehousing and distribution costs. These, in turn, have led to demand for smaller, more frequent shipments of intermediate and final products.[12]

In an effort to provide "one-stop-shopping" to their customers,[13] express delivery firms have expanded their service offerings beyond document and parcel delivery services to include logistics and supply chain management services.[14] In 2002, logistics services accounted for approximately 21 percent and 38 percent of total non-package revenues for FedEx and UPS, respectively.[15] Manufacturers outsource

---

[8] This estimate is based on data from ReferenceUSA.com, and includes the number of U.S. firms captured within U.S. standard industrial classification (SIC) codes 4215, defined as courier services, except by air; and 4513, defined as air courier services. For more information, see Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual*, 1987, pp. 271 and 277; and ReferenceUSA.com, found at Internet address *http://www.referenceusa.com/*, retrieved Oct. 30, 2003.

[9] Dr. Alan Robinson, "Competition within the U.S. Parcel Delivery Market," Direct Communications Group (date of publication not given), p. 6.

[10] Ibid., p. 27.

[11] Edward K. Morlok, Bradley F. Nitzberg, and Karthik Balasubramaniam (with the assistance of Mark L. Sand), "The Parcel Service Industry in the U.S.: Its Size and Role in Commerce," Aug. 1, 2000, p. 15, found at Internet address *http://www.seas.upenn.edu/sys/logistics/parcelfullrpt.pdf/*, retrieved Sept. 2, 2003.

[12] Morlok, Nitzberg, and Balasubramaniam, "The Parcel Service Industry in the U.S.: Its Size and Role in Commerce," p. iv.

[13] "One-stop-shopping" refers to the ability of EDS firms to provide logistics, supply chain management, and other value-added services within a single umbrella organization or brand name. EDS firms that function as "one-stop-shops" increasingly offer such services through communication and transportation networks that are integrated on a worldwide basis in order to serve the global business needs of their customers. Industry representatives, interviews with USITC staff, Oct. 14-16, 2003; and DHL, post-hearing brief, submitted in connection with Investigation 332-456, *Express Delivery Services: Competitive Conditions Facing U.S.-Based Firms in Foreign Markets*, Nov. 19, 2003.

[14] Logistics services involve planning and managing the transport of goods throughout the delivery process. Providers of logistics services often use sophisticated information technology (IT) networks for tracking and tracing, and provide for the intermediate storage of goods when appropriate. Supply chain management is part of the logistics process and is provided to manufacturing companies that seek third-party assistance in managing the delivery of parts or components into their facilities and/or the transport of finished products to distributors, retail outlets, and final consumers.

[15] 'Non-package' revenue includes transportation of heavy freight, logistics, and other services. Compiled by the Commission from data provided in the 2002 annual reports of FedEx and UPS.

logistics and supply chain management to better focus on their core businesses and reduce inventory costs. Approximately 20 percent of the $3 trillion global market for logistics and supply chain management is currently outsourced by manufacturing companies.[16]

Operation of the Industry

The primary service provided by an express delivery firm is the movement of documents, parcels, or freight with a guaranteed transit time.[17] Express delivery service customers can choose how quickly they wish to have goods reach their destinations. These choices are generally categorized as next day, second day, or deferred delivery, with several time deadlines available within each category. Consumer prices depend on delivery speed, delivery distance, and shipment weight.[18]

EDS firms process items for shipment through a network of operating centers and airport hubs (figure 2-1). Items are first retrieved by the EDS provider at the sender's location, or are brought by the sender to a drop-off location, and are then transported in bulk by truck to an operating center, where they are sorted. Items that are carried over short distances are transported from the operating center by truck and delivered to their final destinations. Items that are transported over large distances are carried from an operating center to an origin hub, where they are again sorted. These items may travel further through one or more intermediate hubs before they reach another operating center near the recipient's location.[19] There, items are once again sorted, loaded onto trucks, and delivered either directly to the recipient or to a pick-up location.[20]

Competitive aspects of the industry

Competition among express delivery providers

Express delivery service firms compete primarily on the basis of price, service quality, and breadth of service offerings. EDS providers strive to differentiate themselves by highlighting their firm's relative strengths and by offering new, value-added services to their customers (table 2-2). In the U.S. market, UPS has historically been known for its expertise in ground-based delivery, whereas FedEx has been known for its expertise in air-based delivery.[21] In recent years, both companies have diversified their service offerings in an effort to better compete with

---

[16] UPS, *2002 Annual Report*, p. 9.

[17] 'Transit' time refers to the interval between pick-up and delivery.

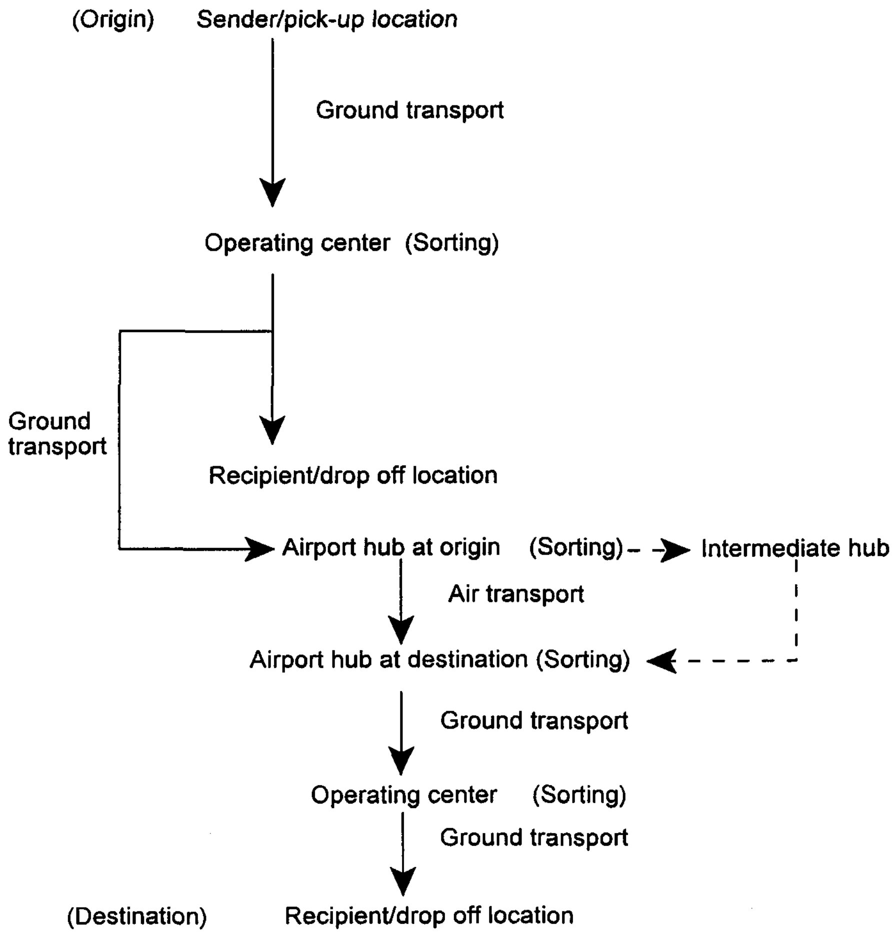
[18] Morlok, Nitzberg, and Balasubramaniam, "The Parcel Service Industry in the U.S.: Its Size and Role in Commerce," p. 7.

[19] For example, a parcel transported by UPS from the West Coast of the United States to continental Europe would first transit UPS's air hub in Louisville, Kentucky, and then be transported by air to the company's European hub in Cologne, Germany before reaching its final destination. Industry representative, telephone interview with USITC staff, Nov. 20, 2003.

[20] Ibid.

[21] Angela Greiling Keane, "Competing for Parcels," *Traffic World*, Feb. 10, 2003, p. 32.

Figure 2-1
Typical transportation flow for express delivery service items



Source: Compiled by the Commission.

Table 2-2
Sample of services provided by integrated express delivery service firms

Transport	Logistics	Supply chain management	Freight forwarding	Financial services	E-commerce related services	Retail services
Express[1]	Supply chain management	IT services, including consulting and software provision[2]	Freight brokerage[2]	Loan services[2]	IT services, including consulting and software provision[2]	Pick-up, Drop-off
Freight[2,3]	Packaging services[2]	Supply chain planning and design services	Freight consolidation[2]	Underwriting services[2]	Supply chain management services	Packaging supplies
Ground[2,3]	Product assembly	Packaging services[2]	Customs documentation[2]	Financial consulting services[2]	Order fulfillment	
Vehicle[2] leasing	Returns management	Product assembly[2]	Prepayment of duties and taxes		Packaging services[2]	
	After-sales repair	Warehousing[2]			Warehousing[2]	
	Ware-housing[2]	Tracking & tracing[2]			Tracking & tracing[2]	
	Tracking & tracing[2]	Returns management*			Returns management	
	IT infrastructure services	After-sales repair[2]				

[1] Express refers primarily to the expedited shipment of documents and small parcels by air and/or ground transportation.
[2] Services that are identified under the U.N. Central Product Classification code.
[3] Freight refers primarily to the delivery of less than truckload freight, usually by ground transportation, as well as to ocean freight services.
[4] Ground refers primarily to the deferred shipment of documents and small parcels.

Source: Compiled by the Commission.

one another and with other express delivery firms. For example, FedEx has recently enlarged its ground-based parcel delivery fleet in response to higher demand in the U.S. market for second- and third-day delivery services, which are generally less costly than air-based overnight express.[22] UPS, on the other hand, has increased the efficiency of its ground-based delivery network, enabling the company to ship goods

[22] Suzanne Vranica and Rick Brooks, "FedEx Recasts Itself on the Ground," *The Wall Street Journal*, Sept. 4, 2003, p. B7; and Rick Brooks, "UPS Cuts Ground Delivery Time," *The Wall Street Journal*, Oct. 6, 2003, p. A2.

between major U.S. cities faster than most of its competitors.[23] In addition, both UPS and FedEx have developed competencies in value-added services that extend beyond the pick-up and delivery of goods. For example, UPS provides supply chain management services to more than 100 large companies both in the United States and abroad, and recently acquired three separate firms that provide retail distribution, logistics, and financial services.[24] In international markets, firms such as FedEx and UPS also function as freight forwarders,[25] arranging the transport of freight via third-party airlines and assisting their clients with customs clearance procedures.[26]

As a result of the broader array of services provided by integrated express delivery providers, competition with freight forwarders, transportation companies, and logistics management firms has increased. Although none of these entities typically provide the end-to-end services offered by an integrated express carrier, they do compete with integrated firms along discrete segments of the value chain. For example, FedEx, through its acquisition of U.S. trucking firm American Freightways, offers time-definite transport services for less-than-truckload (LTL) freight,[27] and both UPS and FedEx provide express services via air transport for heavy cargo.[28] In other instances, integrated firms and non-integrated firms form partnerships. In particular, express delivery providers may subcontract with trucking companies and airlines for the movement of goods, where the network capacity of the express services firm is insufficient or where it may be more cost-effective to contract out a stage of delivery than to use in-house transportation equipment.[29]

---

[23] Brooks, "UPS Cuts Ground Delivery Time," *The Wall Street Journal*, p. A2.

[24] In April 2001, UPS purchased Mail Boxes Etc., a packing and shipping franchise with 4,300 retail outlets nationwide; in May 2001, UPS acquired Fritz Cos., a freight forwarding and logistics provider; and in August 2001, UPS purchased financial services institution First International Bancorp. *Standard & Poor's Industry Surveys*, "Transportation: Commercial," p. 12.

[25] A freight forwarder is an intermediary between a shipper and an airline or ocean carrier. The primary function of a freight forwarder is to organize all aspects of the movement of freight, including ground transportation; customs facilitation; and freight consolidation.

[26] *Standard & Poor's Industry Surveys*, "Transportation: Commercial," p. 19; and FedEx Corporation, Form 10-K for the year ended May 31, 2002, found at Internet address *http://www.sec.gov/*, retrieved Aug. 15, 2003.

[27] Less-than-truckload (LTL) refers to freight that weighs a maximum of 10,000 pounds.

[28] Declining air transport costs have made it more economically feasible to transport heavier cargo by air. Currently, heavy cargo accounts for only 5 percent of express delivery services, but this is forecasted to grow by nearly eight times by 2020. Through its FedEx Express subsidiary, FedEx offers expedited air transport service for cargo weighing up to 2,200 pounds; and UPS' 1999 acquisition of Miami-based Challenge Air has enabled it to become a large player in the air cargo market between the United States and Latin America. FedEx Corporation, *Annual Report 2002*, found at Internet address *http://www.fedex.com/*, retrieved Aug. 15, 2003; United Parcel Service, Inc. Form 10-K for fiscal year ended Dec. 31, 2002, found at Internet address *http://www.sec.gov/*, retrieved Aug. 15, 2003; *Standard & Poor's Industry Surveys*, "Transportation: Commercial," June 19, 2003, p. 6 and pp. 19-20; and UPS Press Release, "UPS Acquires Challenge Air Cargo and Prepares for Growth in Latin America," March 2000, found at Internet address *http://www.ups.com/*, retrieved Sept. 3, 2003.

[29] MergeGlobal, "Impossible Dream?" *Analysts' Alley*, Fourth Quarter 1995, p. 4; and industry representatives, interviews with USITC staff, Brussels, Belgium, Oct. 14-16, 2003.

In recent years, integrated EDS firms have experienced penetration, albeit limited, of the market for door-to-door expedited services. Competition in the door-to-door market has come from certain trucking and air transport firms, the latter operating in conjunction with third-party ground transportation firms. For instance, as part of its dedicated cargo operations, United Airlines provides door-to-door expedited delivery services for packages weighing no more than 100 pounds.[30] Continental Airlines also offers an expedited service for small packages that are transported as belly cargo on passenger aircraft.[31] Logistics management firms may also provide expedited transport services through alliances with third-party airlines or through deployment of their own aircraft and ground transportation vehicles.[32]

Competition with national postal providers

National postal operators are increasingly offering services that compete directly with those provided by express delivery firms (table 2-3). Two of the world's largest express delivery firms, DHL and TNT, are operated by national postal organizations Deutsche Post in Germany and Netherlands-based TPG, respectively.[33] Examples of other national postal providers that own EDS subsidiaries include Canada Post, La Poste (France), the Japan Postal Service, Sweden Post, and Consignia (U.K.). Although these postal operators continue to rely on the delivery of first-class mail for the majority of their revenues, the provision of value-added services, such as express delivery, are becoming a larger segment of their business. In many instances, postal operators have entered into joint ventures, and purchased private firms in complementary areas to expand their parcel delivery networks, as well as improve their competitive positions (table 2-4). For example, French postal operator La Poste now provides express delivery and logistics services in more than 20 countries through its subsidiary, GeoPost.[34] GeoPost currently accounts for 10 percent of the express delivery market in Europe, and plans to widen its share through the establishment of alliances with FedEx, Sweden Post, and the Spanish express delivery provider, Correos.[35] Parcelforce Worldwide, the express delivery arm of the British postal operator, Consignia, offers expedited parcel delivery service in the United Kingdom as well as to other countries both inside and outside Europe. Customers are able to arrange pick-up, delivery, and track the movement of their

---

[30] United Airlines Cargo Services, found at Internet address *http://www.ual.com/*, retrieved Aug. 21, 2003.

[31] Continental Airlines Cargo, found at Internet address *http://www.cocargo.com/*, retrieved Aug. 21, 2003.

[32] Panalpina, *Annual Report 2002*, found at Internet address *http://www.panalpina.com*/, retrieved Sept. 3, 2003.

[33] As of December 2003, approximately 45 percent of the equity shares in Deutsche Post were publicly held, with the remaining shares owned by the German Government and KfW, a state-owned investment bank. The German Government plans to eventually divest itself of its outstanding shares in Deutsche Post by selling them to KfW, which will in turn offer them for public sale. DPA, "German Postal Shares Put Up for Sale," Dec. 10, 2003; and industry representatives, interview with USITC staff, Dec. 11, 2003.

[34] La Poste Group, *2002 Annual Report*, found at Internet address *http://www.laposte.fr/*, retrieved Sept. 16, 2003.

[35] Ibid.

Table 2-3
Express delivery revenues of selected global postal operators, 2002

Postal operator[1]	Total revenues	Express delivery revenues	Express delivery as a percent of total revenues
	——*Millions of dollars*—		
Canada Post Corp.	6,154	1,123	18
Deutsche Post AG	47,400	15,080	32
La Poste (France)	20,928	2,518	12
Japan Post	18,012	1,528	8
TPG Post (Netherlands)	14,228	5,311	37
Sweden Post	3,017	([2])	([2])
Consignia plc (U.K.)	14,485	413	3

[1] At the request of the House Committee on Ways and Means, this report examines competitive conditions in foreign markets. Therefore, the U.S. Postal Service is not included in this list.
[2] Not available.

Source: Compiled by the Commission from company annual reports.

shipments through Consignia's proprietary website.[36] Sweden Post, which was corporatized in 1994,[37] also offers express delivery and logistics management, and estimates that these services will be the primary determinants of future growth for the organization.[38] Elsewhere, Purolator, the express delivery subsidiary of Canada Post, has developed value-added services for the movement of heavier freight, including the introduction of new cargo tracking technology, and warehousing and cooling facilities.[39] Postal reform will likely continue to increase competition in the express delivery service industry, as the monopoly service areas traditionally reserved for national postal operators erode, and these organizations seek new sources of revenue.

Factors driving change and growth in the industry

Although the mainstay of the express delivery business remains the expedited delivery of documents and small packages, express delivery firms have expanded the

[36] Royal Mail's Information and Service Portal, found at Internet address *http://www.royalmail.com/*, retrieved Sept. 16, 2003.
[37] In 1994, Sweden Post was converted into a limited liability company wholly-owned by the Swedish government. Union Postale Universelle, Bureau International, *Status and Structures of Postal Administrations,* Berne, July 2002.
[38] *Posten Annual Report 2002*, found at Internet address *http://www.posten.se/*, retrieved Sept. 16, 2003.
[39] Ian Putzger, "Purolator Branches Out," *Journal of Commerce*, Apr. 29-May 5, 2002, p. 16.

Table 2-4
Largest European express delivery networks

Network/country	Company
EuroExpress (Germany)	
Belgium	VOP Colli
Denmark	A Post
France	Ducros Services Rapides
Germany	Trans-o-Flex
International	DHL
Italy	Ascoli SpA. and M.I.T. Srl.
Netherlands	Correct Express and Van Gend & Loos
United Kingdom	Securicor Omega
GeoPost (France)	
France	Chronopost International and TAT Express
Germany	DPD
Ireland	Interlink Express
Italy	Chronopost International and Post Italiane[1]
Spain	Chronopost International and Correos y telegraha[1]
Sweden	Sweden Post[1]
United Kingdom	Interlink Express and Parceline Geopost UK
Global Logistics Systems (U.K.)	
Belgium	Extand and Nederlandse Pakket Dienst
Denmark	Pakke-Trans
France	Extand
Germany	Der Kurier and German Parcel
Ireland	Williames
Italy	Executive
Sweden	Pakke-Trans
United Kingdom	Consignia

[1] GeoPost currently has alliances with these companies. The remaining companies in the table have been purchased by the respective postal operator.

Source: Datamonitor, *European Express Network Index*, Apr. 2002, pp. 5-6.

range of non-package services that they provide in response to heightened competition within the industry and changing demands on the part of express delivery service customers. Such changes in demand stem in part from a continued increase in just-in-time manufacturing techniques, and a rise in consumer purchases over the Internet.[40] In addition, express delivery firms have recently begun to realize

[40] Industry representatives, interview with USITC staff, Brussels, Belgium, Oct. 14-16, 2003; and *Standard & Poor's Industry Surveys*, "Transportation: Commercial," p. 10; and comments by industry representatives at hearing for Inv. 332-456, *Express Delivery Services: Competitive Conditions Facing U.S.-Based firms in Foreign Markets*, Nov. 5, 2003.

faster revenue growth in international rather than in domestic markets.[41] This, in turn, has motivated express service providers to extend their transportation and communication networks to, from, and within foreign markets.

Both U.S.- and foreign-based express delivery providers have responded to the spread of just-in-time manufacturing, and a simultaneous rise in outsourcing, by increasing the number and types of logistics-related services that they provide to manufacturers. For instance, UPS manages a large warehouse for Nike in Europe, and also helps Dell Computer package its products for delivery from Dell's assembly facilities in Ireland.[42] Similarly, FedEx, through an alliance with Hewlett-Packard, retains HP printers in FedEx warehouses and ships them directly to HP customers, thus allowing Hewlett Packard to reduce its inventory costs.[43] TNT Logistics, a subsidiary of Netherlands-based TPG, manages the inbound supply chain for a BMW manufacturing facility located in the United States. As such, TNT monitors both the movement of physical goods into the facility as well as the flow of shipping information to plant managers.[44]

Express delivery firms are also playing an increasingly important role in both business-to-business (B-to-B) and business-to-consumer (B-to-C) transactions over the Internet. In 2002, revenues derived from B-to-B e-commerce transactions reached $823 billion, and are forecast to grow to $2.4 trillion by 2004.[45] By contrast, the B-to-C market accounted for more than $70 billion in e-commerce revenues in 2002,[46] and is estimated to reach nearly $230 billion by 2008.[47] In the B-to-B segment, express delivery firms often provide customers with technological infrastructure to manage e-commerce transactions. For instance, UPS supplies its clients with "off-the-shelf" software that enables them to track the delivery of inter-company shipments transported by UPS.[48] In the B-to-C segment, express delivery providers function as the distribution arm for online purchases,[49] thereby allowing companies to reduce delivery costs.[50] Although EDS providers already partner with

---

[41] Comments by industry representatives at hearing for Inv. no. 332-456, *Express Delivery Services: Competitive Conditions Facing U.S.-Based firms in Foreign Markets*, Nov. 5, 2003, hearing transcript, pp. 73 and 74.

[42] Industry representatives, interview with USITC staff, Brussels, Belgium, Oct. 14-16, 2003.

[43] Morlok, Nitzberg, Balasubramaniam, "The Parcel Service Industry in the U.S.: Its Size and Role in Commerce," p. 33.

[44] Kristin S. Krause, "Whatever It Takes," *Traffic World*, June 17, 2002, p. 29.

[45] *Standard & Poor's Industry Surveys*, "Transportation: Commercial," p. 10.

[46] Ibid.

[47] Forrester Research, Press Release, "Forrester Research Projects U.S. E-Commerce to Hit $230 Billion in 2008," found at Internet address *http://www.forrester.com/*, retrieved Sept. 4, 2003.

[48] United Parcel Service, Inc., Form 10-K for fiscal year ended Dec. 31, 2002; and comments by industry representatives at hearing for Inv. 332-456, *Express Delivery Services: Competitive Conditions Facing U.S.-Based firms in Foreign Markets*, Nov. 5, 2003.

[49] AOL Time Warner, Statement to the USITC, hearing transcript, Nov. 5, 2003, pp. 51-52.

[50] *Standard & Poor's Industry Surveys*, "Transportation: Commercial," p. 10.

traditional catalog firms, online retailing is projected to be the principal driver of growth in EDS firms' B-to-C transactions.[51]

Finally, EDS firms have expanded their operations abroad in response to the increased globalization of client firms and consequent higher demand for express delivery services in international markets. From 1988 to 1997, international parcel revenue for U.S.-based EDS providers grew at an average annual rate of 13 percent,[52] compared to an 8-percent average annual growth rate for domestic revenue.[53] In 2002, revenue derived from the express delivery of packages to foreign markets accounted for approximately 16 percent of total package receipts for FedEx and UPS combined. Countries with high rates of gross domestic product growth, led by those in the Asia-Pacific, Europe, and North America, are of particular interest to EDS firms.[54] For example, during 2002, UPS opened a new hub in the Philippines through which shipments to and from nine separate Asian countries are processed.[55] By contrast, FedEx has considered relocating its Asian hub from the Philippines to Guangzhou, China in order to serve that country's burgeoning market for express delivery services.[56] Elsewhere, UPS has established an integrated ground- and air-transportation network in Europe to provide expedited delivery services to and from Europe as well as within the European market.[57] Similarly, DHL has recently enlarged its presence in the U.S. market with the acquisition of Airborne, Inc. The acquisition will enable DHL to operate Airborne's ground transportation network, allowing it to compete directly with FedEx and UPS.[58]

---

[51] Industry representatives, interviews with USITC staff, Brussels, Belgium, Oct. 14-16, 2003.

[52] Morlok, Nitzberg, and Balasubramaniam, "The Parcel Service Industry in the U.S.: Its Size and Role in Commerce," p. 19.

[53] Estimated by the Commission for the period 1990-98 from data provided in Morlok, Nitzberg, and Balasubramaniam, "The Parcel Service Industry in the U.S.: Its Size and Role in Commerce," p. 17.

[54] Industry representatives, interviews with USITC staff, Brussels, Belgium, Oct. 14-16, 2003; and World Air Cargo Forecast, Executive Summary, found at Internet address *http://www.boeing.com/commercial/cargo/exec_summary.html/*, retrieved Nov. 3, 2003.

[55] UPS, *Annual Report 2002*, p. 13.

[56] DHL is currently the largest foreign-based express delivery firm operating in China where it formed a joint venture with the state-owned transportation group, Sinotrans, in 1986. CNN Money, "FedEx May Move Asia Hub to China," found at Internet address *http://money.cnn.com/*, retrieved Sept. 8, 2003; and Wang Yana, "DHL Speeds Up Expansion Plan," *Business Weekly*, found at Internet address *http://global.factiva.com/*, retrieved Aug. 27, 2003.

[57] UPS, *Annual Report 2002*, p. 15.

[58] DHL, "DHL to Acquire Ground Operations of Airborne, Inc. to Create Stronger Third Competitor in the U.S. Express Delivery Market," press release, Mar. 25, 2003, found at Internet address *http://www.dhlairborne.com/*, retrieved Sept. 11, 2003.

Trade and investment patterns

Cross-border trade

Data on cross-border trade pertaining exclusively to express delivery services are not available. However, such trade is captured within air-freight transport data, which comprise U.S. international transactions in the transport of goods by air, including time-definite, or express, delivery.[59] In 2002, U.S. exports of air freight services reached $5.8 billion, compared to U.S. imports of $4.9 billion (figure 2-2). Exports increased 6.6 percent in 2002, slightly higher than the 4.2-percent average annual growth rate recorded during 1997-2001. By contrast, imports of U.S. air freight services increased 23.2 percent during 2002, compared to a 2.8-percent average annual rate of growth during the period 1997-2001. In 2002, the U.S. trade surplus in air freight services was $909 million, a decrease of 38.2 percent from the previous year.[60] Between 1997-2001, the U.S. trade surplus in air-freight transport services grew on an average annual basis of 8.4 percent.[61]

The top five export markets for U.S. air-freight services in 2002 were Japan, the United Kingdom, Hong Kong, Germany, and France (figure 2-3). Exports to Japan totaled $813 million, an increase of 5.7 percent from 2001, whereas exports to the United Kingdom reached $693 million, representing a gain of 3.4 percent over the previous year. U.S. exports of air cargo services to Hong Kong, Germany, and France in 2002 totaled $349 million, $310 million, and $279 million, respectively. The Asia-Pacific was the fastest growing region for U.S. air-freight exports in 2002. During that year, U.S. exports of air cargo services to India grew 100 percent, to Indonesia 50 percent, and to China nearly 30 percent.[62] Other countries in which the

---

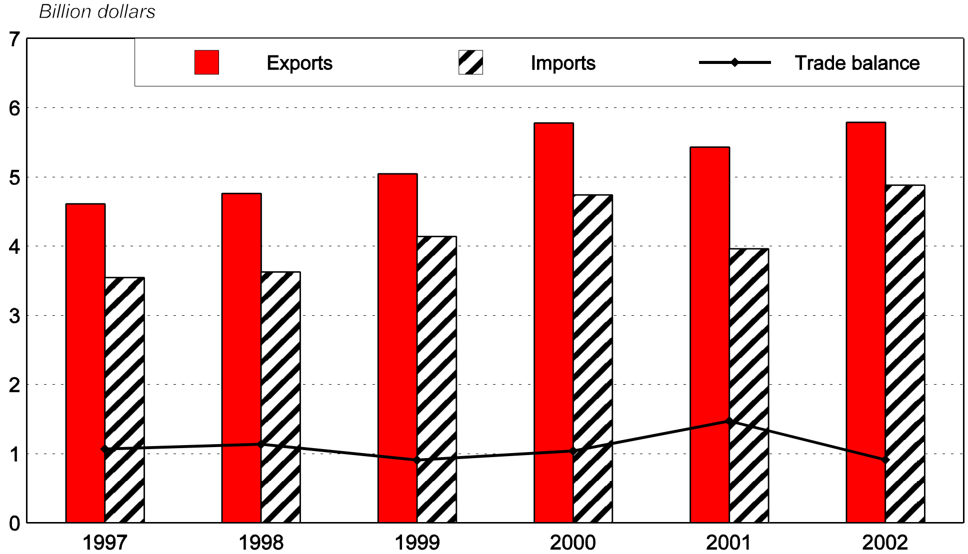
[59] Data on U.S. exports of air freight services pertains to the carriage of documents, parcels, and freight by a U.S. carrier for a non-U.S. entity operating abroad. Data on U.S. imports of air freight services cover transactions derived from the carriage of documents parcels and freight by a foreign carrier to a U.S. entity operating in the United States. The accounts cover charges for transporting exports and imports of goods, and related expenses. Such charges cover the receipts of U.S. carriers for transporting U.S. exports of goods, for transporting goods between two foreign ports, and the payments to foreign carriers for transporting U.S. imports of goods. The survey used by the U.S. Department of Commerce (USDOC), Bureau of Economic Analysis (BEA) to collect data requests revenue numbers for the transport of both freight and express items. Official from USDOC, BEA, telephone conversation with USITC staff, Nov. 21, 2003; see also USDOC, BEA, Form BE-37, "U.S. Airline Operators' Foreign Revenues and Expenses," found at Internet address *http://www.bea.gov/bea/surveys/be37.pdf/*, retrieved Nov. 21, 2003.

[60] USDOC, BEA, *Survey of Current Business*, Oct. 2003, p. 85.

[61] Data compiled by the Commission from *Survey of Current Business*, various issues, 1994-2003.

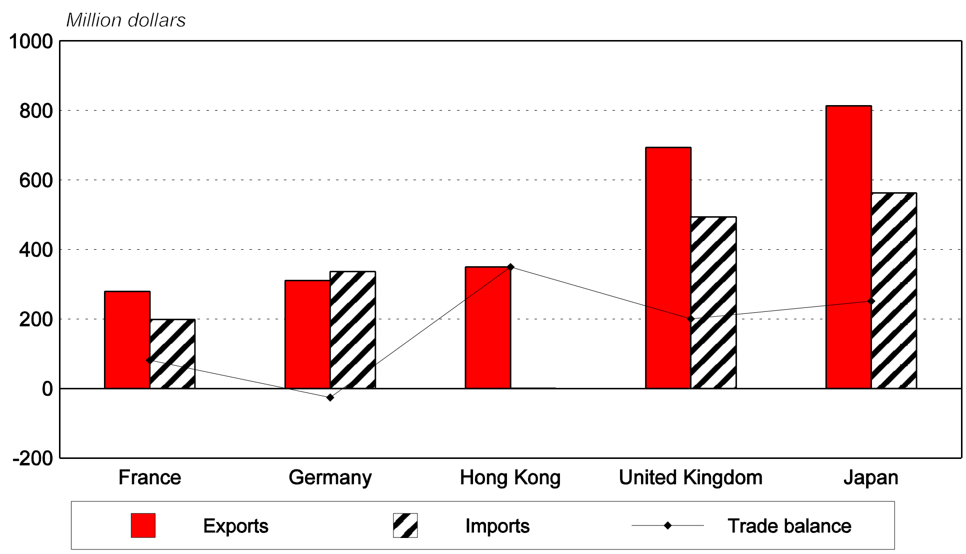
[62] Over the previous 11 years, China and India were the fastest growing markets for U.S. air-freight services exports. During 1992-2002, U.S. exports of air cargo services to China and India grew at average annual rates of 34 percent and 24 percent, respectively. Data compiled by the Commission from *Survey of Current Business*, various issues, 1994-2003.

Figure 2-2
Air freight services: U.S. cross-border exports, imports, and trade balance, 1997-2002



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 2003, pp. 85-92; Oct. 2002, p. 88-91; and Nov. 2001, p. 68.

Figure 2-3
Air freight services: U.S. cross-border exports and trade balance, by major trading partners, 2002



Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Oct. 2003, p. 95.

market for U.S. air-freight services grew significantly in 2002 include Belgium-Luxembourg,[63] Chile, Malaysia, New Zealand, and Norway.[64]

China accounted for the largest share of U.S. air-freight imports in 2002. Imports from China reached $582 million, an increase of 35.2 percent from the previous year. Japan was the second-largest supplier of U.S. air-freight imports at $562 million, followed by the United Kingdom ($493 million), Taiwan ($368 million), and Germany ($336 million). Of these four countries, U.S. imports from Taiwan experienced the most growth in 2002, increasing 41 percent over 2001 levels. Other countries that registered large increases in air-freight shipments to the United States in 2002 include Brazil, Malaysia, Israel, Singapore, and Saudi Arabia.[65]

Affiliate transactions

Data on transactions by foreign affiliates of U.S. express delivery firms are not available. Sales of courier and messenger services[66] by U.S. affiliates of foreign firms totaled $194 million in 2001,[67] which represents less than 1 percent of total domestic revenues generated by UPS and FedEx; together UPS and FedEx had total receipts of $40.7 billion in 2001. However, recent acquisitions by German-based Deutsche Post of U.S. express delivery firms DHL and Airborne, Inc. will likely have a measurable impact on U.S. affiliates' sales of express delivery services. In 2002, DHL and Airborne generated combined revenues of $18.5 billion.[68]

---

[63] BEA aggregates data pertaining to markets in Belgium and Luxembourg. USDOC, BEA, *Survey of Current Business*, Oct. 2003, p. 85.

[64] Ibid.

[65] Ibid.

[66] The courier and messenger services sector comprises firms engaged in air, surface, or integrated delivery services, and includes large express delivery firms, such as FedEx and UPS, as well as smaller establishments that provide services in local markets.

[67] Official from USDOC, BEA, telephone conversation with USITC staff, Nov. 6, 2003.

[68] In 2002, Airborne, Inc had revenues of approximately $3.3 billion. "Airborne, Inc. Form 10-k," found at Internet address *http://www.sec.gov/*, retrieved Aug. 19, 2003.

CHAPTER 3
IMPEDIMENTS TO TRADE IN EXPRESS DELIVERY SERVICES

Because EDS firms provide a broad range of integrated, door-to-door services,[1] an impediment to any one of these component services, whether general or specific to express delivery services, has the potential to delay or preclude provision of the entire range of express delivery services. Further, since both manufacturers and e-commerce firms depend on express delivery services for time-sensitive deliveries of components or other products, delivery delays also have the potential to negatively impact these firms as well as the overall economy.[2]

Impediments to the provision of express delivery services in foreign markets may stem from anticompetitive practices by incumbent postal monopolies, or from formal policies and regulations that hinder efficiency. Such measures include establishment limitations, such as investment or joint-venture requirements; requirements on nationality, licensing, and customs clearance; access to essential facilities; and postal regulations. In addition, impediments in express delivery related-services such as transportation, distribution, warehousing, logistics, and freight forwarding adversely affect the ability of express delivery firms to provide integrated services. Appendix E provides a list of such impediments to trade in selected countries. This chapter turns first to a discussion of anti-competitive monopoly practices, and then to an examination of impediments that directly or indirectly hinder the operation of U.S.-based firms in foreign markets.

Anti-Competitive Practices of Foreign Postal Monopolies

Introduction

U.S.-based providers of express delivery services report that foreign postal monopolies sometimes use their dominant position[3] in the national postal market to impede competition in the local express delivery market. Foreign firms, foreign

[1] Integrated delivery allows express delivery services providers to maintain control of packages, ensuring security and quality of service. DHL Worldwide Express, written submission in connection with USITC Inv. 332-456, Oct. 24, 2003.

[2] Industry representatives, interview with USITC staff, Brussels, Belgium, Oct. 14, 2003.

[3] The dominant position concept is woven into the competition policies of many member countries of the Organization for Economic Cooperation and Development (OECD). The European Court of Justice, for instance, defines dominant position as, "a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by affording it the power to behave to an appreciable extent independently of its competitors, customers and ultimately of its consumers," *United Brands v Commission, Case 27/76(1978)ECR207, (1978) 1 CMLR 429, as cited in* OECD, *Abuse of Dominance and Monoplisation*, OCDE/GD(96)131 (Paris: OECD, 1996), p. 7.

regulators, and foreign courts have supported such allegations in some instances. Cross-subsidization[4] is chief among the anticompetitive practices cited by industry in interviews, the Commission's public hearing, and secondary sources. Cross-subsidization entails using profits generated by the delivery of traditional postal services, legally reserved solely for the incumbent monopoly, to subsidize in-house or affiliated express delivery operations provided in competition with other EDS providers. Complaints about other forms of anti-competitive practices, especially use of illicit state aid and predatory pricing, often appear in connection with cross-subsidization.

Postal monopolies commonly, and permissibly,[5] practice cross-subsidization to meet universal service obligations. For instance, postal operators may cover the high cost of rural deliveries with profits generated by municipal deliveries, which in itself is not regarded as anti-competitive or trade impeding. Such a practice is generally considered to be anti-competitive only when funds intended to subsidize rural deliveries are diverted to fund express delivery services or other commercial delivery services. Allegations of subsidy diversion are among the several factors that have motivated regulatory authorities to mandate the separation of postal and express delivery services accounts.[6]

Anti-competitive practices or conditions can arise in the aftermath of privatization, if the postal monopoly is left with a ready-made, state-funded network with which it provides both postal and express delivery services, or if the state assumes financial obligations formerly held by newly privatized post offices.[7] For instance, the incumbent's use of such a network to provide express delivery services may affect market outcomes if the fixed costs of the network have been borne by the state or passed along at less than market value. However, if competing EDS firms are granted cost-based, nondiscriminatory access to the state-funded network inherited by the incumbent, use of that network could be competitively neutral. Regulations that mandate nondiscriminatory access to postal networks under reasonable terms

---

[4] Cross-subsidization is commonly understood to mean using funds generated by a profit-making operation to finance a loss-making operation.

[5] There is no binding international norm as to what practices are permissible for national post offices. Each country establishes its own laws and regulations that govern the operation of the postal monopoly. The Universal Postal Union makes recommendations in regard to postal practices.

[6] The European Union, for instance, requires separate accounts for reserved and non-reserved services in the first Postal Directive, EC, *Directive 97/67/EC of the European Parliament and of the Council of 15 December on Common Rules for the Development of the Internal Market of Community Postal Services and the Improvement of Quality of Service, art. 14, para. 2,* found at Internet address *http://www.bild.net/postEU1.htm/*, retrieved Jan. 14, 2004.

[7] Official Journal of the European Communities, Commission Decision of June 19, 2002 on Measures Implemented by the Federal Republic of Germany for Deutsche Post AG (2002) 2144, pp.1-2.

may find their root in the essential facilities concept, which has been used to free access to telecommunication, electric power, and natural gas networks.[8]

In other instances, allegations of anti-competitive monopoly practices derive from the manner in which postal assets are leveraged to the benefit of the postal monopoly that offers express delivery services. Using postal employees and vehicles, for example, to provide express delivery services such as pickup and delivery, transport, or sorting can potentially skew the competitive environment.[9] Yet, the anti-competitive effect of leveraging human and other assets may be moderated if these assets are inefficient or high-cost, such as may occur among highly unionized workforces that have won past wage and work rule concessions. If not moderated, the long-term effects of anti-competitive monopoly practices could be to reduce U.S.-based EDS firms' service offerings and profitability.[10]

Specific Instances of Anti-Competitive Practices

The discussion below summarizes specific instances of alleged anti-competitive behavior in Germany and Canada. Both allegations were brought before authorities in the respective countries for investigation and remedy by UPS. The German investigation, focused on Deutsche Post, concluded in June 2002, whereas the Canadian investigation, focused on Canada Post, is ongoing. The discussions summarize the nature of UPS's complaints and the determinations of relevant regulatory and trade authorities.

Deutsche Post

The Complaint

On July 7, 1994, UPS filed a complaint with the European Commission against Deustche Post,[11] a postal organization which at the time was 100-percent owned by

[8] "Essential facilities are facilities that are exclusively or predominantly provided by one or a few suppliers and which cannot be economically or technically substituted in order to provide a service." Boutheina Guermazi, Exploring the Reference Paper on Regulatory Principles, Center for the Study of Regulated Industries, found at Internet address *http://www.law.mcg.ii.ca/institutes/csri/paper-guermazi-reference,php3/,* retrieved Jan. 27, 2004. For a fuller discussion of shared use of essential facilities, see OECD, *The Essential Facilities Concept*, OCDE/GD(96)113 (Paris: OECD, 1996).

[9] *Canada Post Mandate Review*, July 31, 1996, released to the public by the Minister Responsible for Canada Post, Diane Marleau, on Oct. 8, 1996, at paras. 3.4.2 and 3.4.3., as cited in Appleton and Associates, *Notice of Intent to Submit A Claim to Arbitration Under Section B of Chapter 11 of the North American Free Trade Agreement: United Parcel Service of America v. Government of Canada*, Jan. 19, 2000, pp. 3-6.

[10] European Commission, *Competition Policy in Europe and the Citizen* (Luxembourg: Office for Official Publications of the European Communities, 2000), p. 15.

[11] The text of the complaint is available through the Official Journal of the European Communities, *Commission Decision of 20 March 2001 Relating to a Proceeding under Article 82 of the EC Treaty* (Case COMP/35.141–Deutsche Post AG).

the German Government.[12] In the complaint, UPS alleged that Deutsche Post used revenues from its monopoly service,[13] that is the delivery of posted or stamped mail weighing less than 200 grams, to subsidize its commercial parcel delivery service. Through cross-subsidization, UPS claimed, Deutsche Post was able to provide parcel delivery service at prices that did not cover the costs of supplying such services, thereby violating Article 82 of the Treaty Establishing the European Community (hereafter EC Treaty). Because new entrants in the parcel delivery market would not be able to sustain below-cost pricing, Deutsche Post was accused of engaging in predatory pricing with the intent of excluding competitors from the market. UPS requested that the European Commission prohibit Deutsche Post from continuing this practice, and that the company be required to impose legal, or structural, separation[14] between its 'reserved', or monopoly, letter-mail service and its commercial parcel delivery service.[15] In the same July 7, 1994 filing, UPS also alleged that Deutsche Post illicitly used state aid to cross-subsidize its commercial parcel delivery service, in violation of Article 87 of the EC Treaty. Investigations pursuant to articles 82 and 87 were conducted separately.

The Article 82 Determination

The European Commission ultimately initiated Article 82 proceedings on August 7, 2000. However, the scope of the investigation was narrowed to mail-order parcel delivery services, which accounted for 71 percent of Deutsche Post's commercial parcel delivery business in 2000.[16] In order to discern whether Deutsche Post held the potential to cross-subsidize its mail-order parcel delivery services with revenues from its letter-mail monopoly, the European Commission had to determine that Deutsche Post met the following three criteria:

(a) the firm holds a dominant position in a particular product or service market, as evidenced by the firm's ability to set prices and control a nation-wide distribution network;

---

[12] The Government of Germany currently retains 20-percent direct ownership in Deutsche Post AG. Kreditanstalt fur Wiederaufban (KfW) Bankengruppe, a government-owned investment bank, owns 48.3 percent of Deutsche Post's outstanding shares. Wilmer, Cutler, and Pickering, *DHL Posthearing Brief*, Nov. 19, 2003, p. 4.

[13] Under section 51 of the German Postal Services Act (Postgesetz), Deutsche Post was granted a monopoly on the delivery of letters and addressed catalogs weighing less than 200 grams until December 31, 2002. As of January 1, 2003, the monopoly applied to letters and catalogs weighing less than 100 grams, to be further reduced to 50 grams by 2006. Official Journal of the European Communities, *Commission Decision of 20 March 2001 Relating to a Proceeding under Article 82 of the EC Treaty* (Case COMP/35.141–Deutsche Post AG); and *Deutsche Post World Net Company Report 2002*, found at Internet address *http://www.deutschepost.com/*, retrieved July 9, 2003, p. 40.

[14] The request to impose legal, or structural, separation between Deutsche Post's letter-mail and commercial parcel delivery businesses was intended to improve the transparency of the firm's financial record-keeping.

[15] Official Journal of the European Communities, *Commission Decision of 20 March 2001 Relating to a Proceeding under Article 82 of the EC Treaty* (Case COMP/35.141–Deutsche Post AG).

[16] Ibid.

(b) with respect to a particular product or service, the firm also holds a significant share of the European Common Market, or of a market represented by an EC member-state; and
(c) the firm abuses its dominant position by offering its product or service at prices that cannot be matched by potential competitors or by granting customers unfair perquisites, thereby precluding competition in the market.[17]

On March 20, 2001, the European Commission determined that Deutsche Post maintained a dominant position in the German mail-order parcel delivery market as evidenced by its large market share (85 percent), and the fact that it was the only entity in Germany to operate a nationwide distribution network for parcel delivery. The European Commission further determined that Deutsche Post abused its dominant position by engaging in below-cost pricing and granting rebates to select customers. In particular, during the period 1990-95, Deutsche Post provided mail-order parcel delivery services to its customers at prices that did not cover the additional, or incremental, costs of supplying these services. This pricing strategy was deemed predatory in nature because it was designed to drive potential competitors from the market. In addition, during 1994-2000, Deutsche Post signed 'fidelity' agreements with six of its largest mail-order customers. Under such agreements, these customers were required to entrust all or a large share of their parcel delivery business to Deutsche Post in exchange for significant rebates. The European Commission ruled that such long-term and, in some cases, exclusive contracts allowed Deutsche Post to suppress competition among domestic providers of mail-order delivery services in Germany,[18] and prevented providers from other EC member states from establishing a viable presence in the German market.[19] In its ruling, the European Commission further determined that the only manner in which Deutsche Post could sustain a strategy of below-cost pricing in its mail-order parcel delivery business would be through the use of funds from another service area where revenues exceeded costs. The European Commission concluded that Deutsche Post's reserved service area of letter-mail delivery was a likely source of funds for cross-subsidization.[20]

The European Commission imposed a fine in the amount of 24 million euros (US$26 million) on Deustche Post for its rebate pricing policies, which were found to violate

[17] EC, *Competition Policy in Europe and the Citizen*, p. 16.

[18] In its ruling, the European Commission determined that potential competitors would likely have economic incentive to develop a distribution network to compete with that of Deutsche Post if they were able to deliver at least 100 million parcels a year. The exclusive contracts signed by Deutsche Post thus prevented potential competitors from developing the scale economies needed to compete in the mail-order parcel delivery market. Official Journal of the European Communities, *Commission Decision of 20 March 2001 Relating to a Proceeding under Article 82 of the EC Treaty* (Case COMP/35.141–Deutsche Post AG), p. 37.

[19] Ibid.

[20] Ibid.

Article 82 of the EC Treaty.[21] In its ruling, the European Commission also required Deutsche Post to submit separate accounting statements for the new entity (Deutsche Post Euro Express) created by Deutsche Post to house its commercial parcel delivery business. Further, Deustche Post was requested by the European Commission to submit a statement itemizing prices paid by Euro Express for goods and services procured from Deutsche Post for the first three years of the company's operation. Finally, during the same three-year period, Euro Express was required to submit to the European Commission any rebate agreements that it concluded with its six largest mail-order customers.[22]

The Article 87 Determination

The European Commission initiated proceedings under Article 87 on August 17, 1999. Under Article 87, the European Commission had solely to determine whether state aid distorted or threatened to distort competition by favoring certain service suppliers. On June 19, 2002, the European Commission determined that Deutsche Post had received illicit state aid. The German Government had provided such aid in the form of pension contributions, debt guarantees, capital endowments, and transfer payments. Consequently, the European Commission ordered Deutsche Post to return 572 million euros (US$658 million), plus interest, to the German Government. Deutsche Post made this payment, totaling 907 million euros (US$1,043 million), on June 2, 2003.[23]

Canada Post

The Complaint

On January 19, 2000, UPS asserted that the Government of Canada was in breach of its North American Free Trade Agreement (NAFTA) obligations and requested arbitration under the NAFTA. UPS alleged that the Government of Canada had breached national treatment obligations under Article 1102 of the NAFTA; minimum standards of treatment under Article 1105; and disciplines on monopolies and state enterprises under Articles 1502(3)(a) and 1502(3)(d), and 1503(2).[24] National

---

[21] Deutsche Post was not penalized for pricing its mail order services below cost during the period 1990-95 because economic concepts were not sufficiently developed at the time to deem such pricing strategy in violation of Article 82. European Economic and Marketing Consultants, Deutsche Post AG, found at Internet address *http://www.ee-mc.com/*, retrieved June 18, 2003

[22] Official Journal of the European Communities, *Commission Decision of 20 March 2001 Relating to a Proceeding under Article 82 of the EC Treaty* (Case COMP/35.141–Deutsche Post AG).

[23] Official Journal of the European Communities, *Commission Decision of June 19, 2002 on Measures Implemented by the Federal Republic of Germany for Deutsche Post AG C(2002)2144, p. 54* ; and Wilmer, Cutler, and Pickering, *DHL Posthearing Brief*, Nov. 19, 2003, pp. 8-9.

[24] Appleton and Associates, *Notice of Intent to Submit a Claim to Arbitration Under Section B of Chapter 11 of the North American Free Trade Agreement*, Jan. 19, 2000, found at Internet address *http://www.dfait.maeci.gc.ca/*, retrieved Oct. 22, 2003.

treatment obligations require that NAFTA parties accord service providers of other NAFTA parties treatment no less favorable than that which they accord their own service providers. The minimum standard of treatment requires that NAFTA parties accord to investments of other NAFTA parties treatment in accordance with international law, including fair and equitable treatment and full protection and security. The articles concerning monopolies and state enterprises require that NAFTA parties ensure that monopolies, whether public or private, and state enterprises act in a manner consistent with NAFTA obligations with respect to import or export licenses, commercial transaction approvals, and quotas, fees, and other charges; and that monopolies not engage in anti-competitive practices in non-monopolized markets by practicing discriminatory provision of monopoly goods or services, cross-subsidization, or predatory conduct.

UPS filed the claim on behalf of United Parcel Services Canada Ltd. (UPS Canada), a corporation organized under the laws of Ontario, Canada and wholly owned by UPS. UPS, which requested $160 million in damages, filed the claim against the Government of Canada, which owns Canada Post in its entirety. Canada Post, a parent Crown corporation, holds a monopoly over letter delivery and competes in the market for courier services and parcel delivery. Canada Post competes in these markets through holdings in Purolator Courier Ltd., Xpresspost, and Priority Courier, which jointly account for approximately 50 percent of the domestic express delivery market in Canada.

In its claim, UPS alleges numerous specific infractions of the NAFTA by Canada Post. Among these are that Canada Post avails its express delivery services affiliates of its transportation, sorting, delivery, post office, and letter mail box facilities, but denies competitors equivalent access; precludes franchises at Canada Post retail outlets from selling courier products other than its own; cross-subsidizes the development costs of its new e-commerce business with revenues earned from its letter mail monopoly; and prices Xpresspost and Priority Courier services at rates that are often below the cost of provision.[25] Further, UPS lists numerous ways in which Canadian Customs accords Canada Post preferential treatment.[26]

The Decision

To date, the investigation has been preliminary in nature, focusing solely on whether the NAFTA tribunal, to which UPS appealed, has jurisdiction in this specific instance. In November 2002, the NAFTA tribunal found that it has jurisdiction to deal with some but not all of UPS's complaints. Specifically, the tribunal ruled that it does not have jurisdiction to address allegations under Chapter 15 and Article 1105. Yet, the tribunal found it does have jurisdiction to address alleged violations of

[25] Ibid., pp. 3-5.
[26] Ibid., pp. 8-9.

Article 1102, if UPS can demonstrate that predatory pricing, cross-subsidization, and unfair use of the postal network violate Canada's national treatment obligations under the NAFTA.[27]

Since the tribunal's finding, arbitration has proceeded to the discovery phase, wherein the merits of UPS's claim will be explored. On April 4, 2003, the tribunal directed both parties to begin submitting, and requesting of one another, all documents relevant to the discovery process by April 25, 2003.[28] The production of documents, as well as answers to interrogatories, was scheduled to be completed by October 1, 2003.[29]

Other Pending Cases Regarding Anti-Competitive Practices

Owing in part to the initiation of postal reform in the European Union (see chapter 4), and in part to the vigilance of European regulators, there are presently 15 investigations of anti-competitive monopoly practicies pending in the European Union (table 3-1). These investigations span seven countries, and have been initiated by private firms and national and EU postal and competition authorities. The EU's postal reform program requires nondiscriminatory licensing, regulatory transparency, and independent regulatory authorities that have the competence to investigate allegations of cross-subsidization, predatory pricing, and abuse of dominant

[27] NAFTA Tribunal, *Award on Jurisdiction*, Nov. 22, 2002, p. 41; Canadian Union of Postal Workers, *UPS NAFTA Tribunal Doesn't Have Jurisdiction to Deal with Major Parts of UPS Complaint About Canada Post*, Dec. 19, 2002, found at Internet address *http://www.cupw.ca*, retrieved Feb. 3, 2003; U.S. Department of State (USDOS), Bureau of Public Affairs, *United Parcel Service of American v. Government of Canada*, found at Internet address *http://www.state.gov/*, retrieved Oct. 22, 2003.

[28] NAFTA Tribunal, *An Arbitration Under Chapter 11 of the North American Free Trade Agreement between United Parcel Service of America Inc and Government of Canada: Procedural Directions and Order of the Tribunal*, Apr. 4, 2003, p. 1, found at Internet address *http://www.dfait.maeci.ca/*, retrieved on Oct. 23, 2003; and official of the U.S. Department of State, telephone interview with USITC staff, Oct. 23, 2003.

[29] NAFTA Tribunal, *An Arbitration Under Chapter 11 of the North American Free Trade Agreement between United Parcel Service of America Inc and Government of Canada: Direction of the Tribunal concerning Document Production*, Aug. 1, 2003, p. 2, found at Internet address *http://www.dfait.maeci.ca/*, retrieved on Oct. 23, 2003. A telephone interview by Commission staff on Jan. 13, 2004, confirmed that, as of that date, the case was still in the discovery phase.

Table 3-1
Pending competition cases in the European postal sector

Initiator	Operator	Nature of case
European Commission	Belgian Post Office	Unlawful state aid
Finnish Competition Authority	Finnish Post	Non-transparency of tariffs
Finnish Competition Authority	Finnish Post	Discrimination of access
European Commission	Chronopost (France)	Unlawful state aid
European Commission	Chronopost (France)	Abuse of dominant position
European Commission	Deutsche Post	Unlawful state aid
European Commission	Deutsche Post	Unlawful state aid
German Authority for Post and Telekom	Deutsche Post	Abuse of dominant position
German Authority for Post and Telekom	Deutsche Post	Illegal use of addresses
German Authority for Post and Telekom	Deutsche Post	Illegal discounts
German Court of Auditors	Deutsche Post World Net	Unlawful fiscal exemptions
EFTA Surveillance Authority	Icelandic Post	Unlawful state aid
Italian Competition Authority	Poste Italiane	Abuse of dominant position
Italian Competition Authority	Poste Italiane	Abuse of dominant position
Dutch Post and Telecom Authority	KPN	Abuse of dominant position

Source: Free and Fair Post Initiative, *Pending Internal Market/Competition Cases and Complaints in the Postal Sector*, pp. 1-5, found at http://www.freefairpost.com/others/pending.htm, retrieved on Nov. 21, 2003; and Mark van der Horst, *The Cookie Jar Dilemma: Why the principles embedded in the European Postal Legislation will continue to create problems*, pp. 6-10, found at *http://www.euroexpress.org/,* retrieved on Nov. 25, 2003.

position.[30] The majority of pending cases stem from alleged abuse of dominant position or unlawful state aid, the latter of which is disciplined by Article 87 of the EC Treaty.[31]

[30] European Commission, *Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service*, pp. 11-12 and 16, found at Internet address *http://www.bild.net/postEU1.htm*, retrieved Nov. 25, 2003.

[31] European Commission, *Consolidated Version of the Treaty Establishing the European Community*, Section 2, Aids Granted by States, Article 87 (ex Article 92), p. 41, found at Internet address *http://europa.eu.int/*, retrieved Nov. 25, 2003.

Policies and Regulations that Apply to Express Delivery Service Firms:

Right to Establishment

Limitations on the form of business a supplier may take, such as requirements to establish as a subsidiary, joint venture, limited liability company, or representative office; or limitations on foreign equity participation in local firms, prevent U.S. express delivery firms from entering certain markets, and curtail their activities in others. For instance, requirements that foreign firms establish themselves as subsidiaries significantly affect cost structures as such entities must be separately capitalized; i.e., they can not draw on the resources of the parent firm when investing or operating abroad. Many countries prohibit majority ownership of local firms and require EDS providers to establish a joint venture with a local partner, limiting the scope of the operation.[32] Countries often maintain such limitations in order to influence competitive conditions in the domestic market and to provide opportunities for local firms. In China, EDS firms must form a joint-venture with a local Chinese firm at least until 2005.[33] Establishment limitations in developing countries may also reduce U.S.-based EDS firms' international expansion opportunities. For example, in India, where U.S.-based firms are trying to gain market share, the government requires approval for investment in the postal sector, including express delivery. Although, in certain cases, 100 percent foreign ownership is permitted for courier services in India, foreign direct investment in letter delivery is prohibited.[34] This adversely affects U.S.-based firms that transport large volumes of letter mail, such as Fedex and UPS. Foreign firms are limited to establishing a representative office or incorporating a company with 49 percent foreign equity in the United Arab Emirates.[35]

Postal Regulations

As noted in chapter 2, national postal authorities often compete directly with EDS firms in non-reserved areas such as expedited and package-delivery services. However, in most countries, postal regulations govern both competitive and non-competitive services. In some cases, postal authorities maintain regulatory control over postal markets or have authority to assess taxes, in effect subjecting private firms to regulatory oversight or taxation by their competitors. For example, Sinotrans, the state-owned postal operator in China, is both the monopoly provider and the regulator. Reportedly, Sinotrans rolled back some of the rights extended to

---

[32] FedEx Express, Statement to the USITC, hearing transcript, Nov. 5, 2003, p. 28.

[33] WTO, GATS, *Schedule of Specific Commitments - People's Republic of China*, GATS/SC/135, Feb. 14, 2002; and DHL Worldwide Express, written submission in connection with USITC Inv. 332-456, Oct. 24, 2003.

[34] USDOC, Country Commercial Guide - India, 2003, found at Internet address *http://www.stat-usa.gov/*, retrieved Aug. 13, 2003; and European Express Association, "Market Access Barriers by Country," Mar. 24, 2003 found at Internet address *http://www.euroexpress.org/*, retrieved Sept. 16, 2003.

[35] WTO, GATS, Schedule of Specific Commitments - UAE, GATS/SC/121, Apr. 2, 1996.

private operators upon China's accession to the WTO.[36] EDS firms also report that some countries are considering legislation that would reduce the scope of competitive delivery services. For example, Brazil and China have proposed legislation that would allow the monopoly provider to include express services under the monopoly (see text box 3-1[37] for a full list of impediments in China and Brazil).[38] Such enlargement of monopoly powers would serve to undermine market access obligations. Express delivery service providers also report that postal providers often receive other advantages such as immunity from parking violations and exemption from certain taxes.[39]

Licensing Requirements

Many countries require licenses for the provision of certain delivery services. Such licensing requirements may become restrictive when applied arbitrarily, or are discriminatory, non-transparent, or excessively complex. In some countries, such as Sweden, all private delivery firms must be licensed, while others, such as the United Kingdom, require a license to make letter deliveries under £1 or 350g.[40] Licenses often outline the fee structure and terms under which a firm may operate. For example, under the license administered by the Norwegian Post and Telecommunications Authority (PT), Norway Post must provide universal service, comply with the EU Postal Directive,[41] and permit third-party access to the postal system.[42] In Argentina, all couriers must be authorized by the *Comisión Nacional de Comunicaciones* (CNC). There are minimal requirements beyond a fee of $5,000 and each company has the same license regardless of its size. Once a courier has CNC authorization to operate, it must register with customs to provide express delivery services. However, the concessionaire and private couriers must unfairly compete with numerous small courier companies that reportedly operate outside the law. These companies reportedly do not pay taxes.[43]

Complex licensing procedures in some countries reportedly increase the cost of doing business for EDS firms and reduce efficiency.[44] For example, in South Africa where the Postal Services Act and Postal Services Regulations require a license for all deliveries up to one kilogram, and registration for deliveries of all other items, license holders must pay a fee of R500,000 (US$72,000) per year for three years and then 2

---

[36] UPS, statement to the USITC, hearing transcript, Nov. 5, 2003, p. 19; and DHL Worldwide Express, written submission in connection with USITC Inv. 332-456, Oct. 24, 2003; and industry representatives, interview with USITC staff, Brussels, Belgium, Oct. 14, 2003.

[37] A list of trade impediments for other observed countries is contained in Appendix E.

[38] UPS, statement to the USITC, hearing transcript, Nov. 5, 2003, p. 19; and industry representatives, interviews with USITC staff, Sao Paulo, Brazil, Oct. 6, 2003.

[39] For example, Brazil's post office is not required to pay state and local taxes.

[40] Rick Geddes, "Competition Policy and Postal Services: International Case Studies," Oct. 7, 2002, pp. 39-40.

[41] The EU Postal Directive allows licensing, but it is up to the individual Member state to implement a licensing system.

[42] Rick Geddes, "Competition Policy and Postal Services: International Case Studies," Oct. 7, 2002, p. 32.

[43] Industry and government representatives, interviews with USITC staff, Buenos Aires, Argentina, Oct. 16 and 17, 2003.

[44] Industry representative, interview with USITC staff, Sept. 30, 2003.

percent of annual turnover thereafter. Registrants pay a specified fee on an annual basis and license and registration applicants must also provide a significant amount of information, including a business plan. As the licensing term is not automatically renewed, service providers must reapply annually.[45]

In some countries, licensing procedures allegedly discriminate in favor of local providers. In South Africa, for example, foreign express service providers are granted ten-year licenses, while South Africa Post's license to supply postal as well as express delivery services spans 25 years. FedEx asserts that this is inconsistent with South Africa's commitments under the General Agreement on Trade in Services (GATS), which indicate that South Africa grants full national treatment to foreign providers of courier services.[46] In the United Arab Emirates (UAE), Emirates Post requires that private EDS firms obtain licenses for carriage of documents, letters, and parcels, while exempting itself from express delivery services-related licensing requirements and fees. U.S. firms assert that the UAE's postal laws further discriminate against competitors by giving Emirates Post authorization to conduct field inspections and financial audits of competing firms and to withdraw licenses from competitors. They assert that foreign suppliers are also required to price their services above those of Emirates Post.[47]

Barriers at Customs

Customs barriers are particularly important to express delivery providers who offer guaranteed delivery times. Delays at customs reduce delivery speeds, potentially reducing revenues and ultimately increasing costs for consumers. Industry representatives generally report a marked contrast between the low number of customs barriers in developed markets such as Europe and the numerous customs barriers noted in China and other developing countries.[48]

Discriminatory Customs Treatment of Private Firms

The trade effects of customs barriers are compounded if monopoly or state-owned postal operators receive preferential treatment at customs in the provision of competitive services. For example, packages shipped by the post office may receive expedited processing and may not be subject to storage and warehousing fees, duties,

[45] Statement by Federal Express Corporation regarding significant barriers to U.S. exports of services for inclusion in the National Trade Estimate Report, Dec. 13, 2002.

[46] WTO, GATS, *Schedule of Specific Commitments - South Africa*, GATS/SC/78, Apr. 15, 1994; and statement by federal express corporation regarding significant barriers to U.S. exports of services for inclusion in the USTR's National Trade Estimate Report, Dec. 13, 2002.

[47] Statement by Federal Express Corporation regarding significant barriers to U.S. exports of services for inclusion in the National Trade Estimate Report, Dec. 13, 2002; and European Express Association (EEA), "Market Access Barriers by Country," Mar. 24, 2003; ACCA, post hearing brief, submitted to the USITC on Nov. 14, 2003.

[48] Industry representatives, interview with USITC staff, Brussels, Belgium, Oct. 14, 2003; and ACCA customs survey.

taxes.[49] In Argentina, all goods that need to be cleared through customs, must use the bonded warehouse, managed by EDCADASSA, the concession holder. EDCADASSA charges US$0.50 per kilogram per day for the use of the warehouse.[50] However, Correo Argentino, the Argentine post office, has its own bonded warehouse, and thus can avoid these fees.[51] In addition, unlike private firms, Correo Argentino is not responsible for customs taxes and duties for goods valued at $30 or less, and can collect duties and taxes after completing deliveries.[52] In contrast, EDS providers in Argentina typically are required to pay duties and taxes at the time of entry, and can only collect these fees from the addressee after payment has been made. In Argentina, the process of collecting such fees is slow.[53] In Australia, the *de minimis* threshold, or the value at which customs begins to impose import taxes, is lower for private firms than for the postal monopoly. The *de minimis* threshold for express deliveries by private firms is A$250 (US$173), while the threshold for postal shipments[54] is A$1,000 (US$680) (see discussion below for a detailed examination of *de minimis* thresholds). Similarly, export clearance for private express delivery firms is required for shipments over A$500 (US$343), while Australia Post is only required to clear customs for exports if the shipment is valued at A$2,000 (US$1,370) or more. Lastly, private express delivery firms are charged A$45 (US$31) for reporting consolidated shipments, while the post office is exempt.[55]

Low De Minimis Thresholds

A *de minimis* threshold is used in many countries because the costs associated with collecting taxes and duties on some shipments often exceed the revenues collected. In some countries, such as Canada, India, and Indonesia, the *de minimis* threshold is set low, resulting in duties and taxes on relatively low-value shipments. Other countries, such as Argentina[56] and Russia, maintain no *de minimis* threshold; all items

[49] FedEx Express, Statement to the USITC, hearing transcript, Nov. 5, 2003, p. 26; and industry representatives, interviews with USITC staff, Brasilia, Brazil and Buenos Aires, Argentina, Oct. 9, 14, and 15, 2003. Although this report examines foreign impediments to express delivery services, the U.S. Postal Service (USPS) points out that in the United States, different rules apply to items shipped by the USPS. USPS, statement to the USITC, post-hearing brief, Nov. 19, 2003, p. 16.

[50] Firms may establish their own bonded warehouse to bypass EDCADASSA, but DHL is the only private firm that has done so. Industry representatives, interviews with USITC staff, Buenos Aires, Argentina, Oct. 14 - 16, 2003.

[51] Government representative, interview with USITC staff, Buenos Aires, Argentina, Oct. 17, 2003.

[52] Air Courier Conference of America (ACCA), statement to the USITC, hearing transcript, Nov. 5, 2003, pp. 9-10; and industry representatives, interviews with USITC staff, Buenos Aires, Argentina, Oct. 14, 2003.

[53] Industry representatives, interviews with USITC staff, Buenos Aires, Argentina, Oct. 14, 2003.

[54] Postal shipments are usually handled by state-owned monopoly-protected organizations.

[55] European Express Association, "Market Access Barriers by Country," Mar. 24, 2003 found at Internet address *http://www.euroexpress.org/*, retrieved Sept. 16, 2003.

[56] As noted above, items shipped by Correo Argentino are subject to *de minimis* of US$30.

are subject to duties and taxes regardless of value.[57] In the European Union, where the *de minimis* threshold is currently €22 (US$26), an increase in low value shipments from Internet shopping, which are exempt from duties and taxes, has provoked discussion about eliminating *de minimis* exemptions altogether.[58] According to EDS firms, such action would significantly increase their costs and discourage cross-border trade.[59]

Weight and Value Restrictions

EDS firms are also affected by weight, value, and type-of-good restrictions on express shipments.[60] In Argentina, only goods that weigh less than 50 kg or valued at less than US$3,000 can be categorized as express items and receive expedited processing. Anything over these limits is treated as regular cargo, which is subject to a slower clearance process. According to EDS providers, weight restrictions limit their ability to load airplanes (see box 3-1). In an effort to reduce competition with EDS firms, customs brokers reportedly are lobbying to reduce these limits to 20kg and US$1,000, which would further curtail the number of packages that could enter the country as express.[61]

In Brazil, packages valued over US$3,000, must enter the country as normal cargo. If an express shipment is found to be over US$3,000, then the shipper is responsible for any fines and penalties assessed.[62] Other restrictions include high tariff rates. For example, Brazil charges a duty tax of 60 percent and a state tax of 18 percent for items designated as express, which significantly restricts the consumer market for express delivery services in Brazil.[63] In Colombia, cargo is reweighed upon entry and if there are discrepancies in excess of 5 percent over the declared weight, the package is not allowed to enter.[64]

Customs Documentation

Customs documentation can be time-consuming and costly. In some cases, this stems from the failure to utilize in an effective manner available communications

---

[57] The United States' *de minimis* threshold is $250. By contrast, Canada's *de minimis* level is CN$20, while India and Indonesia each maintain a *de minimis* level of US$50. European Express Association, "Market Access Barriers by Country," Mar. 24, 2003 found at Internet address *http://www.euroexpress.org/*, retrieved September 16, 2003; and industry representative, interview with USITC staff, Buenos Aires, Argentina, Oct. 14, 2003.
[58] Industry representatives, correspondence with USITC staff, June 26, 2003.
[59] Industry representatives, interviews with USITC staff, Brussels, Belgium, Oct. 14 and 15, 2003.
[60] Air Courier Conference of America (ACCA), statement to the USITC, hearing transcript, Nov. 5, 2003, p. 10.
[61] Industry and government representatives, interviews with USITC staff, Buenos Aires, Argentina, Oct. 14, 16, and 17, 2003.
[62] Industry representative, interview with USITC staff, Sao Paulo, Brazil, Oct. 6, 2003
[63] Ibid.
[64] Industry representative, interview with USITC staff, Brussels, Belgium, Oct. 15, 2003.

Box 3-1
Policies and regulations that apply to express delivery service firms: Summary for China and Brazil

China

Right to establishment:
- Foreign firms are only allowed to offer international courier services, including express delivery, through joint ventures with local partners; there is a 75-percent limitation on foreign ownership (will reach 100 percent in December 2005).
- EDS providers must legally establish as both international logistics providers and third-party logistics providers to be permitted to handle both domestic and international deliveries.

Customs impediments:
- Foreign EDS suppliers pay a tax at the border that is not paid by domestic carriers.
- Foreign EDS firms complain that deliveries by their local affiliates in China are inspected at customs, while domestic firms' deliveries are not. These inspections often result in confiscations and fines.

Postal regulations:
- Under Chinese postal law, private firms are not permitted to provide domestic or international delivery services within China for letters, printed matter, and documents. However, a discrepancy exists between the written law and current practice, creating uncertainty in the regulatory environment for foreign express delivery providers.
- China's Trade Ministry requires all foreign EDS firms to register with China Post, effectively enabling China Post to regulate its competitors. Further, foreign firms are not permitted to handle government, military and Communist Party delivery items.
- Pending legislation may limit EDS firms' operations in China.
- The government of China has proposed a tax on express delivery carriers that will fund universal postal service in China.

Policies with an indirect impact on express delivery:
- Foreign ownership of airlines is limited to 49 percent. The number of flights per day is also restricted (6 for UPS).
- Multiple trucking licenses must be obtained for different geographic areas; the industry states that obtaining the licenses is a time-consuming process.

Brazil

Customs impediments:
- Shipments designated as express are subject to import duties of 60 percent and state taxes of 18 percent.
- Goods valued at over $3000 are subject to penalties and follow procedures that result in time delays.
- Depending on the product, there may be additional government agencies required for full customs clearance, which may delay shipments.
- No electronic clearance system presently exists in Brazil.

Postal Regulations
- The current postal regulatory environment creates uncertainty for private EDS firms. Proposed legislation would severely restrict EDS operations, and the legal status of Brazil Post remains unclear.
- Reportedly Correios cross-subsidizes its e-commerce and express delivery businesses with monopoly profits.
- A postal bill is currently under review in the Brazilian Congress that would require postal and EDS providers to contribute 5 percent of their gross revenues to a Universal Service Obligation (USO) fund, even though they are not obligated to provide universal services.

Policies with an indirect impact on EDS
- Full service delivery for EDS firms is a problem in Brazil owing to government restrictions on the use of private and commercial vehicles. If EDS firms violate this restriction, they are subject to fines and the possibility of losing their license. However, the postal monopoly is exempt from this rule.

tools such as electronic data interchange (EDI).[65] In Indonesia, for instance, EDI is not used for express deliveries. In addition, there is no account based processing, which simplifies and expedites clearance. Further, Indonesian customs charges firms $5 per kilogram for incoming documents, which is considered burdensome given the large volume and high weight of business-related documents sent by U.S.-based EDS firms.[66] In Russia, U.S. firms are reported to face similar customs-related obstacles. For example, documentation requirements and regulations lack transparency,[67] pre-arrival processing does not exist, and all items must be inspected. EDI is in limited use only in St. Petersburg, and account-based processing is not used.[68] A lack of a pre-clearing system also causes delays for EDS firms, as does the inability to process data electronically.[69]

Inspections

Customs inspection rules are also problematic in many countries. Mexico requires the shipper to be responsible for the authenticity of shipment documentation, rather than the exporter, which is the practice in most developed countries.[70] Discrepancies between commodity information, quantity, or weight and the shipping documentation result in fines or other penalties, including losing the right to operate. In light of these potential consequences, EDS firms state that they must open and inspect every package prior to entering Mexico. Mexico utilizes a complicated "red light/green light" system to randomly inspect packages. If a truck gets a red light, it is pulled over for inspection, which reportedly can take up to two days. There is a second red light/green light channel, so firms may have to go through full inspection a second time.[71] Further, Mexican customs follows a "one-in-ten" rule, which requires random inspection of one in every ten packages, rather than inspection of high risk packages alone. According to EDS providers, these inspection rules may slow down the clearance process so much that overnight delivery is nearly impossible.[72] EDS firms entering Argentina also inspect 100 percent of all packages because they are responsible for discrepancies. Additionally, in Argentina, customs inspects courier shipments using a red light/green light system to ensure that the proper duties and taxes are being collected based on the manifests. The system reportedly is not as complicated or problematic as in Mexico, but EDS firms are fined if there are discrepancies between the manifest and the taxes paid. In addition, there are special clearance rules for electronics, foodstuffs, and health related products.[73]

---

[65] EDI enables firms to improve efficiency and reduce costs through a reduction of steps necessary to exchange information.

[66] European Express Association (EEA), "Market Access Barriers by Country," Mar. 24, 2003, ACCA post hearing brief, submitted to the USITC on Nov. 14, 2003.

[67] In this context, transparency means the publication of regulations and the opportunity to comment on proposed changes.

[68] EEA, "Market Access Barriers by Country."

[69] Air Courier Conference of America (ACCA), statement to the USITC, hearing transcript, Nov. 5, 2003, p. 10.

[70] Industry representatives, correspondence with USITC staff, June 26, 2003; and industry representative, telephone interview with USITC staff, Sept. 30, 2003.

[71] Industry representatives, interview with USITC staff, Washington, DC, July 31, 2003.

[72] Industry representatives, correspondence with USITC staff, June 26, 2003; and industry representative, telephone interview with USITC staff, Sept. 30, 2003.

[73] Industry representatives, interviews with USITC staff, Buenos Aires, Argentina, Oct. 14 - 16, 2003.

Policies and Regulations that have an Indirect Impact on EDS Firms

In addition to restrictions on the provision of express delivery services, policies and regulations in other industries also affect the operation of EDS firms in foreign markets. Policies and regulations in transportation, freight forwarding, and logistics may impede the efficient provision of express delivery services. The types of limitations in these areas are similar to those discussed above - particularly limitations on rights to establish, including investment, equity, and joint venture requirements. Additionally, inadequate roads and airports, antiquated communication systems,[74] and restricted access to internal transport infrastructure, act as impediments to express delivery firms and transport firms alike.[75] Similarly, limitations on ownership or operation of trucking firms prevent EDS firms from offering seamless door-to-door services.[76]

In China, regulations on foreign investment in logistics firms divides the industry into international logistics businesses (ILBs), which include international freight forwarding; and third-party logistics businesses (3PLBs), which provide logistics services in China, such as domestic freight forwarding, trucking, warehousing and information technology (IT) management. As a result, EDS firms must rely on, or legally establish as, both ILB and 3PLB businesses for logistics-related services in order to handle both domestic and international services. Although 99 percent foreign-ownership is permitted for investment in a 3PLB, foreign investment in ILBs is limited to 50 percent, which reduces U.S.-based EDS firms' end-to-end control over logistics-related shipments that have an international component. A joint-venture can include both types of logistics businesses, but investment in such a venture is limited to 50 percent.[77] China also divides trucking licenses into five different categories depending on the size of the fleet, limiting the flexibility of trucking firms.[78] In addition, foreign firms are restricted from 100-percent ownership of Chinese freight forwarding companies.[79]

In many countries, such as India, foreign express delivery providers are not permitted to perform ground handling services, and instead have to rely on local firms for these services, interrupting the provision of integrated services.[80] Handing off packages to a local ground handling crew reduces the efficiency of EDS firms. U.S. providers report delays since express shipments are not prioritized. Both India and Indonesia limit the number of suppliers for slots and ground handling. In China, international freight forwarding firms are required by the State Postal Bureau and MOFTEC, the foreign trade ministry, to file an "entrustment" application with the national postal body and with the local postal authority in each province in which they provide or want to provide service. In effect, foreign firms must obtain the approval of their local competitors in order to provide service.[81] According to industry representatives this requirement is inconsistent

---

[74] Kevin Hall, "DHL Expands in Buenos Aires," *The Journal of Commerce*, found at Internet address *http://www.joc.com/*, retrieved Feb. 23, 2000.

[75] Datamonitor, "European Logistics, Postal and Express Monitor," Feb. 2003, p. 13.

[76] FedEx Express, Statement to the USITC, hearing transcript, Nov. 5, 2003, p. 28.

[77] Industry representative, telephone interview with USITC staff, June 9, 2003.

[78] DHL Worldwide Express, written submission in connection with USITC Inv. 332-456, Oct. 24, 2003.

[79] Ibid.

[80] European Express Association, "Market Access Barriers by Country," Mar. 24, 2003 found at Internet address *http://www.euroexpress.org/*, retrieved Sept. 16, 2003.

[81] Industry representative, telephone interview with USITC staff, Sept. 30, 2003.

with China's GATS commitments.[82] Additionally, foreign express delivery firms are prohibited from providing integrated services in China, and must instead utilize China's fragmented delivery networks. This reportedly results in slow growth of foreign EDS providers in China, reduced employment, and limited opportunities for manufacturers to express ship their products.[83]

In Indonesia, foreign investment in local trucking or ground transportation joint-ventures, which is the only permitted form of establishment, is limited to 49 percent. Foreign freight forwarders, air, and ground transportation providers must also form joint-ventures with local firms, but may hold up to 95 percent of the venture's equity.[84]

In Mexico, the Transportation Commission proposed a draft bill in December 2002 that would prevent foreign firms from transporting cargo on federal highways. Additionally, foreign investment in Mexican firms providing courier services and supporting services for air transport is capped at 49 percent.[85] Mexico's transportation law discriminates against foreign providers, limiting trucks to under 4 tons. As a result, express providers must use small trucks or vans to transport inter-city deliveries, or contract out to domestic firms that can use larger trucks. While this requirement does not generally hinder intra-city deliveries, it causes problems for inter-city shipments unless EDS firms use local competitors' vehicles. Under this system EDS firms lose some efficiency and incur additional costs.[86]

To ease traffic congestion, Sao Paulo, Brazil, has rules regarding the days on which vehicles may and may not be used, which reduces the ability of EDS firms to provide full service deliveries. While these rules apply to private citizens and companies, they do not apply to Correios, the national postal operator. Correios is also exempt from parking fines.[87]

Restrictions on aviation reportedly also hinder the operation of EDS firms. Rules on international aviation are based on bilateral aviation agreements and do not fall under the scope of the GATS. Under a bilateral aviation agreement only those activities listed in the agreement are permitted by signatories. From the perspective of express delivery providers, there are several aspects of bilateral aviation agreements that are problematic. For example, most bilateral agreements do not consider the one-way flow of cargo and express packages, or the need to operate at night. In addition, bilateral aviation agreements often limit the number of carriers allowed to fly between signatory countries. While progress is being made in this area through open skies agreements that allow unlimited designations, some EDS firms are still barred from flying to certain markets; e.g., Russia.

---

[82] According to China's schedule of commitments, "The conditions of ownership, operation and scope of activities, as set out in the respective contractual or shareholder agreement or in a license establishing or authorizing the operation or supply of services by an existing foreign service supplier, will not be made more restrictive than they exist as of the date of China's accession to the WTO." WTO, GATS, *Schedule of Specific Commitments - China*, GATS/SC/135, Feb. 12, 2002.

[83] Charles Hutzler, "Report Faults China's Curbs on Delivery Firms," *The Wall Street Journal*, Sept. 12, 2003, p. A9.

[84] Statement by Federal Express Corporation regarding significant barriers to U.S. exports of services for inclusion in the National Trade Estimate Report, Dec. 13, 2002.

[85] WTO, GATS, *Schedule of Specific Commitments - Mexico*, GATS/SC/56, Apr. 15, 1994.

[86] Industry representative, interview with USITC staff, Washington, DC, July 31, 2003; and UPS, statement to the USITC, hearing transcript, Nov. 5, 2003, p. 22.

[87] Industry representative, interview with USITC staff, Sao Paulo, Brazil, Oct. 6, 2003.

In addition, bilateral aviation agreements often limit the number of flights a carrier may make, prohibit carriers from providing services to or between two or more countries (the so-called "7th freedom" rights[88]), or providing cabotage[89] services within a country.[90]

In addition, European night flight restrictions have raised uncertainty with regard to nighttime operations of express delivery providers. Nearby residents and environmentalists oppose nighttime flights at several major European airports, including Brussels, Frankfurt, Charles de Gaulle, and Lisbon. In Lisbon, night flights are banned, and Brussels and Frankfurt are considering similar action.[91] Postal carriers are exempt from these rules.[92]

---

[88] Under international aviation rules, airline carriers serve foreign markets based on eight "freedoms of the air." The 7th Freedom refers to the right to carry passengers between two countries other than the carrier's country of registration. For more information, see Joann Tortorice, *Industry, Trade, and Technology Review,* "Air Transport Services", USITC publication 3271, Dec. 1999.

[89] Cabotage refers to trade between two points within a country.

[90] UPS, statement to the USITC, post-hearing brief, Nov. 19, 2003, p. 9.

[91] State Dept. cable, "France, U.S. Bilateral Aviation Discussions, Feb. 24-25," Embassy of France, message reference No. 01675, Mar. 7, 2003; and Datamonitor, "European Logistics, Postal and Express Monitor," Jan. 2003, p. 14; and industry representatives, interview with USITC staff, Brussels, Belgium, Oct. 14, 2003.

[92] Industry representatives, interview with USITC staff, Brussels, Belgium, Oct. 14, 2003.

CHAPTER 4
EVOLVING REMEDIES TO IMPEDIMENTS

Several events currently underway may reduce the number and severity of impediments to trade in express delivery services. Globally, many countries have reexamined the structure of postal regimes in response to competition from alternative communication media such as fax, electronic mail, and the Internet; and from alternative providers such as private express carriers.[1] In the European Union, countries are implementing two successive postal directives, which reform the EU postal market and target 2009 for complete liberalization of European postal markets.[2] Similarly, Argentina, Australia, New Zealand, Norway, and Switzerland have reduced or abolished their postal monopolies, and many other countries have begun the process of postal corporatization.[3] However, in most cases, EDS firms are not interested in providing letter mail delivery services on a competitive basis, as postal reform would allow.[4] Rather, the effectiveness of postal reform as a remedy largely depends on the establishment of regulations that enable private EDS firms to provide end-to-end express delivery services and that discourage anticompetitive monopoly behavior. A description of different types of regulatory approaches are described in box 4-1.

Additional remedies to express delivery trade impediments may arise from bilateral and multilateral trade agreements. In the World Trade Organization (WTO), negotiations under the General Agreement on Trade in Services (GATS) recommenced in January 2000. Separately, in 2003 the United States concluded free trade agreements (FTAs) with Singapore and Chile, and pursued similar agreements with other countries.[5] These agreements "establish prototypes for liberalization" in a wide-range of areas, including express delivery services.[6] Last, the World Customs Organization (WCO) has published conventions and recommendations that address customs procedures important to EDS firms. This chapter examines postal reform efforts, most particularly in the European Union; the treatment of express delivery services in recent and ongoing trade negotiations; and the intent of WCO initiatives.

---

[1] OECD, “Promoting Competition in the Postal Sector,” found at Internet address *http://oecd.org/*, retrieved Nov. 18, 2003.

[2] European Commission (EC), “The New Postal Directive,” Directive 2002/39/EC, found at Internet address *http://europa.eu.int/*, retrieved Aug. 22, 2003.

[3] OECD, “Promoting Competition in the Postal Sector.”

[4] Industry representative, telephone interview with USITC staff, Washington, DC, June 9, 2003.

[5] U.S. Trade Representative Robert Zoellick has stated that the United States will continue to push forward with free trade agreements, thereby establishing a “level playing field” with other major industrialized nations, especially the EU, that have established FTA portfolios. Robert Zoellick, “Our Credo: Free Trade And Competition,” *The Wall Street Journal*, July 10, 2003.

[6] Ibid.

Box 4-1
Postal reform overview: GATS FTAs and other regional and multilateral fora

Many countries are reforming their postal markets to enable incumbent firms to better compete with private express delivery firms, as well as alternative communication media, such as fax, e-mail, and the Internet. While some countries began reform from somewhat different starting points, the integrated state-owned monopoly based on legal prohibition of competition is a useful benchmark. The integrated state-owned monopoly is the international norm, and so provides a backdrop against which postal reforms can be considered. This discussion considers two broad aspects of regulatory reform: 1) changes in the management and ownership structures of the traditional postal provider, and 2) the introduction and enhancement of competition in postal services.

Changing management and ownership

One of the most common postal reforms is **corporatization** of the national postal service.[1] In some countries, the postal service is operated as a government department, with postal revenues and costs included in the overall government budget. Corporatization removes the postal service from direct political control, and requires it to cover its own costs with postal revenues. In some cases, corporatization is accompanied by the creation of an independent postal regulator. The postal regulator oversees postal operations, and may be involved in the setting of postal rates.

A more complete step in removing postal services from the books of the national government is **privatization** of the national postal service. So far, only New Zealand has privatized its post office, but its perceived success has raised its profile as a reform program. Typically, privatization requires substantial changes to regulatory oversight of the postal sector, and is usually considered only in the context of substantial regulatory reforms aimed at creating competition for postal services.

Introducing competition

Marginal changes to postal regulations can enhance competition by reducing the monopoly reserved area, thereby enlarging the scope of activities that private firms may undertake. More comprehensive reforms envision outright competition for postal activities once reserved to the postal monopoly. Direct competition in the postal sector can take two forms:1) the postal network can be divided into competitive and non-competitive segments, with competing firms given equal access to regulated non-competitive segments, or 2) competing firms can be allowed to create an entire competing network. Each of these potential reform programs is considered in turn.

Reduce scope of postal monopoly, by service

One relatively simple reform that requires little change to the overall structure of a postal regulatory system is to reduce the scope of services reserved to the traditional postal monopoly. Postal authorities already face competition from private firms that provide express delivery services. Increasing the scope of services that EDS firms can legally provide gives consumers a choice among suppliers of newly liberalized services and increases pressure on the postal authority to improve service and reduce prices for the newly competitive range of services.

The scope of the postal monopoly can also be reduced along other dimensions. Postal monopolies impose a variety of restrictions on private carriers. Removing any of these restrictions reduces the scope of the postal monopoly. One stage of New Zealand's reform program was the gradual reduction of the price floor imposed on firms competing with the postal service.[2] Sweden's reform program began with a court decision that established private carriers' right to deliver computer generated mail, thereby limiting the scope of the postal monopoly.[3]

Reduce scope of postal monopoly, by process

A second model for introducing competition is to divide discrete processes into competitive and non-competitive segments. This framework is similar to that adopted in other network industries such as the provision of electricity, where competition is encouraged in those processes in which competition is viable (i.e., generation and retail supply), while natural monopoly processes (transmission and distribution) maintain the regulated monopoly format. This regulatory framework allows for competition in competitive sectors. The key regulatory insight is that competitive firms must be given non-discriminatory access to natural monopoly segments, also called essential facilities, of the supply chain.

The supply of postal processes might conceivably be broken into 5 segments - collection, outward sorting, transportation, inward sorting, and final delivery. While there is mixed evidence for limited scale economies in some sorting and collection activities, it appears that final delivery is the only sector with significant scale economies. If scale economies in final delivery are significant, competition would be unlikely to reduce the average cost of delivery. In this case, a system that allowed local monopolies in final delivery and competitive behavior in other segments of postal services may be an efficient way to facilitate competition in express delivery and related services while preserving universal postal service.

Box 4-1-*Continued*
Postal reform overview: GATS FTAs and other regional and multilateral fora

Allow competing networks

An alternative framework for allowing competition is to simply remove the postal monopoly altogether, allowing new postal networks to compete with the incumbent. New Zealand and Sweden have followed this strategy and competing postal networks have emerged. Finland's reforms also allow for competing networks, but no rival has emerged, possibly because Finnish reforms would tax entrants to provide universal service.

Reform programs that allow competing networks usually require additional reform to safeguard competition. The incumbent postal monopoly usually enjoys a number of competitive advantages, and sometimes a range of competitive disadvantages, that stem from their historic status as a protected monopoly. For example, incumbent monopolies that have not been fully privatized may benefit from special tax treatment or implicit subsidies because they are owned by the state. State-owned monopolies may also face cost-increasing restrictions (like requirements to hire under civil service guidelines) that impose competitive disadvantages. If competition is to produce economically efficient outcomes, both competitive advantages and competitive disadvantages need be removed.

---

[1] Corporatization has also been one of the first phases of more comprehensive reform programs. For example, New Zealand corporatized its post office in 1986, gradually reduced the scope of monopoly-reserved activities during 1987-98, and abolished the postal monopoly over letter delivery in 1998. See Rick Geddes, "Competition Policy and Postal Services: International Case Studies," Cornell University, Oct. 7, 2002, pp. 26-27.

[2] New Zealand phased out restrictions on private carriers based on the physical weight of packages during the same period. See Geddes, p. 27.

[3] Geddes, pp. 30-32.

The chapter concludes by summarizing the findings of econometric work that measures the impact of foreign customs procedures on time-sensitive U.S. exports.

Postal Reform

European Postal Reform

On December 15, 1997, the European Commission (EC) adopted a Postal Directive, which provides common rules for the development of the EU's internal postal market and seeks to improve service quality. The Directive mandates the gradual opening of all EU Member states' postal markets while maintaining universal service and establishing an appropriate regulatory environment.[7] The Directive requires Members to provide universal postal service for a minimum of 5 days a week and sets a common limit for reserved postal services of a price less than or equal to 5 times the postage for a standard postal article[8] and a weight less than or equal to 350 grams.[9] The Directive also includes the tariff principles applicable to the Universal Service Providers (USPs), governs the setting of quality service standards for

---

[7] Paul Waterschoot, "Postal Services Regulation and Liberalization," European Commission, Sept. 23, 2002, p. 9.

[8] The cost of postage for a standard letter is known as basic tariff price.

[9] Most EU countries grant a legal monopoly to the incumbent postal operator over certain mail services, known as "reserved" services.

national and cross-border services, confirms the mechanisms to encourage technical harmonization, and mandates consultation of interested parties.[10]

On June 10, 2002, the EC introduced the new Directive to expedite opening cross-border and domestic mail delivery to competition and to reexamine price and weight limits.[11] The new Directive reserves for postal authorities items weighing less than 100 grams and costing less than three times the basic tariff. These limits will be reduced to items weighing less than 50 grams and costing less than two-and-one-half times the basic tariff in January 2006, thereby opening up 20 percent of the EU postal market to competition, up from 3 percent under the current legislation.[12] Complete liberalization could take place in 2009, pending approval by both the European Parliament and Council in 2007.[13]

The EU postal directives espouse pro-competitive principles that may redress certain of the complaints lodged by U.S.-based firms. In tandem, the directives provide for:

- Licenses for providers of non-reserved service provision and licensing procedures that are transparent, non-discriminatory, proportionate, and based on objective criteria (Article 9, Directive 97/67/EC);
- users' and universal service providers' access to the public postal network under transparent and non-discriminatory conditions (Article 11, Directive 97/67/EC);
- transparent and non-discriminatory tariffs (Article 12, Directive 97/67/EC);
- prohibitions on cross-subsidies to services outside reserved areas with revenues form services inside reserved areas (Article 12, Directive 2002/39/EC);
- universal service providers' separate internal accounting systems for services inside the reserved sector and those outside the non-reserved sector (Article 14, Directive 97/67/EC); and
- creation of national regulatory authorities for the postal sector that are legally separate from and operationally independent of the postal operator (Article 22, Directive 97/67/EC).

Implementation by Member States

Member countries vary widely in terms of the degree to which they have implemented the EU's postal directives (table 4-1). Finland and Sweden, for instance, have exceeded the directives' requirements, opening all postal services to

---

[10] Framework Postal Directive, found at Internet address *http://europa.eu.int/comm/internal_market/post/framework_en.htm/*, retrieved Sept. 15, 2003.

[11] The EC, "History of the New Postal Directive," found at Internet address *http://www.europa.eu.int/comm/internal_market/post/newdirective/his...*, retrieved Aug. 21, 2003; and Dr. Robert M. Campbell, "Postal Western Europe*,"* found at Internet address *http://www.wlu.ca/~wwwarts/deans_office/robert-campbell/research/westerneurope.shtml/,* retrieved Sept. 15, 2003.

[12] Federation of European Direct Marketing, found at Internet address *http://www.fedma.org/code/page.cfm?id_page=76,* retrieved Sept. 16; and EC, "The New Postal Service Directive," Directive 2002/39/EC, retrieved at *http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!PROD!C...*, retrieved Aug. 22, 2003.

[13] "New Postal Directive Slightly Opens Door to Fair Competition," *Express Update*, July 2002, Issue 75, p. 1.

Table 4-1
Status of EU postal directive implementation, 2003

Country	Universal service	Reserved area	Presence of licensing system	Independent regulatory authority
Austria	5 days/week - 20 kilograms domestic and incoming cross-border	100 grams or 3 times basic tariff. Outgoing cross-border mail not reserved.	No	Yes
Belgium	5 days/week - 10 kilograms domestic and 20 kilograms incoming cross-border	100 grams or 3 times basic tariff. Outgoing cross-border mail not reserved.	Yes	No
Denmark	6 days/week - 20 kilograms domestic and incoming cross-border	100 grams or 3 times basic tariff. Outgoing cross-border mail not reserved.	No	Yes
Finland	5 days/week - 10 kilograms domestic and 20 kilograms incoming cross-border	None	Yes	Yes
France	6 days/week - 20 kilograms domestic and incoming cross-border	350 grams or 5 times basic tariff	No	No
Germany	6 days/week - 20 kilograms domestic and incoming cross-border	100 grams or 3 times basic tariff. All bulk mail deliveries weighing less than 50 grams with identical content are also reserved. Direct mail more than 50 grams and outgoing cross-border mail not reserved.	Yes	Yes
Greece	5 days/week - 20 kilograms domestic and incoming cross-border	100 grams or 3 times basic tariff	Yes	No
Ireland	5 days/week - 20 kilograms domestic and incoming cross-border	100 grams or 3 times basic tariff	No	Yes
Italy	5 days/week - 20 kilograms domestic and incoming cross-border	100 grams or 3 times basic tariff.	Yes	Yes
Luxembourg	5 days/week - 10 kilograms domestic and 20 kilograms incoming cross-border	100 grams or 3 times basic tariff	No	Yes

Table 4-1-*Continued*
Status of EU postal directive implementation, 2003

Country	Universal service	Reserved area	Presence of licensing system	Independent regulatory authority
Netherlands	6 days/week - 10 kilograms domestic and 20 kilograms incoming cross-border	100 grams or 3 times basic tariff. Direct mail and outgoing cross border mail are not reserved.	No	Yes
Portugal	5 days/week - 20 kilograms domestic and incoming cross-border	100 grams or 3 times basic tariff	Yes	Yes
Spain	5 days/week - 10 kilograms domestic and 20 kilograms incoming cross-border	100 grams or 3 times basic tariff. Direct mail and local mail are not reserved.	Yes	Yes
Sweden	5 days/week - 20 kilograms domestic and incoming cross-border	None	Yes	Yes
United Kingdom	6 days/week - 20 kilograms domestic and incoming cross-border	350 grams or £0.80. Outgoing cross-border mail is not reserved.	Yes	Yes

Note: The postal directives allow countries to set up a licensing system for anyone other than the postal authority to enter the market.

Source: *Report from the Commission to the European Parliament and the Council on the Application of the Postal Directive (97/67/EC Directive)*, Brussels, Nov. 25, 2002; James I. Campbell Jr., “Modern Postal Reform Laws: A Comparative Survey,” Postal and Delivery Services: Pricing, Productivity, Regulation and Strategy, Boston: Kluwer, 2001; DHL Worldwide Express, written submission to the USITC, Oct. 24, 2003; UPS, written submission to the USITC, Nov. 18, 2003; and Manuel Iglesias, European Commission, email to USITC staff, Oct. 28, 2003.

competition. At the same time, the European Union is advancing the formal infringement process against Austria and France for declining to implement the new Postal Directive, and against Greece for declining to implement both postal directives.[14] In addition, Greece is the only Member state not in compliance with mandated improvements in service quality.[15]

Laws on universal service are not required to be uniform throughout the European Union; they must meet only the minimum requirements set out in the directives. For example, the United Kingdom's universal service obligation requires the delivery of documents and parcels weighing up to 20 kilograms to every address five days a week, except under "exceptional circumstances." Postcomm, the independent British regulatory authority, has licensed Consignia to provide universal service, and requires Consignia to place mailboxes within 500 meters of 99 percent of postal service users.[16] In Germany, universal service is defined as the provision of basic postal services (letters up to 2 kg, parcels up to 20 kg, and the delivery of newspapers and magazines) at affordable prices throughout the country.[17] German statutes set the maximum level of stamp prices, the minimum quality of service (80 percent of letters must be delivered on the day after they are mailed), the minimum number of post offices (12,000), rules for the placement of mailboxes (located no more than 1 kilometer from any urban resident), and the frequency of delivery (at least once per working day).[18]

The absence of independent regulators for postal services has been cited as a problem in Belgium and France.[19] The EC began a formal infringement procedure against France in June 2002 to ensure that the national regulatory authority for the postal sector is independent of the public postal operator. France has designated the Minister of Economic Affairs, Finance and Industry as the national regulatory authority, but this Minister also has authority over the economic and financial performance of La Poste, the national postal operator.[20] The EC began a formal infringement procedure against Belgium in July 2001. In Belgium, a Minister is also

---

[14] Formal notice of infringement procedures was given to eight countries in January 2003; five of the eight have notified the EC that they have since implemented the Directive. Austria and France have since introduced some administrative measures on postal services, but are not yet in full compliance. "Internal Market Moves against 13 Member States for Failure to Implement EU Legislation," *Malta Business Online,* July 2003, found at Internet address *www.wbo.com.mt/mbo.nsf/print/Internal+Market:+Commission+moves+against+13...,* retrieved Sept. 16, 2003.

[15] The EC, *Report from the Commission to the European Parliament and the Council on the Application of the Postal Directive (97/67/EC Directive)*, Brussels, Nov. 25, 2002.

[16] James I. Campbell Jr., "Modern Postal Reform Laws: A Comparative Survey," *Postal and Delivery Services: Pricing, Productivity, Regulation and Strategy,* Boston: Kluwer, 2001, pp. 16-17.

[17] Written statement of UPS, submitted to USITC, Inv. no. 332-456, Nov. 18, 2003, p. 3.

[18] Campbell, "Modern Postal Reform Laws: A Comparative Survey," *Postal and Delivery Services: Pricing, Productivity, Regulation and Strategy*, p. 6.

[19] Independent regulators are required to prevent bias in favor of the national postal service provider. "New Postal Directive Slightly Opens Door to Fair Competition," *Express Update*, July 2002, Issue 75, p. 1.

[20] "Postal Services: The Commission Asks France to Reinforce the Independence of its National Regulatory Authority for the Postal Sector," European Union press release IP/02/932, June 26, 2002.

charged with regulating postal services. The independence of postal regulators in Greece, Italy, and Spain remain under review.[21]

Postal Reform in Other Countries[22]

Argentina

In July 1993, Argentina virtually abolished its postal monopoly,[23] reserving only legal documents and stamps for the incumbent provider (table 4-2). The government began a bidding process for a postal operator to undertake the universal service obligation, which was won by Correo Argentino. Argentina reserves letters under 20 grams for the universal service provider. Correo Argentino, which now controls 40 percent of the postal market, is a private company that provides domestic and international postal and telegraph services in conjunction with alliance partners Western Union and Argentina's payment services company Pago Facil.[24] Other operators can enter the market for a fee of 5000 pesos; foreign operators are also required to obtain Customs and Post Office authorization.[25] Argentina lacks a regulatory authority and reportedly is unable to curb illegal postal operations.[26]

Australia

Though still a government-owned enterprise, Australia Post's reserved area was reduced in 1989 and 1994. Australia Post is obligated to maintain universal postal service at a uniform rate. Reserved mail costs less than or equal to four times the postage for a standard postal article and weighs less than or equal to 250 grams. However, the reserved area does not include carriage of outbound international letters, advertising mail (including newspapers and magazines), intracompany letters,

---

[21] EC, "Postal Services: Commission Pursues Infringement Proceedings against Belgium," *press release IP/01/1139*, July 30, 2001.

[22] The countries chosen for this discussion have made significant steps toward postal reform.

[23] "Status and Structures of Postal Administration: Argentina," found at Internet address *http://www.cyberbeach.net/~willows/cupw/ring/xar.htm/,* retrieved Aug. 25, 2003.

[24] Correo Central recently filed for bankruptcy. The government plans to retake the universal service obligation and begin a new postal deregulation process. Universal postal Union, Argentina: Correo Argentino: Competing for Success, presentation in Berne, Switzerland, mar. 4, 2003, found at Internet address *http://www.upu.int/postal_dev_reformn/pdag_presentations.shtml/,* retrieved Sept. 22, 2003; Simon Gardner, "Argentina Strips Away Postal Service Concession," Yahoo Finance, Nov. 19,2003, found at Internet address *http://uk.biz,yahoo.com/031119/80/eeeex.html/,* retrieved Dec. 16, 2003; and Helmut Dietl and Peter Waller, "Competing with Mr. Postman: Business Strategies, Industry Structure and Competitive Prices in Liberalized Letter Markets," University of Paderborn, Jun. 13, 2001.

[25] Written statement of Air Courier Conference of America International (ACCA), submitted to USITC, investigation No. 332-456, Nov. 14, 2003, p. 3.

[26] Universal Postal Union, *Argentina: Correo Argentino:Competing for Success*, presentation in Berne Switzerland, Mar. 4, 2003, found at Internet address *http://www.upu.int/postal_dev_reform/en/pdag_presentations.shtml/*, retrieved Sept. 22, 2003; and industry representative interview with USITC staff, Buenos Aires, Argentina, Oct. 16, 2003.

Table 4-2
Status of postal reforms in other selected countries, 2003

Country	Universal service	Reserved area	Presence of licensing system	Independent regulatory authority
Argentina	Yes	None	Yes	No
Australia	Yes, at a uniform rate	250 grams or 4 times basic tariff, not including outbound international letters, advertising mail, and intracompany letters	Yes	No
New Zealand	None	None	No	No
Norway	Yes, providing equitable and nondiscriminatory access	350 grams or 5 times basic tariff, not including books, magazines, catalogs and newspapers	Yes	No
Switzerland	Yes	2 kilograms, not including express mail and international parcels	No	No

Source: Compiled by the USTR from industry sources and postal administration annual reports.

or upstream services for bulk mail and letters carried within or between document exchange offices. The Australian government establishes delivery and access standards for universal service. The Australian Government supervises the policies of Australia Post directly; no independent regulator for the postal sector has been established. However, the Australian Competition and Consumer Commission (ACCC) acts as arbitrator in certain postal disputes and has limited authority to scrutinize increases in postage rates for reserved services.[27] Express delivery packages must go through a formal clearance process if valued at more than A$250 and need an export clearance if over A$500. These thresholds are much lower than those set for Australia Post.[28]

New Zealand

The New Zealand Post, a government-owned corporation, lost its letter monopoly in 1998. New Zealand's laws do not define or impose a universal service obligation, and there is no licensing scheme or active regulator. There are certain disclosure regulations, including the number of bulk mail contracts at each discount level and the justification of such discounts. To become a postal operator, one must file a registration with the Minister, mark each postal article with a postal identifier, respect the privacy of postal communications, and keep a record of postal articles detained or opened and notify addressees. Under New Zealand Post's contract, the company agreed to provide 6-day per week delivery service to more than 95 percent of delivery points, maintain the stamp price below NZ$ 0.45, and maintain a specified number of post offices.[29] It also agreed to impose no rural service fees.

Norway

The Postal Services Act of 1996, as amended in 1997 and 1999, limits Norway's postal monopoly to addressed, closed letters weighing less than 350 grams, with a cost equal to or less than five times the standard first-class letter postage. The reserved area does not include books, magazines, catalogs, and newspapers. The Norwegian Post and Telecommunications Authority (PT) regulates postal services. Norway Post administers the country's universal service obligation, providing equitable and nondiscriminatory access to its postal network through a license issued by PT.[30]

Switzerland

The Swiss Post, a government-owned enterprise, is required to provide universal service and has a monopoly on mail and parcels up to 2 kilograms. Express mail and

---

[27] Campbell, "Modern Postal Reform Laws: A Comparative Survey," *Postal and Delivery Services: Pricing, Productivity, Regulation and Strategy,* pp. 4-5.

[28] Written statement of ACCA, submitted to USITC, Inv. no. 332-456, Nov. 14, 2003, p. 4.

[29] Although this appears to be a universal service obligation, it is part of the contract that New Zealand Post signed with the government and is not part of the law. Campbell, "Modern Postal Reform Laws: A Comparative Survey," *Postal and Delivery Services: Pricing, Productivity, Regulation and Strategy,* pp. 12-13.

[30] Rick Geddes, "Competition Policy and Postal Services: International Case Studies," Cornell University, Oct. 7, 2002, p. 32.

international parcels are not reserved.[31] The Swiss Postal Law of 1998 set out to gradually liberalize the postal market, guarantee and provide the financial means for universal service, increase the commercial freedom of the Swiss Post, and cope with EU developments in the postal sector.[32]

Trade Negotiations

The General Agreement on Trade in Services

The GATS, which is the first multilateral, legally enforceable agreement covering trade and investment in services, entered into force on January 1, 1995.[33] It is an integral part of the Agreement Establishing the WTO.[34] The GATS comprises a framework of general obligations, schedules of commitments, annexes, and ministerial decisions. While the framework includes rules that cover, in most cases, all service sectors,[35] the schedules of commitments specify whether and to what extent foreign firms will be accorded market access and national treatment in specific service sectors. Scheduled commitments provide useful benchmarks by which observers can gauge the degree of liberalization achieved through negotiation. They also discourage countries from imposing further trade restrictions or making existing restrictions more burdensome.[36] Although the EDS industry expresses overall support of the GATS, it remains dissatisfied with its treatment of express delivery services.[37] The industry advocates remedying the problems it has identified in the ongoing request-offer process.[38]

---

[31] Geddes, "Competition Policy and Postal Services: International Case Studies," pp. 37-38.

[32] Rick Geddes, "The Structure and Effect of International Postal Reform*," American Enterprise Institute Postal Reform Papers*, May 1, 2003.

[33] The Agreement provides for establishment of the WTO and sets forth the scope and functions of the WTO. The GATS and various other agreements negotiated during the Uruguay Round are set forth as annexes to the Agreement Establishing the WTO.

[34] Uruguay Round Agreements Act Statement of Administrative Action (SAA), published in H. Doc. 103-316, 103rd Cong., 2nd Session, 1994. The SAA, which describes significant administrative actions proposed to implement the Uruguay Round Agreements, was submitted to Congress on Sept. 27, 1994, in compliance with section 1103 of the Omnibus Trade and Competitiveness Act of 1988, and accompanied the implementing bill for the Agreement Establishing the World Trade Organization and the agreements annexed to that Agreement (the Uruguay Round Agreements.).

[35] General obligations on domestic regulation and on monopolies and exclusive suppliers only apply when countries have made specific commitments in their national schedules.

[36] Countries that restrict market access or national treatment beyond the degree specified in their schedule of commitments are required to compensate aggrieved parties. Countries may make additional commitments regarding other measures that may affect trade in a specific service sector.

[37] FedEx, Comments to the USITC regarding Investigation No. 332-456, Prehearing Brief, Oct. 22, 2003; and ACCA, Comments to the USITC regarding Investigation No. 332-456, Prehearing Brief, Oct. 14, 2003.

[38] Ibid.

GATS Framework

The GATS framework addresses some of the impediments encountered by U.S.-based express delivery providers identified in this report. Article II requires Most Favored Nation (MFN) treatment. Article III on transparency requires GATS signatories to, among other things, publish current regulations and notify the WTO of significant regulatory changes, and Article XV recognizes that subsidies may have trade-distorting effects, and provides that members may request consultations if they believe that they have been adversely affected by the subsidy of another member.[39] Where countries have made specific commitments, Article VIII requires GATS signatories to ensure that a monopoly supplier does not abuse its monopoly position in a manner that limits market access or national treatment in the supply of competitive services; and Article VI ensures that domestic regulations are objective, transparent, and not more burdensome than necessary to ensure service quality.[40] Though EDS firms support disciplines on subsidies and regulation, the paucity of EDS and EDS-related commitments, discussed below, somewhat reduces the value of Article VI and Article VIII, as these articles only apply when countries have made specific commitments in their national schedules.

Some observers assert that liberalization of express delivery services could be advanced by negotiating and scheduling commitments on pro-competitive regulatory principles, as was accomplished in the WTO agreement on basic telecommunication services.[41] Additional commitments on telecommunication services are embodied in a regulatory reference paper which provides that, among other things, dominant suppliers may not cross-subsidize competitive services with monopoly profits.[42] ACCA asserts that U.S. trade agreements should include similar coverage for express delivery services, and states that it is a "fundamental objective of the industry to obtain disciplines on cross-subsidization by a postal service from its monopoly operations into EDS."[43] In its GATS negotiating offer, the United States included language to this effect in its additional commitments column, indicating that it would consider undertaking cross-subsidy-related commitments, "if other members are prepared to do so as well."[44] However, in the U.S. offer, the scope and extent of such commitments is largely undefined.

Schedules of Commitments

As noted, scheduled commitments specify whether and to what extent WTO members go beyond GATS framework obligations by according foreign firms market access and national treatment. Article XVI on market access calls for member

---

[39] WTO, *General Agreement on Trade in Services*.

[40] WTO, *General Agreement on Trade in Services*.

[41] James Campbell, "GATS and Physical Delivery Networks," in *Emerging Competition in Postal and Delivery Services* (Washington, DC: Kluwer, 1999), p. 15; and Economic Stratagy Institute, Prehearing Brief, Nov. 17, 2003, p. 2.

[42] WTO, "Telecommunication Services: Reference Paper," *Negotiating group on basic telecommunications*, Apr. 24, 1996, found at Internet address *http://www.wto.org/english/tratop_e/serv_e/telecom_e/tel23_e.htm/*, retrieved Oct. 22, 2003.

[43] ACCA, Prehearing Brief.

[44] WTO, *Express Delivery Services - Communication from the United States*, Council for Trade in Services, S/CSS/W/26, Dec. 18, 2000.

countries to negotiate the elimination of six specific types of market access limitations, including measures that restrict or require supply of the service through specific types of legal entity or joint-venture.[45] Article XVII on national treatment requires that foreign service providers be treated no less favorably than domestic service providers, guaranteeing licensing and regulation on a non-discriminatory basis.[46] WTO members schedule commitments on an industry-by-industry, delivery mode-by-delivery mode basis. Countries that elect to schedule full commitments accord foreign firms unfettered market access and national treatment. Partial commitments accord market access and national treatment subject to conditions specified in the commitments.

Industry representatives assert that GATS commitments can be improved in two ways. First, they assert that GATS commitments would be more meaningful if the Services Sectoral Classification List, which identifies specific services over which GATS negotiations are held, were to include a separate breakout for express delivery services.[47] To date, countries have scheduled EDS and EDS-related service commitments under the classifications "courier services" and "postal services." Industry representatives have expressed concern in this respect, noting that scheduling commitments in this manner could skew the competitive landscape if postal authorities regulated post offices and private EDS firms differently on the premise that the services provided by each are not "like services," or are not provided under "like circumstances."[48] Should this premise be used, EDS firms assert that they would likely be unable to defend against discriminatory regulation.[49]

Second, they assert that there is a paucity of commitments[50] on services integral to express delivery services, which in the Services Sectoral Classification List include courier, cargo handling, road freight transport, storage and warehousing, freight transport agency, and on-line information and database retrieval services.[51] Of the approximately 144 current GATS member countries, 46 have scheduled courier service commitments (table 4-3). In all, 82 GATS members have scheduled commitments pertaining to one or several services provided by EDS firms. Figure 4-1 helps to illustrate the existing level of commitments. In the figure, the ratio of full commitments to potential commitments spanning the range of express delivery services is expressed along the vertical axis, showing how liberal or illiberal EDS-related markets are. The ratio of full and partial commitments to potential commitments across the range of EDS services is expressed along the horizontal

---

[45] WTO, *General Agreement on Trade in Services*.
[46] Ibid.
[47] ACCA, Prehearing Brief; and FedEx, Prehearing Brief.
[48] ACCA, Comments to the USITC regarding Investigation No. TA-2104-5, Written Statement, May 8, 2003; and FedEx, Prehearing Brief.
[49] Coalition of Service Industries, Statement to the USITC, hearing transcript, Nov. 5, 2003, P. 33.
[50] In national schedules and in table 4-3, the word "none" indicates that there are no limitations on market access or national treatment. The word "unbound" indicates the absence of a commitment.
[51] Industry representative, telephone interview with USITC staff, Washington, DC, Oct. 6, 2003.

Table 4-3
Summary of courier commitments,[1] WTO members

Country	Market access[2]	National treatment[2]
Albania	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-None
Argentina	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Austria[3]	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Barbados	1-None 2-None 3-None 4-None	1-None 2-None 3-None 4-None
Botswana	1-None 2-None 3-The service should be supplied through commercial presence. 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-The service should be supplied through commercial presence. 4-Unbound, except as indicated in the horizontal commitments section.
Brazil	1-None 2-Unbound 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-Unbound 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Canada[4]	Commercial courier services, including by public transport or self-owned transport (CPC 75121): 1-None 2-None 3-None, other than: Courier Services (Nova Scotia and Manitoba): Economic needs test. (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to provide proper service.) 4-Unbound, except as indicated in the horizontal commitments section.	Commercial courier services, including by public transport or self-owned transport (CPC 75121): 1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.

Table 4-3–*Continued*
Summary of courier commitments, WTO members

Country	Market access[2]	National treatment[2]
China[5]	1-None 2-None 3-Upon accession, foreign service suppliers will be permitted to establish joint ventures with foreign investment not exceeding 49 percent. Within one year after China's accession, foreign majority ownership will be permitted. Within four years after China's accession, foreign service suppliers will be permitted to establish wholly foreign-owned subsidiaries. 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Croatia	Land-based courier services: 1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	Land-based courier services: 1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Cuba	1-Unbound 2-Unbound 3-The competent authority reserves the right to approval subject to economic needs. 4-Unbound, except as indicated in the horizontal commitments section.	1-Unbound 2-Unbound 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Czech Republic	1-Unbound 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-Unbound 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Djibouti	1-None 2-None 3-MTTT approval. 4-Unbound	1-None 2-None 3-Accelerated international mail exclusively. 4-Unbound.
Dominica	1-None 2-None 3-Subject to alien landholding regulations. 4-Subject to work permits and immigration regulations.	1-None 2-None 3-Subject to withholding tax. 4-None
Estonia	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Gambia	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.

Table 4-3–*Continued*
Summary of courier commitments, WTO members

Country	Market access[2]	National treatment[2]
Georgia	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Grenada	1-None 2-None 3-Subject to exchange control regulations and alien landholding regulations. 4-Subject to work permit and immigration regulations.	1-None 2-None 3-Subject to withholding tax. 4-None
Hong Kong	1-Unbound 2-None 3-None 4-Unbound	1-Unbound 2-Unbound 3-None 4-Unbound
Israel	Above 500g per addressed item: 1-None 2-Unbound 3-None 4-Unbound, except as indicated in the horizontal commitments section.	Above 500g per addressed item: 1-None 2-Unbound 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Jordan	1-None 2-None 3-Subject to 51% foreign equity limitation. Starting no later than 1 January 2004, 100% foreign equity will be permitted. 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Kyrgyz Republic	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Latvia	Land-based courier services: 1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	Land-based courier services: 1-None 2-None 3-None 4-None
Lesotho	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.

Table 4-3–*Continued*
Summary of courier commitments, WTO members

Country	Market access[2]	National treatment[2]
Lithuania	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Mexico	1-Unbound 2-None 3-Foreign investment up to 49 percent of the registered capital of enterprises. Requirements laid down for each specific means of transport must be fulfilled. 4-Unbound, except as indicated in the horizontal commitments section.	1-Unbound 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Moldova	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-None
Mongolia	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Norway	1-None 2-None 3-No limitations except as specified for transportation services. 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Oman	1-None 2-None 3-None; starting no later than 1 January 2003, commercial presence of wholly foreign-owned subsidiaries will be permitted. 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Papua New Guinea	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Philippines	1-Commercial presence is required. 2-None 3-None 4-None	1-None 2-None 3-None 4-None

Table 4-3–*Continued*
Summary of courier commitments, WTO members

Country	Market access[2]	National treatment[2]
Poland	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-None
Qatar	1-Unbound 2-Unbound 3-The number of foreign suppliers is frozen at the level existing on March 1995 (6 firms). 4-Unbound, except as indicated in the horizontal commitments section.	1-Unbound 2-Unbound 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Senegal	1-None 2-None 3-Approval required and conditional upon OCPE being a shareholder. 4-Unbound	1-None 2-None 3-Exclusively accelerated international mail. 4-Unbound
Sierra Leone	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Singapore	1-Unbound 2-None 3-Unbound 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound
Slovak Republic	1-Unbound 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-Unbound 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Slovenia	1-Unbound 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-Unbound 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
South Africa	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.

Table 4-3–*Continued*
Summary of courier commitments, WTO members

Country	Market access[2]	National treatment[2]
Taiwan[6]	Land-based International Courier Services: All ground services arising as part of an international shipment being handled by an air express carrier, for delivery to a consignee, except for those currently specifically reserved to the Chinese Taipei postal authorities by law. 1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	Land-based International Courier Services: All ground services arising as part of an international shipment being handled by an air express carrier, for delivery to a consignee, except for those currently specifically reserved to the Chinese Taipei postal authorities by law. 1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.
Turkey	1-None 2-None 3-None 4-None	1-None 2-None 3-None 4-None
United Arab Emirates	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None, except as indicated in the horizontal section. 4-Unbound, except as indicated in the horizontal commitments section.
United States	1-None 2-None 3-None 4-Unbound, except as indicated in the horizontal commitments section.	1-None 2-None 3-None 4-None
Uruguay	Private mail and courier services: 1,3-The National Post Office grants operating licences of a precarious character which lapse at the end of three years unless prior to its lapse the licence-holding enterprise indicates its intention to renew it. 2-None 4-Unbound, except as indicated in the horizontal commitments section.	Private mail and courier services: 1,3-The National Post Office grants operating licences of a precarious character which lapse at the end of three years unless prior to its lapse the licence-holding enterprise indicates its intention to renew it. 2-None 4-Unbound, except as indicated in the horizontal commitments section.

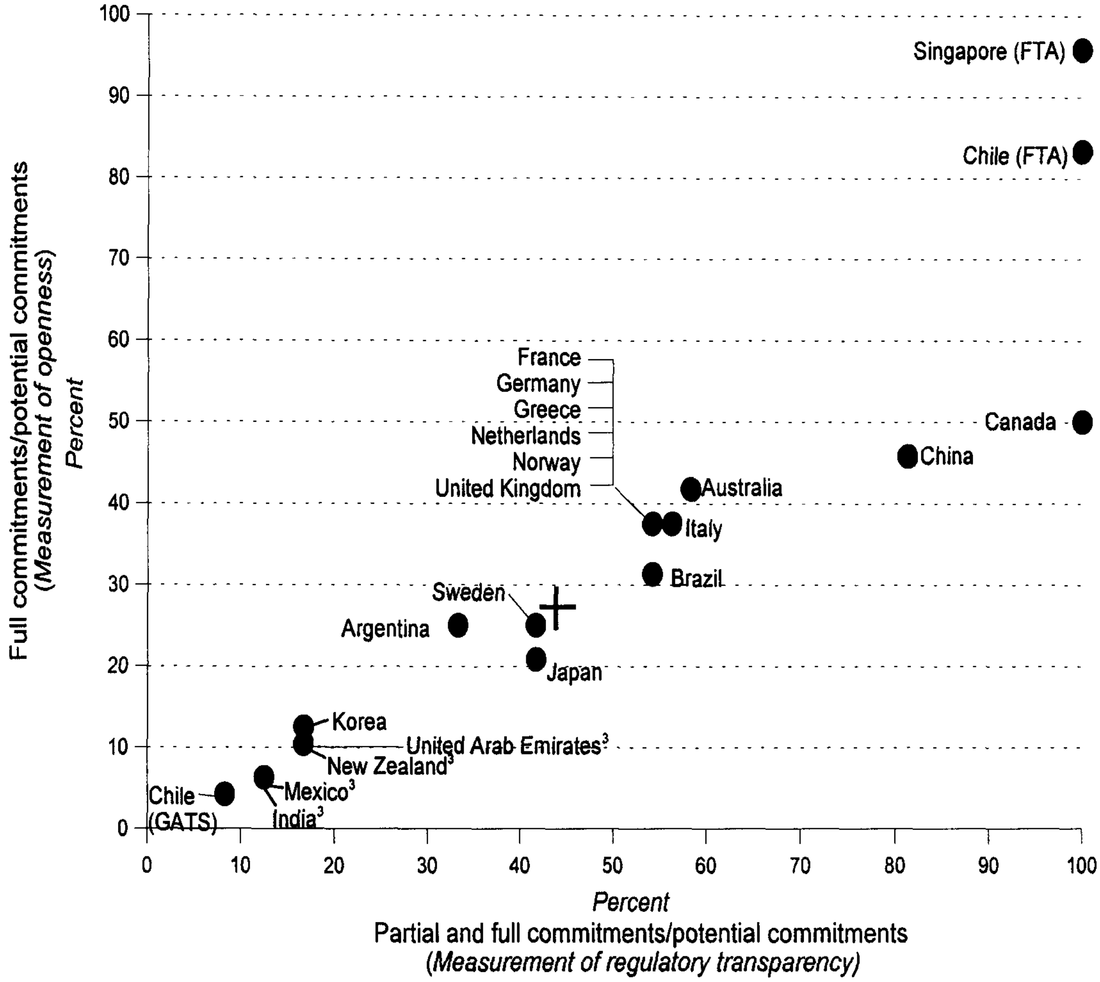
Table 4-3–*Continued*
Summary of courier commitments, WTO members

Country	Market access[2]	National treatment[2]
Venezuela	1-Unbound 2-None 3-Unbound 4-Unbound, except as indicated in the horizontal commitments section.	1-Unbound 2-None 3-Unbound 4-Unbound, except as indicated in the horizontal commitments section.

[1] In national schedules and the table above, the word “none” indicates that there are no limitations on market access or national treatment. The word “unbound” indicates the absence of a commitment.
[2] Mode 1 - cross border supply, Mode 2 - consumption abroad, Mode 3 - commercial presence, Mode 4 - presence of natural persons.
[3] Excludes United Nations Central Product Classification (CPC) 7512; special delivery services only.
[4] Approval is required from the National Transportation Agency prior to the acquisition of any federally regulated transportation undertaking with assets or annual gross sales in Canada in excess of $10 million. For these purposes, a transportation undertaking means any business principally engaged in any transportation activity under federal jurisdiction within Canada, excluding (a) those operated by a person whose principal place of residence is outside Canada, and (b) those engaged in the transport of goods and/or passengers solely between Canada and another country. —The acquisition of control of a Canadian business with respect to any transportation service by a non-Canadian is subject to approval*, for: 1) all direct acquisitions of Canadian businesses with assets of C$5 million or more; 2) all indirect acquisitions of Canadian businesses with assets of C$50 million or more; or 3) indirect acquisitions of Canadian businesses with assets between C$5 million and $50 million that represent more than 50 per cent of the value of the total international transaction.
[5] CPC 75121, except for those currently specifically reserved to Chinese postal authorities by law.
[6] Includes Taiwan, Penghu, Kinmen, and Matsu.

Source: Compiled by the Commission.

Figure 4-1
Shares of total possible schedule entries[1] under the General Agreement on Trade in Services (GATS); the U.S.-Chile Free Trade Agreement (FTA); and the U.S.-Singapore FTA, by country



[1] Service industries included are: On-line information and database retrieval, road transport --freight transport, cargo handling, storage and warehousing, freight transport agency services, and courier.
[2] France, Germany, Greece, the Netherlands, Norway, and United Kingdom have the same data points.
[3] India and Mexico have identical data points; New Zealand and the United Arab Emirates have identical data points.;and France, Germany, Greece, Netherlands, Norway, and the United Kingdom have identical data points.

Note.-- An average (indicated by criss-crossed lines) is calculated without Chile and Singapore's FTA numbers, resulting in an average of 28 percent for full commitments and 44 percent for partial and full commitments.

Source: Compiled by the Commission.

axis, reflecting the extent to which selected countries have established benchmarks and enhanced regulatory transparency.

The average score for the countries, selected on the basis of market size and industry interest, is represented by the cross in figure 4-1. These coordinates reflect that, on average, these 20 countries scheduled full commitments about 28 percent of the time over the range of explicit or implicit schedule entries pertaining to express delivery services, and scheduled full or partial commitments about 44 percent of the time. Countries above and to the right of the cross, including Brazil, Australia, China, Canada, and several EU member states, exceeded the average in terms of binding unfettered market access and national treatment, establishing benchmarks, and enhancing regulatory transparency. Countries below and to the left of the cross trail the average.

Using the same method described above, figure 4-2 depicts the extent to which the identified activities encompassed by EDS are covered by full and partial commitments. Figure 4-2 shows that transportation related sectors - courier, cargo handling, road freight transport, storage and warehousing, and freight transport agency services - where there are genuine health, safety, and welfare issues, enticed full commitments in less than 40 percent of schedule entries. On the other hand, on-line information and database retrieval services, where these issues are of less concern, enticed full commitments about 60 percent of the time.

The Current GATS Negotiations

The current WTO negotiating round (Doha Round) is intended to elicit more meaningful commitments from WTO members, both in terms of the number and quality of commitments.[52] So far countries have tabled market access and national treatment proposals and offers for a range of service sectors, including express delivery. Express delivery industry representatives are hopeful that current GATS negotiations will achieve a greater degree of liberalization.[53]

GATS Negotiating Proposals

Negotiations to date reflect growing recognition that the Services Sectoral Classification List does not adequately reflect the nature of the EDS industry.[54] In its GATS negotiating proposal, the United States indicates that the express delivery industry's size and importance "merits its own classification" in the GATS.[55] The EU, in its negotiating proposal, recognizes that the current GATS classification of postal and courier services does not reflect the "market reality very well... and even introduces an artificial separation of the market."[56] New Zealand, Switzerland, and

---

[52] See WTO, "An Introduction to the GATS," *WTO Secretariat*, Oct. 1999. The Uruguay Round of trade negotiations, which concluded in 1994 with the establishment of the WTO and the GATS, was generally seen as the first step toward services liberalization. Successive negotiating rounds, as prescribed by GATS Article XIX, are intended to further open services markets, worldwide. Article XIX states that "Members shall enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the WTO Agreement, and periodically thereafter, with a view to achieving a progressively higher level of liberalization."

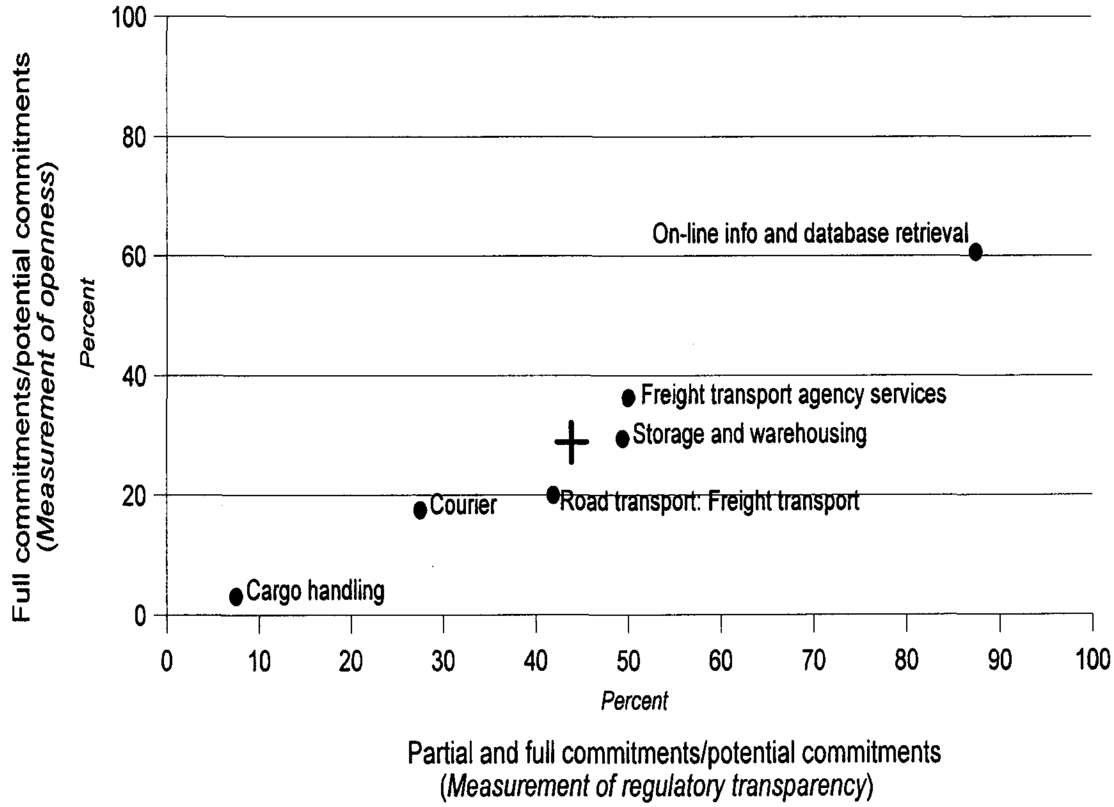
[53] Industry representatives, interviews with USITC staff, Washington, DC, July 31, 2003 and Oct. 6, 2003.

[54] The Services Sectoral Classification List is identified by its document ifentification number MTN.GNS/W/120 and includes cross-references to industry definitions contained in the United Nations Provisional Central Product Classification (CPC).

[55] WTO, *Express Delivery Services - Communication from the United States*, Council for Trade in Services, S/CSS/W/26, Dec. 18, 2000.

[56] WTO, *GATS 2000: Postal/courier services - Communication from the European Communities and their Member States*, Council for Trade in Services, S/CSS/W/61, Mar. 23, 2001.

Figure 4-2
Shares of total possible schedule entries[1] under the General Agreement on Trade in Services, by industry



[1] Countries included are: Argentina, Australia, Brazil, Canada, China, Chile, France, Germany, Greece, India, Italy, Japan, Mexico, Netherlands, New Zealand, Norway, Korea, Sweden, the United Arab Emirates, and the United Kingdom.

Note:--The average, indicated by criss-crossed lines, is 28 percent for full commitments and 44 percent for partial and full commitments.

Source: Compiled by the Commission.

Mercosur (plus Bolivia) also submitted express delivery-related negotiating proposals that recognize the limitations of the current classification system.[57]

Despite the common perception regarding classification, there is disagreement about the best way to reclassify the industry. The U.S. EDS negotiating proposal seeks to establish a separate definition for the industry, classifying it under "communication services," along with telecommunications, postal services, courier services, and

[57] See WTO, *GATS 2000: Postal/courier services - Communication from Switzerland*, Council for Trade in Services, S/CSS/W/73, May 1, 2001; WTO, *Postal services - Communication from Mercosur and Bolivia*, Council for Trade in Services, S/CSS/W/108, Sept. 26, 2001; and WTO, *Postal/Courier Services - Communication from New Zealand*, Council for Trade in Services, S/CSS/W/115, Nov. 6, 2001.

audiovisual services.[58] By contrast, the EU seeks to combine postal and courier into a single category, with a subcategory that would describe various related service items, including express delivery.[59] The EU submission seeks market access and national treatment commitments from all WTO members on all postal-related categories as a long term goal, and on express delivery services and certain other mail-handling services, such as document and parcel handling, as a short term goal.[60]

GATS Offers

Between March 31, 2003 and June 12, 2003, 26 WTO member countries submitted initial offers of commitments. Offers pertaining to express delivery services are generally consistent with the proposals above.[61] The U.S. offer includes a distinct entry for express delivery services, separate from other entries under communication services.[62] In addition, the United States indicates willingness to consider commitments on a range of other services related to express delivery (table 4-4).[63] Although some of these services may be provided singly, all are included in the provision of express delivery services. The OECD asserts that the negotiation of express delivery services using this so-called "cluster" or "checklist" approach facilitates the scheduling of more meaningful commitments without requiring significant changes to the Services Sectoral Classification List.[64] Additionally, such an approach assists WTO members in developing a common agreement about the full range of express delivery services, and serves as an effective mechanism by which to assess the value of market access and national treatment offers.[65]

Offers from Japan, New Zealand, Norway, Canada, and the European Communities (EC) also contain express delivery-related commitments (table 4-5).[66] In their offer, the EC proposes market access and national treatment commitments for postal and courier services, albeit with limitations. The EC defines express delivery services, as

---

[58] WTO, *Express Delivery Services - Communication from the United States*.

[59] WTO, *GATS 2000: Postal/courier services - Communication from the European Communities and their Member States*.

[60] Ibid.

[61] To view the derestricted GATS initial offers, see WTO, "The New Negotiations," found at Internet address *http://www.wto.org/english/tratop_e/serv_e/s_negs_e.htm/*.

[62] The USPS asserts that the debate on postal liberalization within the Unites States should be settled before trade negotiators begin on postal services. According to USPS's submission, debates on postal reform should take place in a transparent, open forum.

[63] These are inventory management services; packaging services; order processing, production planning and control services; online information and data processing; maintenance and repair of road transport equipment; road freight transportation; supporting services for road transport; container station and depot services; storage and warehousing services; freight transport agency services; and other supporting and auxiliary services. WTO, "Communication from the United States - Initial Offer," *Council for Trade in Services*, TN/S/O/USA, Sept. 4, 2003.

[64] For a full discussion of the benefits of this approach, see OECD, "Assessing Barriers to Trade in Services, Using 'Cluster' Approaches to Specific Commitments for Interdependent Services," *Working Party of the Trade Committee*, Document No. TD/TC/WP(2000)9/FINAL, Nov. 7, 2000.

[65] Ibid.

[66] Although Norway and Canada chose not to alter their respective commitments on courier services.

Table 4-4
The U.S. offer: Services to which the United States will consider commitments and their relation to express delivery services, by services sectoral classification list

	Components of EDS				
Services Sectoral Classification List	**Multi-modal transport**	**Customs Clearance and Brokerage**	**Freight Forwarding**	**Logistics**	**Express Services**
Inventory management services[1]				X	X
Packaging services				X	X
Order processing services, production planning and control services[2]	X		X	X	X
Online information and data processing	X		X	X	X
Maintenance and repair of road transport equipment	X				X
Road freight transportation	X			X	X
Rental of commercial vehicle with operator	X			X	X
Supporting services for road transport[3]	X			X	X
Container station and depot services[4]					X
Storage and warehousing services	X			X	X
Freight transport agency services	X		X	X	X
Other supporting and auxiliary services[5]	X	X	X	X	X

[1] Inventory management services are included in management consulting services (CPC 865).
[2] Order processing services, production planning and control services are included in other business services (CPC 879).
[3] These include commercial road vehicle maintenance and minor repair services (CPC 7449).
[4] Through not explicitly specified, container station and depot services are included under container handling services (CPC 7411).
[5] These include freight brokerage services, bill auditing and freight rate information services, transportation and document preparation services, packing and crating services and unpacking and decrating services, freight inspection, weighing and sampling services, and freight receiving and acceptance services (CPC 7490).

Source: Compiled by the Commission, based on U.S. GATS offer on express delivery services.

Table 4-5
GATS initial offers related to express delivery services by country, 2003

Country	CPC code	Market access[1]	National treatment[1]
Canada	Courier CPC 7512	1, 2–None 3–None, other than: Courier Services: (Manitoba) Economic needs test (Criteria related to approval include: examination of the adequacy of current levels of service; market conditions establishing the requirement for expanded service; the effect of new entrants on public convenience, including the continuity and quality of service, and the fitness, willingness and ability of the applicant to provide proper service. 4–None, except as indicated in the horizontal commitments.	1, 2, 3–None 4–None, except as indicated in the horizontal commitments.
European Community	Postal and courier[2]	1, 2, 3–Licencing systems may be established for sub-sectors (i) to (iv) for which a general Universal Service Obligation exists. These licences may be subject to particular universal service obligations and/or financial contribution to a compensation fund. 4–Intra-Corporate Transfers and Business Visitors: Unound, except as indicated in the horizontal commitments.	1, 2, 3–None 4–Intra-Corporate Transfers and Business Visitors: Unound, except as indicated in the horizontal commitments.
Japan	Courier CPC 7512	1–Unbound 2, 3–None 4–None, except as indicated in the horizontal commitments.	1–Unbound 2, 3–None 4–None, except as indicated in the horizontal commitments.
New Zealand[3]	Postal CPC 7511	1, 3–Additional conditions for operation in the market or de-registration may be imposed on postal operators where these engage in anti-competitive behavior. 2–None 4–None, except as indicated in the horizontal commitments.	1, 3–UPU designation is reserved for a New Zealand operator under the Postal Services Act 1998. The issue of stamps bearing the words "New Zealand" is restricted under the Act to UPU designated operators, except where these words form part of the name of the operator issuing the stamps. 4–None, except as indicated in the horizontal commitments. 2–None
	Courier CPC 7512	1, 3–Additional conditions for operation in the market or de-registration may be imposed on postal operators where these engage in anti-competitive behavior. 2–None 4–None, except as indicated in the horizontal commitments.	1, 3–UPU designation is reserved for a New Zealand operator under the Postal Services Act 1998. The issue of stamps bearing the words "New Zealand" is restricted under the Act to UPU designated operators, except where these words form part of the name of the operator issuing the stamps. 2–None 4–None, except as indicated in the horizontal commitments.
Norway	Courier CPC 7512	1, 2–None 3–No limitations except as specified for transportation service. 4–None, except as indicated in the horizontal commitments.	1, 2, 3–None 4–None, except as indicated in the horizontal commitments.

Table 4-5–*continued*
GATS initial offers related to express delivery services by country, 2003

Country	CPC code	Market access[1]	National treatment[1]
United States	Courier CPC 7512	Land-based courier services: 1, 2, 3–None 4–None, except as indicated in the horizontal commitments.	1, 2, 3, 4–None
	Express delivery services[4]	1, 2, 3–None, except (a) letters subject to the Private Express Statutes (18 U.S.C. 1693 et seq., 39 U.S.C. 60 et seq. And 39 CFR 310 et seq.), but not including letters subject to the exception s to, or suspensions promulgated under, those statutes: (b) delivery of items to mail receptacles (18 U.S.C. 1725 and post office boxes (39 CFR 111.1 & Domestic Mail Manual D910): (c) access to the US Postal Service under the Universal Postal Union convention or other arrangement pursuant to 39 U.S. C. 407: (d) the right to invest in the U.S. Postal Service; and (e) right to make or print U.S. postage stamps (18U.S.C. 501). 4–None, except as indicated in the horizontal commitments.	1, 2, 3–None, except (a) letters subject to the Private Express Statutes (18 U.S.C. 1693 et seq., 39 U.S.C. 60 et seq. And 39 CFR 310 et seq.), but not including letters subject to the exception s to, or suspensions promulgated under, those statutes: (b) delivery of items to mail receptacles (18 U.S.C. 1725 and post office boxes (39 CFR 111.1 & Domestic Mail Manual D910): (c) access to the US Postal Service under the Universal Postal Union convention or other arrangement pursuant to 39 U.S. C. 407: (d) the right to invest in the U.S. Postal Service; and (e) right to make or print U.S. postage stamps (18U.S.C. 501). 4–None

[1] Mode 1 - cross border supply, Mode 2 - consumption abroad, Mode 3 - commercial presence, Mode 4 - presence of natural persons. Mode 4 is not included because countries tend to list it as unbound, except where noted otherwise in the horizontal commitments. However, where countries have additional restrictions on Mode 4, these are noted in the table.

[2] Services relating to the handling (includes clearance, sorting, transport and delivery)of postal items (handled by any type of commercial operator, whether public or private) according to the following list of sub-sectors, whether for domestic of foreign destinations. Sub-sectors (i), (iv) and (v) are excluded when they fall into the scope of the services which may be reserved, which is: for items of correspondence the price of which is less than five times the public basic tariff, provided.

[3] NTT must own all the shares issued by the regional companies.

[4] The United States will consider undertaking commitments to establish or maintain appropriate measures, substantive and/or procedural to address certain cross-subsidization of express delivery services, such as may arise form monopoly first-class letter carriage, if other members are prepared to do so as well.

Source: Compiled by the U.S. International Trade Commission.

"delivery at a greater speed with value-added elements such as collection from point of origin, delivery to addressee, tracing and tracking, possibility of changing the destination and addressee in transit, and confirmation of receipt."[67] The EC offer defines postal services as those provided by any type of commercial operator, whether public or private, and excludes express delivery services "when those services fall into the scope of the services which may be reserved" to the public operator.[68] New Zealand's offer, like that of the EC, addresses express delivery as a postal-related service. Japan's offer applies to courier services, including those supplied by "special correspondence delivery businesses."[69] In their respective initial offers, Canada and Norway made no changes to their previous commitments on courier services, effectively treating express delivery services as a subcomponent of courier services.

The Chile and Singapore FTAs

Negotiations on the U.S.-Chile FTA were concluded in December 2002 while negotiations on the U.S.-Singapore FTA were concluded in July 2003. The U.S.-Chile FTA is the first comprehensive trade agreement between the United States and a South American country and is expected to facilitate completion of the Free Trade Agreement of the Americas (FTAA).[70] The U.S.-Singapore FTA was the fifth FTA negotiated by the United States and the first to be signed with an Asian country. The FTAs resulted in numerous market access commitments across a range of service sectors, including express delivery services.

Both of these trade agreements accomplished several objectives that were important to the EDS industry, and that from the industry's perspective represent significant improvements over GATS coverage of the industry.[71] Specifically, both agreements recognize express delivery as a unique service sector, provide a broad definition of express delivery services, and clarify that the commitments regarding such services apply to all suppliers of the service.[72] The FTAs' broader definition of express delivery services corresponds more closely to the services provided by EDS firms, integrators in particular. The clarification that commitments under the FTA apply to all service suppliers improves U.S.-based firms' ability to challenge discriminatory regulatory treatment. Further, owing in part to the use of negative listing, wherein all sectors are considered open unless the subject of a specific reservation, both FTAs provide greater market openness and transparency than does the GATS. Reference to figure 4-1 illustrates this point. In the figure, Chile's and Singapore's commitments

---

[67] WTO, *Trade in Services - Communication from the European Communities and its Member States - Conditional Initial Offer*, TN/S/O/EEC, June 10, 2003.

[68] Ibid.

[69] WTO, *Council for Trade in Services - Special Session - Japan - Conditional Initial Offer*, TN/S/O/JPN, Apr. 7, 2003.

[70] USTR Robert B. Zoellick notified Congress on Nov. 18, 2003 of the Administration's intent to initiate negotiations for a free trade agreement (FTA) in 2004 with Andean countries (Colombia, Peru, Ecuador and Bolivia). USTR anticipates an FTA with the Andean countries facilitating further integration and drive to conclude the FTAA by January 2005.

[71] Industry representative, telephone interview with USITC staff, Nov. 12, 2004.

[72] Written statement of ACCA, submitted to USITC, Inv. no. TA-2104-5, May 8, 2003, p. 2. Written statement of ACCA, submitted to USITC, Inv. no. TA-2104-6, Apr. 10, 2003, p. 2. ACCA further notes that principal industry competition comes from national postal administrations.

under the FTAs are represented in the upper right corner as a result of the few reservations each listed and of the greater transparency of the agreement. Chile's commitments under the FTA sharply contrast with those it scheduled under the GATS, which are represented in the lower left corner of figure 4-1.

Both the U.S.-Chile FTA and the U.S.-Singapore FTA include provisions to facilitate customs clearance for express delivery services such as: providing pre-arrival processing information; allowing shipper to submit a single manifest covering all goods contained in a shipment transported by the express shipment service; minimizing required release documentation; and allowing release of an express shipment, no later than six hours after submission of required information (under normal circumstances).[73] The U.S.-Singapore FTA includes an additional provision for deferred payment of duties, taxes, and fees with appropriate guarantees.

U.S. express delivery operators should benefit from liberalization of express delivery services under the U.S.-Chile FTA and the U.S.-Singapore FTA as trade in goods between countries increase, resulting in higher transport volumes. Under the terms of the U.S.-Chile FTA, both Chile and the United States will maintain the same level of market access for express delivery services that was in place prior to the agreement. The U.S.-Chile FTA specifically obligates each country to adopt or maintain separate, expedited customs procedures for express delivery shipments. The U.S.-Singapore FTA provides for liberalization of express delivery services and other related services, with the intent of allowing more efficient and expedited express delivery in Singapore.[74] Final commitments incorporated into the U.S.-Singapore FTA limit the cross-subsidization of Singapore Post's express letter delivery with funds generated by its monopoly-protected services.[75] The Air Courier Conference of America International (ACCA), the industry association representing express delivery providers, applauds this commitment as it addresses a competitive disadvantage commonly encountered by U.S. industry.

Customs Facilitation Efforts

Improved customs procedures likely would reduce costs for the international shipment of goods and improve delivery times. As described above, the U.S.-Singapore FTA and the U.S.-Chile FTA facilitate customs clearance procedures. Additionally, the World Customs Organization (WCO) and other bodies have issued

[73] Chile Free Trade Agreement: Final Texts, *"Chapter 5: Customs Administration,"* found at Internet address *http:www.ustr.gov/new/fta/Chile/final/index.htm/*, retrieved Sept. 12, 2003. Singapore Free Trade Agreement: Final Text of Free Trade Agreement, *"Chapter 4: Customs Administration,"* found at Internet address *http:www.ustr.gov/new/fta/Singapore/final/index.htm/*, retrieved Sept. 12, 2003. U.S. industry is disappointed with this six hour release period and would like to see a significant reduction in future FTAs.

[74] Congressional Research Service (CRS), "The U.S.-Singapore Free Trade Agreement: Economic and Trade Policy Issues, found at Internet address *http//fpc.state.gov/documents/organization/23189.pdf/*, retrieved on Sept. 9, 2003.

[75] Although Singapore has a reservation for postal services, the reservation does not apply to express delivery services, thereby ensuring that such services are covered by the provisions of the agreement.

recommendations and guidelines with respect to customs processing. These recommendations and guidelines are outlined below.

Multilateral Agreements

The WCO is based in Brussels and counts 161 national customs administrations among its members. Its mission is to serve as "an independent intergovernmental body" that enhances the "effectiveness and efficiency of customs administrations."[76] The WCO advocates modernized customs approaches and has developed a program to strengthen customs administrations' management capabilities, design appropriate customs processes, and more efficiently use customs administrations' resources. The WCO has drafted three International Conventions since 1980 that are legally binding on its members, and has two more pending (table 4-6). The revised International Convention on the Simplification and Harmonization of Customs Procedures would update the 1974 Kyoto Convention. This convention would allow goods to move through customs more quickly through the use of information technology, new control techniques, and risk analyses targeting only high-risk shipments.[77] It will enter into force once 40 of the contracting parties to the original Kyoto Convention have ratified the amendment.[78] A second recent convention, the International Convention to Facilitate Mutual Assistance between the World's Customs Organizations, would revise the Nairobi Convention and promote pre-shipment information sharing and mutual cooperation needed to combat cross-border crime and revenue fraud.[79] This convention would potentially promote both security and trade, according to the International Express Carriers Conference (IECC).[80] The IECC supports most aspects of this convention, stating that cooperation should be no problem for those countries that already have automated systems in place.[81]

[76] World Customs Organization (WCO), found at Internet address *http://www.wcoomd.org/ie/En/AboutUs/aboutus.html/,* retrieved Aug. 25, 2003.

[77] "World Customs Organization Adopts Revised Kyoto Convention," *U.S. Customs Today*, Mar. 2000, found at Internet address *http://www.customs.ustreas.gov/custoday/mar2000/world.html/*, retrieved Sept. 29, 2003.

[78] Algeria, Australia, Canada, China, Czech Republic, Japan, Latvia, Lesotho, Morocco, and New Zealand have ratified the amendment, while Democratic Republic of the Congo, Slovakia, Sri Lanka, Switzerland, Zambia, and Zimbabwe have taken steps toward ratification. All WCO members are expected to ratify this Convention, as all members of the Council consented to the revisions in June 1999.

[79] World Customs Organization press release, July 3, 2003.

[80] Ian Impey, International Express Carriers Conference, telephone conversation with USITC staff, Oct. 8, 2003.

[81] Ibid.

Table 4-6
World Customs Organization international conventions, 1980-2003

Name of convention	Entry into force
International Convention on Mutual Administrative Assistance for the Prevention, Investigation, and Repression of Customs Offenses (Nairobi Convention)	May 21, 1980
Convention on the Harmonized Commodity Description and Coding System	Jan 1, 1988
Convention on Temporary Admission (Istanbul Convention)	Nov. 27, 1993
International Convention of the Simplification and Harmonization of Customs Procedures (Kyoto Convention) - revised	Pending
International Convention to Facilitate Mutual Assistance between the World's Customs Organizations	Pending

Source: World Customs Organization, *http://www.wcoomd.org/ie/En/Conventions/conventions.html/*.

The WCO also issues nonbinding recommendations.[82] These recommendations are mainly intended to promote cooperation between customs administrations, standardize members' practices, facilitate trade, promote the use of information technology, simplify customs documentation, and expedite the implementation of Conventions. Recent recommendations are provided in table 4-7.

Some recent WCO conventions and recommendations address major customs barriers identified by the express delivery industry. For example, the International Convention on the Simplification and Harmonization of Customs Procedures recommends that customs administrations use automated systems and electronic funds transfer, to facilitate customs clearance. Likewise, the revised Kyoto Convention also asks WCO members to use a system of pre-arrival information, allowing express delivery firms to prepare documentation in advance and express delivery packages to clear customs more rapidly. ACCA advocates the implementation of release guidelines, which were developed in the early 1990s to expedite the clearance of small or negligible value goods carried by courier or express delivery service providers across borders.[83] These guidelines, updated in March 2003, require express delivery and courier service firms to provide information to customs before the arrival of the goods.[84]

---

[82] For more information on WCO Recommendations, see World Customs Organization, found at Internet address *http:/www.wcomd.org/ie/En/Recommendations/recommendations.html/.*

[83] Industry representative, telephone interview with USITC staff, Washington DC, Dec. 11, 2003; and WCO, "Immediate Release Guidelines," found at Internet address *http://www.wcoomd.org/ie/En/Topics-Issues/Facilitation Customs Procedures Ifacil-immediaterelease/,* retrieved Dec. 17, 2003.

[84] Ibid.

Table 4-7
World Customs Organization recommendations, 2001-03

Name of recommendation	Date
The Application of Harmonized System Committee Decisions	June 2001
The Use of Standard Units of Quantity to Facilitate the Collection, Comparison and Analysis of International Statistics Based on the Harmonized System	June 2001
The Need to Develop and Strengthen the Role of Customs Administrations in Tackling Money Laundering and in Recovering the Proceeds of Crime	June 2001
The Insertion in National Statistical Nomenclatures of Subheadings to Facilitate the Monitoring and Control of Products Specified in the Protocol Concerning Firearms Covered by the UN Convention against Transnational Organized Crime	June 2002
Security and Facilitation of the International Trade Supply Chain	June 2002
The Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, Supplementing the United Nations Convention Against Transnational Organized Crime	June 2003

Source: World Customs Organization, *http://www.wcoomd.org/ie/En/Recommendations/recommendations.html/*.

Impact of customs impediments on Express Delivery Service firms

In an effort to assess the trade-impeding impact of certain customs practices, the Commission performed an econometric exercise (see Appendix C for a fuller discussion). The Commission utilized an ACCA survey that collected information on the perceived efficiency of customs practices in 60 countries, selected on the basis of market size and industry interest, and formulated a summary measure[85] intended to capture the impact of the destination country's customs procedures on EDS firms. The data collected in the ACCA survey enabled the Commission to measure the impact of customs procedures on time-sensitive U.S. merchandise exports. The primary contribution of this analysis is the finding that time-sensitive goods are more sensitive to customs procedures than are other goods. This analysis suggests that improvements in customs environments in foreign markets would have a disproportionate positive impact on U.S.-based EDS firms, and on firms producing exports delivered by EDS firms. In particular, analysis of the relationship between customs practices and U.S. exports indicates that poor customs environments inhibit trade; that U.S. exports of a particular commodity are more likely to go to countries

---

[85] The summary measure, which is the key input into the econometric exercise, is the surveyed firms' subjective rating of a country's overall customs environment. Respondents characterized the overall customs environment in a country on a scale of 1 to 10; a characterization of 1 indicated a good customs environment, while 10 indicated a poor one.

with good customs environments; and that, where trade already exists, countries with good customs environments purchase more U.S. exports than countries with poor customs environments. Furthermore, these effects vary by product and express delivered goods appear to be more sensitive to customs environments than other goods (see Appendix C).

The analysis suggests that improved customs environments would likely increase the amount of U.S. exports to some countries and improve the likelihood that trade would occur with others. For example, a 1-point improvement in the summary measure would result in a 1 to 2 percent increase in the likelihood that a country would import a given product from the United States. A one-point improvement in the summary measure would likely induce a larger increase in U.S. exports of goods usually shipped by air (including most international express delivery shipments) than on other goods. Further, where trade already exists for a particular commodity, a 1-point improvement in the summary measure may increase overall trade by as much as 17 percent in countries already thought to have good customs environments.[86] In particular, air-shipped goods, which would experience the greatest increase in trade, are more likely to go to countries where customs procedures are perceived to be the most efficient.

[86] These countries are listed in the first column of table C-1.

CHAPTER 5
SUMMARY

Industry composition and factors driving change

The U.S. express delivery services industry includes large firms that integrate ground and air networks to provide a broad range of door-to-door delivery services, as well as smaller firms that compete within niche industry segments, such as same day or specialized freight delivery services. The largest U.S.-based firms that provide a wide range of express delivery services, including document and package delivery, freight services, and, increasingly, logistics services, are FedEx Corp. and United Parcel Service (UPS). Together, these firms generated total 2002 revenues exceeding $51 billion, which represents over 66 percent of total U.S. air freight and logistics revenues.[1] Two additional U.S.-based firms that provide expedited freight delivery and logistic services are BAX Global and Menlo Worldwide. Together these firms generated 2002 revenues of $4.6 billion.

U.S.-based express delivery providers increasingly compete with foreign postal providers that provide express delivery services in addition to traditional letter mail services. For example, Deutsche Post provides express delivery services through its DHL Worldwide subsidiary, and Netherlands-based TNT Express is a subsidiary of Dutch postal provider TPG. Together these firms generated 2002 revenues of $28.5 billion. Although these firms are highly competitive internationally, they maintain a relatively small presence in the U.S. market. However, Deutsche Post's U.S. transactions are expected to increase markedly as a result of its recent acquisition of Airborne Express and the completion of its DHL acquisition in 2002. U.S.-based EDS firms expect to encounter increased competition from foreign postal organizations as worldwide postal reform efforts progress.

Express delivery services has been the fastest growing segment of the transportation industry over the last 20 years. The industry grew significantly after air cargo deregulation in the late 1970s. In recent years, the advent of electronic commerce, the internationalization of business, and increasing tendency of manufacturers to out-source logistic services have contributed to the industry's rapid growth. Globally, demand for air cargo services, of which express delivery is a part, has been greatest in the Asia-Pacific region. U.S. exports of such services to the Asia-Pacific region totaled $2.4 billion in 2002. Demand for express delivery services will likely increase, especially in China, where recently established electronics and telecommunication equipment manufacturers and financial service firms find they are increasingly dependent on the reliability and efficiency of express delivery services.[2]

---

[1] Estimated by USITC staff. Based on revenue information from Standard & Poor's, "Transportation: Commercial," *Industry Surveys*, June 19, 2003.

[2] "The Integrated Express Industry in China: A Catylyst for Investment and Growth," *A Report Sponsored by the U.S.-China Business Council*, Sept. 2003.

Impediments to Trade

The international provision of express delivery services is affected by a broad range of issues, including rules and regulations in the areas of freight transport, cargo handling, storage and warehousing, and telecommunication services. Because express delivery firms typically maintain control over shipments throughout the delivery process, impediments in any one of the above areas may adversely affect the international provision of express delivery services. Such impediments may include, for instance, ground-handling restrictions, form of establishment limitations, and radio frequency access limitations. In the case of ground-handling, in many countries, foreign EDS firms must contract with local suppliers to perform shipment off-loading and processing services at airports, which increases operating costs. Further, when using contractors, EDS firms lose control of the shipment for the time it is with the contractor, potentially reducing efficiency and resulting in delays.[3] Establishment limitations, such as investment or joint-venture requirements, reduce EDS firms' ability to enter certain markets, requiring EDS firms to subcontract local firms to complete delivery services, which again potentially reduces service reliability and quality.[4] Establishment limitations may also affect cost structures of U.S.-based EDS firms when, for example, foreign affiliates are required to establish as separately capitalized subsidiaries. Restrictions on radio-frequency access in foreign markets prevent U.S.-based EDS firms from establishing communication networks for tracking and tracing shipments, which is an important value-added service.[5]

In addition, U.S.-based EDS firms are concerned with anti-competitive postal monopoly practices and inefficient customs practices in foreign markets. With respect to the former, U.S.-based firms report that foreign postal monopolies sometimes act to impede competition by using monopoly profits to subsidize services provided in competition with private firms, such as express delivery. In some cases, these claims have been supported by foreign regulators.[6] U.S.-based EDS firms argue that anticompetitive practices, such as state aid and predatory pricing, lower private firms' prices and profits, potentially harming consumers in the long run.[7] Moreover, in instances where private firms compete with private or partially privatized postal monopolies that provide express delivery services, the incumbent postal operator often benefits from the use of established delivery networks. The result is that incumbent monopolies may be able to provide express delivery services at lower costs than private EDS firms.

Another significant area of concern for express carriers' international shipments lies with customs practices, which reportedly add cost and delay to the foreign provision of express services. Such practices are most onerous in developing countries, which often impose high fees, limit customs' hours of operation, maintain low or no *de minimis* thresholds, and may not operate modern electronic systems. In some

---

[3] Industry representative, e-mail correspondence with USITC staff, Washington, DC, Nov. 25, 2003.
[4] Ibid.
[5] Ibid.
[6] See Deutsche Post case.
[7] DHL Worldwide Express (U.S.), *Post-hearing Brief and Answers to Questions Posed by ITC Commissioners and Staff*, Nov. 19, 2003.

countries, postal incumbents receive preferential treatment in customs processing of express delivery shipments.[8] Additionally, customs procedures in many developing countries may be non-transparent; and the lack of pre-clearance systems causes lengthy delays for EDS firms. Last, some countries randomly check shipments, rather than focusing on high-risk shipments, which is the method preferred by industry. Customs practices such as these adversely affect EDS firms' ability to provide reliable time-definite delivery services in some markets. In certain instances, inspection rules slow down the clearance process so much that overnight delivery is virtually impossible.

Remedies to Impediments

Postal reform, the trade agreements, and the improved customs procedures may reduce the number and severity of impediments to express delivery services trade. Postal reform is currently underway in many countries. In the European Union, a new Postal Directive targets 2009 for complete liberalization of the postal market and mandates pro-competitive regulatory policies. Many other countries have begun the process of postal corporatization, which removes postal organizations from government-funded support. One impetus for such reform is the relatively rapid growth of service substitutes, such as electronic mail, facsimile transmissions, and online bill payments.[9] Governments are moving cautiously, however, in order to ensure affordable universal service.

In the World Trade Organization, service negotiations under the GATS recommenced in January 2000. During the Uruguay Round of trade negotiations, which concluded in 1994 with the establishment of the WTO and the GATS, countries made commitments related to express delivery services under both postal and courier services. The Services Sectoral Classification List, which countries often use as a guide for scheduling services commitments, draws a distinction between courier services provided by a private firm and those provided by a postal organization, despite the fact that they are the same service. In some cases, this could result in discriminatory treatment which would be difficult to defend against on national treatment grounds. During the current negotiations, the United States has announced that it seeks to negotiate market access and national treatment for express delivery services that would apply to all providers of the services. In addition, the United States has indicated that it seeks commitments on services related to logistics, such as inventory management and storage and warehousing; and has indicated its willingness to negotiate procedural and/or substantive commitments related to cross-subsidies.

---

[8] In its submission to the USITC, the U.S. Postal Service notes that as in other countries, differences exist in the U.S. Customs' treatment of postal versus nonpostal items, and that such concerns are the subject of debate in the World Customs Unions and Universal Postal Union. *Post-hearing Brief on Behalf of the United States Postal Service*, Nov. 19, 2003.

[9] Government Accounting Office (GAO), "Postal Service Reform: Issues Relevant to Changing Restrictions on Private Letter Delivery," Report to the Ranking Minority Member, Subcommittee on Post Office and Civil Service, Committee on Governmental Affairs, U.S. Senate, GAO/GGD-96-129A, vol. 1, Sept. 1996.

In addition to the GATS, the United States is currently negotiating bilateral and regional free trade agreements. The benefit of such agreements is that, unlike the GATS where market access and national treatment disciplines only apply where countries have made specific commitments, recent FTAs have been drafted to apply to all services, unless explicitly stated otherwise. In both the U.S.-Singapore and U.S.-Chile FTAs, language was included in the reservations taken on postal services to make it clear that the reservation did not apply to express delivery services. Additionally, both agreements used a definition of express delivery services that more accurately reflects industry operations.

In addition to improved trade disciplines, express delivery services would benefit from improved customs procedures in foreign markets. In recent years, EDS firms have increased pressure on governments to implement customs reforms that would alleviate inefficiencies in the import/export process. Additionally, ACCA has proposed that WTO member countries adopt and implement the World Customs Organization's customs facilitation conventions and immediate release guidelines. These conventions and guidelines would strengthen customs' administrations management capabilities, design efficient customs processes, and facilitate the efficient use of customs' resources.

Benefits of improving customs environments

Econometric analysis performed for the purposes of this report suggests that improved customs environments would likely increase the amount of U.S. exports to some countries and improve the likelihood that trade would occur with others. In its analysis, the Commission calculated the impact on U.S. exports of an improvement in the perceived efficiency of customs environments in a select group of countries. The exercise was based on industry input on customs environments in 60 countries. The Commission used a summary measure that captures the impact of the destination country's customs procedures on EDS firms. The exercise provides a way to assess the differential impact of customs reform across countries and commodities.

The analysis, described in fuller detail in Appendix C, suggests that a 1-point improvement in the summary measure would result in a 1 to 2 percent increase in the likelihood that a country would import a given product from the United States. Additionally, a one-point improvement in the summary measure could increase the likelihood that U.S. export commodities usually shipped by air (including most international express delivery shipments) would be exported to a given market. Further, where trade already exists for a particular commodity, a 1-point improvement in the summary measure may increase trade by as much as 17 percent in countries already thought to have good customs environments.[10] In particular, air-shipped goods, which would experience the greatest increase in trade, are more likely to go to countries where customs procedures are perceived to be the most efficient.

[10] These countries are listed in the first column of table C-1.

APPENDIX A
Request Letter

BILL THOMAS, CALIFORNIA,
CHAIRMAN

PHILIP M. CRANE, ILLINOIS
E. CLAY SHAW, JR., FLORIDA
NANCY L. JOHNSON, CONNECTICUT
AMO HOUGHTON, NEW YORK
WALLY HERGER, CALIFORNIA
JIM McCRERY, LOUISIANA
DAVE CAMP, MICHIGAN
JIM RAMSTAD, MINNESOTA
JIM NUSSLE, IOWA
SAM JOHNSON, TEXAS
JENNIFER DUNN, WASHINGTON
MAC COLLINS, GEORGIA
ROB PORTMAN, OHIO
PHIL ENGLISH, PENNSYLVANIA
J.D. HAYWORTH, ARIZONA
JERRY WELLER, ILLINOIS
KENNY C. HULSHOF, MISSOURI
SCOTT McINNIS, COLORADO
RON LEWIS, KENTUCKY
MARK FOLEY, FLORIDA
KEVIN BRADY, TEXAS
PAUL RYAN, WISCONSIN
ERIC CANTOR, VIRGINIA

ALLISON H. GILES,
CHIEF OF STAFF

Congress of the United States

U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS

1102 LONGWORTH HOUSE OFFICE BUILDING
(202) 225-3625

Washington, DC 20515-6348

http://waysandmeans.house.gov

CHARLES B. RANGEL, NEW YORK,
RANKING MINORITY MEMBER

FORTNEY PETE STARK, CALIFORNIA
ROBERT T. MATSUI, CALIFORNIA
SANDER M. LEVIN, MICHIGAN
BENJAMIN L. CARDIN, MARYLAND
JIM McDERMOTT, WASHINGTON
GERALD D. KLECZKA, WISCONSIN
JOHN LEWIS, GEORGIA
RICHARD E. NEAL, MASSACHUSETTS
MICHAEL R. McNULTY, NEW YORK
WILLIAM J. JEFFERSON, LOUISIANA
JOHN S. TANNER, TENNESSEE
XAVIER BECERRA, CALIFORNIA
LLOYD DOGGETT, TEXAS
EARL POMEROY, NORTH DAKOTA
MAX SANDLIN, TEXAS
STEPHANIE TUBBS JONES, OHIO

JANICE MAYS,
MINORITY CHIEF COUNSEL

DOCKET NUMBER
2319
Office of the Secretary
Int'l Trade Commission

'03 JUL -8 AM 11:11
OFC OF THE SECRETARY
USITC

June 30, 2003

The Honorable Deanna Tanner Okun
Chairman
U.S. International Trade Commission
500 E Street, SW
Washington, D.C. 20436

Dear Chairman Okun:

We have recently become more concerned about the competitive conditions in foreign markets for U.S.-based express courier businesses. Our concerns stem from continued discriminatory treatment by foreign governments in areas such as licensing, permissible business scope and configuration, and from additional discriminatory or market distorting conditions that can arise in foreign markets, where transparency and fairness of administration may be insufficient. The world market for express delivery services, estimated at over $50 billion and the source of jobs numbering in the hundreds of thousands, is projected to grow rapidly due, in part, to the increasing use of online purchasing by businesses and consumers and the need for vendors to match the pace of electronic ordering with rapid physical delivery. Because the United States is currently negotiating agreements that may address some of these issues for the purpose of liberalizing trade in express air courier services, the Committee would find it useful to have more information on these matters.

Accordingly, on behalf of the Committee on Ways and Means of the United States House of Representatives, under the authority of section 332(g) of the Tariff Act of 1930, I request that the Commission institute a fact-finding investigation of the current competitive conditions facing U.S.-based express delivery service suppliers. In its investigation, the Commission should: (1) examine the composition of the global industry, major market participants, and factors driving change, including regulatory reform, in major markets; (2) examine the extent to which competition among express delivery service suppliers in foreign markets may be affected by government-sanctioned monopolies competing in those markets; and (3) identify, to the extent possible, additional trade impediments encountered by U.S.-based express delivery service suppliers in foreign markets. For the purpose of this report, I request that the

Commission consider express delivery services as, "(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, such as customs facilitation and logistics services."

The Commission is requested to deliver this report no later than nine months from receipt of this letter. It is the Committee's intent to make the report available to the public in its entirety. Therefore, the report should not contain any confidential business or national security classified information.

Best Regards,

Bill Thomas

Bill Thomas
Chairman

WMT/dk

APPENDIX B
Federal Register Notice

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

(Investigation No. 332-456)

EXPRESS DELIVERY SERVICES: COMPETITIVE CONDITIONS FACING U.S.-BASED FIRMS IN FOREIGN MARKETS

DOCKET

AGENCY: United States International Trade Commission

ACTION: Institution of investigation and scheduling of hearing

SUMMARY: Following receipt of a request on July 1, 2003, from the House Committee on Ways and Means, the Commission instituted investigation No. 332-456, *Express Delivery Services: Competitive Conditions Facing U.S.-based Firms in Foreign Markets*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

BACKGROUND: As requested by the Committee, the Commission will investigate and provide a report on the current competitive conditions facing U.S.-based express delivery service suppliers in foreign markets. Specifically, the Commission will (1) examine the composition of the global industry, major market participants, and factors driving change, including regulatory reform, in major markets; (2) examine the extent to which competition among express delivery service suppliers in foreign markets may be affected by government-sanctioned monopolies competing in those markets; and (3) identify, to the extent possible, additional trade impediments encountered by U.S.-based express delivery service suppliers in foreign markets. For the purposes of its report, the Commission will define express delivery services as 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 services provided in connection therewith, such as customs facilitation and logistics services.

The Committee requested that the Commission furnish its report by April 1, 2004, and that the Commission make the report available to the public in its entirety.

EFFECTIVE DATE: August 1, 2003

FOR FURTHER INFORMATION CONTACT:

(1) Project Leader, Michael Nunes (202-205-3462 or mnunes@usitc.gov)
(2) Deputy Project Leader, Joann Tortorice (202-205-3032 or jtortorice@usitc.gov)
(3) Chief, Services and Investment Division, Richard Brown (202-205-3438 or rbrown@usitc.gov)

The above persons are in the Commission's Office of Industries. For information on legal aspects of the investigation, contact William Gearhart of the Commission's Office of the General Counsel at 202-205-3091 or wgearhart@usitc.gov.

PUBLIC HEARING: A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on November 5, 2003, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, D.C. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a letter with the Secretary, United States International Trade Commission, 500 E St., SW, Washington, DC 20436, not later than the close of business (5:15 p.m.) on October 22, 2003. In addition, persons appearing should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on October 24, 2003. Posthearing briefs should be filed with the Secretary by the close of business on November 19, 2003. In the event that no requests to appear at the hearing are received by the close of business on October 22, 2003, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202-205-1816) after October 22, 2003 to determine whether the hearing will be held.

WRITTEN SUBMISSIONS: In lieu of or in addition to appearing at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on November 19, 2003. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. The Committee has requested that the report not include any confidential business information; the Commission will not include confidential business information in the report it sends to the Committee. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's Rules (19CFR 201.18)(see Handbook for Electronic Filing Procedures, ftp://FTP.usitc.gov/pub/reports/electronic_filing_handbook.pdf). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at http://edis.usitc.gov. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

By order of the Commission.

Marilyn R. Abbott
Secretary

Issued: August 1, 2003

APPENDIX C
Econometric Evaluation of the Effect of Customs on Time-sensitive Trade

This section reports the results of an econometric exercise designed to measure the impact of foreign customs procedures on time-sensitive U.S. exports. The study confirms results from existing literature on trade facilitation - countries with poor customs environments import less than countries with good customs environments. The key new finding of this study is that customs environments affect goods differently: poor customs environments impede trade in time-sensitive goods more than they impede trade in other goods. This finding is important for understanding the express delivery industry, which specializes in the delivery of time-sensitive goods.[1] Holding constant the level and pattern of trade, there also appears to be a small impact of customs procedures on the choice of transportation mode. Shipments bound for countries with good customs environments are more likely to travel by air.

The key input into the econometric exercise is a summary measure of customs environments in 60 major U.S. export destinations.[2] The measure was taken from a survey that ACCA conducted of its members.[3] The survey gathered information on specific customs procedures in the selected countries and on the effect of customs environments on firm decisions. The summary measure, the firms' subjective rating of the overall customs environment in a destination country, was intended to capture the overall effect of a destination country's customs procedures on EDS deliveries.

Statistical analysis relating this measure to U.S. export data indicates that poor customs environments inhibit trade. U.S. exports in a given commodity are more likely to travel to countries with good customs environments. When trade does occur, countries with better customs environments purchase more U.S. exports than countries with poor customs environments. Furthermore, these effects are not constant across goods. Goods that are more often shipped by air[4] are more sensitive to customs environments than goods shipped by sea. Although U.S. export data only allow an explicit consideration of the effect of customs environments on the broader air cargo market, these results are relevant to the EDS industry, which utilizes air transport for the majority of international shipments and represents a large share of the international air-cargo market.[5] Further, EDS firms, which specialize in time-definite delivery, may be even more sensitive to customs environments than the average air shipment.

This section is organized as follows. Part I describes the survey methodology, customs procedures and survey results. Part II explains the econometric procedure and reports the results of that exercise. Part III provides interpretation for the results,

---

[1] The finding is also consistent with anecdotal evidence presented in testimony and in staff interviews with industry sources.

[2] These countries were selected based on market size and importance to the United States as trading partners.

[3] The survey was developed with input from the USITC, and distributed by ACCA to its members.

[4] Air-shipped goods are typically high in value and include finished, unfinished, and semifinished goods.

[5] The Federal Aviation Administration (FAA) estimates that all-cargo carriers such as FedEx and UPS accounted for 53 percent of international air shipments in 2002. FAA, "Aerospace Forecasts, Fiscal Years 2003-2014," *U.S. Department of Transportation (USDOT), FAA, Office of Aviation Policy and Plans*, Report Number FAA-APO-03-1, Mar. 2003.

and suggests limitations and extensions that warrant further work. Part IV evaluates the impact of customs procedures on the choice of transportation mode.

Survey

A key input into this analytical exercise was the survey that ACCA conducted of its members. The survey asked responding firms to report on key aspects of the customs environment in 60 of the largest U.S. export destinations (see table C-1).[6] Questions included in the survey asked about the types of procedures employed in each country and about the impact of these procedures on measures of performance. A summary question asks respondents to characterize the overall customs environment in the country on a scale of 1 to 10.[7] To view the complete list of survey questions, see table C-2.

Table C-1 groups countries according to the average response to the overall summary question rating their customs environments.[8] Countries with good customs ratings tend to be relatively well-off, and trade dependent. Countries with poor customs ratings tend to be relatively poor. One notable finding is that customs ratings vary within the EU, despite the explicit uniformity of many customs policies across markets.[9]

Table C-2 presents summary statistics for each question in the survey that produced a quantifiable response.[10] The first column reports the question. The second column

---

[6] Table C-1 divides the countries into three categories. Generally, these countries are the largest U.S. export destinations. Some EU countries were removed from the sample because procedures in the EU are largely similar.

[7] Existing studies of this sort (see, for example, John Wilson, Catherine Mann, and Tsunehiro Otsuki "Trade Facilitation and Economic Development: Measuring the Impact." *World Bank Policy Paper*, March 2003) combine country-level information on specific customs procedures into an index that is meant to characterize a country's overall customs environment. The difficulty with that approach is that it requires the researcher to choose a weighting scheme to aggregate individual customs procedures into an overall index. This study uses a summary measure taken from respondents' assessments of each destination country's overall customs environment. The overall customs rating can be considered an ideal index that weights each customs procedure according to the burden it imposes on the delivery firm.

[8] ACCA requested that individual country scores not be included in this report. The full variation of the responses is maintained in the estimation.

[9] In 1994, the EU consolidated all member states' customs legislation into a single text and set up a customs framework establishing common procedures. European Commission, "The Customs Policy of the European Union," found at internet address *http://europa.eu.int/comm/taxation_customs/publications/customs/customsbrochure.html,* retrieved Dec 8, 2003.

[10] This means that the question either asked for a numeric answer or for a yes/no answer that could be coded 1/0.

Table C-1
EDS firms' perception of national customs environments[1]

Good	Average		Poor	
(Mean response 4 or less)	(Mean response between 4.1 and 6.9)		(Mean response of 7 or higher)	
Chile	Australia	Kazakhstan	Algeria	Kuwait
Czech Republic	Bahamas	Mexico	Argentina	Netherlands Antilles
France	Canada	Morocco	Aruba	Panama
Germany	China	Norway	Brazil	Peru
Hong Kong	Colombia	New Zealand	Dominican Republic	Poland
Hungary	Costa Rica	Nicaragua	Egypt	Russia
Malaysia	Ecuador	Nigeria	Greece	South Africa
Netherlands	El Salvador	Pakistan	Haiti	Thailand
Singapore	Guatemala	Philippines	Jamaica	Venezuela
Sweden	Honduras	South Korea	Japan	Vietnam
Switzerland	India	Saudi Arabia		
Taiwan	Indonesia	Turkey		
United Kingdom	Israel	United Arab Emirates		
	Italy			

[1] Respondents were asked to rate the overall customs environment in each of the above countries on a scale of 1 to 10 (10 is the most difficult customs environment). Countries are grouped into good, average and poor categories based on the mean response to the summary question.

Source: Compiled by the Commission.

reports the mean response to each question.[11] Where questions asked for a numeric response, the simple average is reported, while yes/no questions were coded 1/0; therefore a mean of 0.60 indicates that a yes was recorded in 60 percent of the countries with a response. Column 3 reports the correlation of each response with the summary rating.[12] The responses that correlate most strongly with overall summary ratings are, implicitly, the characteristics that are weighted most heavily in respondents' response to the summary question.

[11] In this case, the mean is an average across countries. It should not be construed as a trade-weighted mean that summarizes the experience of an "average" EDS shipment. Countries with better customs environments should receive more express delivery shipments, so the simple cross-country average will overstate the trade-weighted average response. Cross-country averages are reported here as a summary indicator of the inputs into the econometric exercise. Trade-weighted averages would require unavailable data on trade transported by EDS firms.

[12] Where the correlation is furthest from zero, a strong relationship exists. A positive correlation indicates that large numerical responses coincide with large summary ratings, while a negative correlation indicates that large numerical responses coincide with low summary ratings.

Table C-2
Survey questions and responses

Question	Mean response	Correlation of response with overall country rating
On a scale of 1 to 10, with 10 representing the most difficult, rate the overall customs environment in _______?	5.79	1.00
How many ports of entry have modern electronic data transmission capabilities?	2.53	-0.35
Would you use additional ports if electronic data transmission capabilities were upgraded to the level of the most modern port?	[1]0.30	0.13
Do customs procedures such as rekeying of electronic data limit the effectiveness of modern electronic data transmission capabilities?	[1]0.38	0.11
Is advanced manifesting required?	[1]0.62	[2]-0.02
If so, do advanced manifesting procedures impose significant costs on your operations?	[1]0.24	[2]-0.07
Do limited hours of operation of customs and/or other port facilities constrain your operations?	[1]0.66	0.50
Does (this country) allow offsite inspection of packages?	[1]0.42	-0.04
Do customs officials use targeted shipment selection procedures to identify packages to be opened?	[1]0.66	-0.27
What share of packages are opened by customs?	[1]0.30	0.45
Does (this country) allow post-clearance payment of taxes and duties?	[1]0.48	-0.33
Do licensing regulations and/or other business practices restrict the number of customs brokers relative to international norms?	[1]0.38	0.30
Are express delivery services firms liable for contents?	[1]0.54	0.03
Are express delivery services firms liable for valuation?	[1]0.42	[2]-0.19
What is the de minimis value (in $US)?	51.19	-0.14
Is the same de minimis value applied to postal shipments as to express delivery shipments?	[1]0.68	-0.06
Is there a weight limitation for express delivery packages?	[1]0.31	0.04
If so, what is the weight limit (in kg)?	51.39	-0.19
For letters and documents, the average time between arrival and release for delivery is ______.	3.27 hours	0.16
For de minimis shipments, the average time between arrival and release for delivery is ______.	12.12 hours	[1]-0.01
For low value shipments, the average time between arrival and release for delivery is ______	16.87 hours	0.06
For high value shipments, the average time between arrival and release for delivery is ______.	51.41 hours	0.24
Do you offer your full range of services in (this country)?	[1]0.60	-0.11
Do you require any third party delivery services?	[1]0.61	0.06

[1] Yes/No question. Number represents share of yes answers.
[2] Unexpected sign.

Source: Compiled by the Commission.

The results reported in column 3 suggest that the features of a customs environment that most strongly distinguish good and poor customs environments are:

- The amount of time and number of days that customs operations remain open in the country (correlation with overall customs rating = 0.50);
- the share of packages that are opened by customs (0.45)
- the number of ports with modern electronic data transmission capabilities (-0.35);
- the ability to perform post-clearance payment of taxes and duties (-0.33); and
- the degree to which licensing regulations and/or other business practices limit the number of customs brokers (0.30).

Answers to the other survey questions are less strongly correlated with the overall customs rating, and so are presumably less significant factors in distinguishing among customs environments. Favorable changes in these five policies would presumably be the most likely to improve EDS firms' perception of a country's customs environment.

Econometrics

This section describes the econometric exercise designed to assess the impact of customs procedures on U.S. exports. The empirical methodology is based on the gravity model of trade, though the empirical specification departs from the standard aggregate gravity model formulation[13] to allow a consideration of differential impacts across commodities. Specifically, the present model is estimated on a balanced panel of U.S. HS 10-digit export commodities and U.S. export destinations. The model specifically accounts for non-linear impacts of customs and time-sensitivity variables as a means of assessing differential cross-commodity and cross-country impacts. The use of a maximum likelihood Heckman[14] model allows an estimation of the impact of customs barriers on the probability that a given commodity is exported to a given destination, and the level of exports of a given commodity to a given destination, conditional on exports occurring.

The econometric exercises can be characterized as a statistical investigation of 4 questions that are relevant to the EDS industry, and to U.S. exporters of time-sensitive goods:

[13] The Commission used the gravity model in USITC, *The Economic Impact of U.S. Sanctions with Respect to Cuba*, Investigation 332-413, Publication 3398, Feb. 2001. The gravity model is explained in Appendix F of that report.

[14] James Heckman, "The Common Structure of Statistical models of Truncation, Sample selection and Limited Dependent Variables and a Simple Estimator for Such Models," *Annals of Economic and Social Measurement*, 1976, 5, pp. 475-492.

- Controlling for other relevant factors, are countries with poor customs environments less likely to import a given commodity from the U.S.?

- Controlling for other factors, do countries with poor customs environments import less of a given commodity from the United States than countries with good customs environments?

- Do the answers to questions 1) and 2) depend on the degree to which delivery of the good is time-sensitive?

- Given that the United States is exporting a commodity to a given country, does the choice of transportation mode depend on the customs environment in the destination country?

Econometric techniques provide answers to these questions, as well as estimates of the degree to which customs environments affect firm decisions. Questions of degree will be evaluated through a series of counterfactual exercises in section III and IV.

Input Data

The primary data source for information on U.S. export weight, value, transport mode and destination is the U.S. Exports of Merchandise CD, U.S. Census Bureau, Foreign Trade Division, December 2002. In some applications the full geographic detail of the data, including U.S. customs district of export, is maintained. In other applications, U.S. export data are summed across customs district of export. In addition to the customs rating taken from the survey described above, the regressions include a vector of variables denoting country characteristics and a vector of variables denoting commodity characteristics. Interaction between and among these two types of variables is of special interest to this study.

The country characteristics included in the analysis control for other determinants of the trade pattern. Following the economic literature on the "gravity" model,[15] which relates bilateral trade volumes to economic size and geographic distance, the variables *lgdp* (the log gross domestic product (GDP) of the importing country) and *ldist* (the log distance[16] from the U.S.) are included. *Lgdpccap* (the log of GDP per capita) is also included to account for relative income effects. The variable *free* (the Heritage Institute's Index of Economic Freedom) is included so that customs environments are not attributed impacts that arise as a result of a country's overall

---

[15] For an introduction to the gravity model, and its use in studies of the geographic trade pattern see Keith Head, "Gravity for Beginners," available at *http://pacific.commerce.ubc.ca/keith/gravity.pdf/*, downloaded from the internet on January 13, 2004.

[16] Distance is measured using the great circle distance measure.

institutional environment.[17] *Rating*, the quantitative assessment of each country's customs environment, also appears in the basic specification.

The basic regressions also include commodity characteristics that help to explain differences in the probability and level of U.S. exports across commodities. The variable of special interest to this study is *airshare* (air shipments as a share of air and sea shipments in total U.S. exports of the commodity).[18] *Airshare* serves as the primary measure of time sensitivity of the good.[19] Sensitivity analysis includes squared terms of the *airshare* variable. *Wv*, the weight to value ratio of total U.S. exports in the commodity, is a second commodity control included in all specifications.

Subsequent regressions also include a series of dummy variables meant to control for idiosyncratic country characteristics. A dummy variable for island nations (*island*) and for landlocked nations (*lndlck*) captures specific geographic features that are likely to affect the U.S. export mode. Geographic dummy variables also control for region-specific effects. Region dummies are included for Australia/New Zealand, Latin America, Caribbean, Europe, Sub-Saharan Africa, MiddleEast, and Non-mideast Asia.

Other variables that are not included in the basic specification, but are used in one application or another are *limports* (the destination countries' log total imports from the world), *English* (a dummy variable denoting that English is a country's primary language), and lnT^k (the log total of U.S. exports in a given commodity).

Summary analysis of the independent variables

In order to further describe the variation in the primary variable of interest, estimates in table C-3 relate *rating* to a series of variables measuring country characteristics. The second column of table C-3 presents pairwise correlations with *rating*. The third and fourth columns report the results of regression analyses that consider the customs rating as a function of the country characteristics.[20] The statistics in these columns report a conditional correlation: holding constant the other factors, the regression

---

[17] The Heritage index of economic freedom does not report values for Aruba, Kazakhstan, Netherlands Antilles, Saudi Arabia and Vietnam. In order to avoid having to drop these countries from the sample, freedom indices were imputed. The imputation procedure regressed *free* on a vector of country characteristics (*lgdp, lgdpcap, limports, English, lndlck, island*, and the region dummy variables), and used the parameter estimates to generate fitted values of *free* for these 5 countries.

[18] The assumption that air shipments are time sensitive and sea shipments are not is relatively straightforward. However, it is not clear that truck shipments to Mexico and Canada can be neatly characterized as time sensitive or not. This exercise avoids these difficulties by excluding the Canadian and Mexican data, and estimating only over the air/sea modes in shipments leaving the U.S. for destinations outside North America.

[19] David Hummels ("Time as a Trade Barrier," Purdue University mimeograph, July 2001) notes that freight rates for air shipments are, on average, 2.5 times higher than freight rates of sea shipments. The willingness of shippers to pay such a substantial premium indicates that the shipper puts substantial value on the shipment arriving quickly. On that basis, shipments traveling by air freight are characterized here as "time sensitive."

[20] In the column four regression, and in the subsequent regressions, imputed values of *free* are used in the cases of Aruba, Kazakhstan, Netherlands Antilles, Saudi Arabia and Vietnam.

coefficient explains how the *rating* variable correlates with each country characteristic.[21] Recall that a good customs environment generates a low value of the *rating* variable.

Methodology

As noted above, the primary regression model used in the analysis is a Heckman model that jointly estimates the probability that trade in a given commodity occurs on a given route, and the level of expected trade in a given commodity on a given route, conditional on that trade taking place. The basic specification of the Heckman model is as follows:

$$1)\ \Pr\left(T_j^k > 0\right) = \alpha_0 + \vec{\alpha}_X \vec{X}_j + \vec{\alpha}_Z \vec{Z}^k + u_j^k$$

$$2)\ \ln T_j^k \left| T_j^k > 0 \right. = \beta_0 + \vec{\beta}_X \vec{X}_j + \vec{\beta}_Z \vec{Z}^k + e_j^k$$

$$corr(e_j^k, u_j^k) = \rho$$

$\Pr(T_j^k>0)$ is the probability that the U.S. exports commodity k to region j, and $\ln T_j^k$ is the log value of U.S. exports to region j in commodity k if trade is observed, X_j is a vector of country characteristics and Z^k is a vector of commodity characteristics. Equation 1 is a probit model that estimates the effect of the explanatory variables on the probability that trade occurs. Equation 2 estimates the effect of the explanatory variables on the level of trade. The Heckman procedure allows a positive correlation between the error terms (e_j^k and u_j^k) in each equation. In this application, both equations are estimated using the Huber-White correction for heteroskedasticity. All parameters are estimated jointly in a maximum likelihood procedure. Subsequent sensitivity analyses include additional country and commodity controls and non-linear interactions among and between the two variables of interest, the air share of total U.S. exports of commodity k and the customs rating in destination country j.

[21] The estimates suggest, for that high-income economies (as measured by *lgdpcap*) have better customs environments than low-income countries, and that countries with high values of *free* have better customs environments than countries with low values of *free*.

Table C-3
Statistical summary information on the customs environments

Variable	Pairwise correlation with *rating*	Regression on limited sample	Regression on full sample
limports	-0.402	-1.406 (0.460)	-0.660 (0.453)
lgdp	-0.229	1.157 (0.355)	0.551 (0.394)
lgdpcap	-0.384	-0.088 (0.330)	-0.146 (0.326)
free	-0.461	-0.550 (0.418)	-0.660 (0.444)
lndlck	-0.215	-0.397 (0.842)	-1.082 (0.680)
Island	0.066	-0.709 (0.603)	-0.898 (1.455)
Mideast	0.159	-1.607 (0.971)	-1.571 (0.986)
Non-mideast Asia	-0.140	-2.284 (0.622)	-2.078 (0.777)
Caribbean	0.248	-0.063 (1.502)	0.899 (1.455)
Latin America	0.133	-2.335 (0.911)	-2.038 (0.943)
Sub-Saharan Africa	0.069	-2.292 (1.015)	-2.023 (1.191)
Australia/New Zealand	-0.004	-0.952 (0.940)	-0.164 (0.932)
Europe	-0.344	-2.599 (1.015)	-2.422 (0.541)
Regression constant[1]		-12.409 (9.116)	1.599 (9.880)
Number of observations		55	60
R^2		0.545	0.462

[1] The Canada dummy is omitted from the regression. Coefficients on region-specific dummies relate conditional means in those regions to the conditional mean in Canada.

Source: Compiled by the Commission.

Results

The initial specifications consider the effect of various country and commodity characteristics on the probability that trade occurs in a given commodity along a given route; and on the value of bilateral U.S. exports, given that they are positive. Coefficient estimates of the variables of interest are reported in table C-4. Coefficient estimates for the other independent variables (which are not reported in

Table C-4
Regression estimates for the Heckman model of selection and bilateral trade

	1	2	3	4	5	6
Selection Equation: Dependent variable is $\Pr\left(T_j^k > 0\right)$						
Airshare	0.379* (0.005)	0.747* (0.017)	2.007* (0.026)	2.050* (0.026)	1.991* (0.024)	3.189* (0.030)
Rating	−0.011* (0.001)	0.012 (0.001)	−0.045* (0.005)	0.013* (0.004)	−0.026* (0.006)	0.083* (0.006)
Airshare* rating		−0.065* (0.003)	−0.063* (0.003)	−0.067* (0.003)	−0.066* (0.003)	−0.099* (0.003)
Airshare2			−1.375* (0.021)	2.050* (0.026)	−1.395* (0.021)	−2.316* (0.024)
Rating^2			−0.002* (0.0004)	−0.002* (0.0004)	0.0001 (0.0004)	−0.006* (0.001)
Trade Equation: Dependent variable is $\ln T_j^k \middle| T_j^k > 0$						
Airshare	0.943* (0.017)	2.385* (0.052)	3.346* (0.085)	3.457* (0.085)	3.194* (0.080)	3.820* (0.065)
Rating	−0.045* (0.003)	0.045* (0.004)	−0.003 (0.015)	−0.090* (0.015)	−0.195* (0.017)	0.040* (0.014)
Airshare* rating		−0.256* (0.009)	−0.255* (0.008)	−0.266* (0.008)	−0.262* (0.008)	−0.286* (0.006)
Airshare^2			−1.100* (0.072)	−1.127* (0.071)	−1.129* (0.071)	−1.898* (0.054)
Rating^2			0.005* (0.001)	0.008* (0.001)	0.012* (0.001)	−0.001 (0.001)
$\mathcal{P}$	0.958	0.957	0.940	0.941	0.941	0.835
lgdp, ldist, lgdpcap, free, wv included	yes	yes	yes	yes	yes	yes
Island, lndlck, english included	no	no	no	yes	yes	yes
Regional dummy variables included . .	no	no	no	no	yes	yes
Limports, lnT^k included .	no	no	no	no	no	yes

* Significant at the 1% level. 510,110 observations in the selection equation, 227,002 observations in the trade equation.

Note.— Estimated standard errors reported in parentheses.

Note.—The table reports regression coefficients for the selection equation (equation 1) and the trade equation (equation 2). The estimates in column 5 are used to calculate the marginal changes that are graphed in figures C1-C4.

Source: Complied by the Commission.

the interests of space) are of the expected sign and are statistically significant in most every case.[22]

The positive coefficient on *airshare* in column 1, and in subsequent regressions, indicates that goods that are more often traded by air are exported to more destinations, and have larger trade flows to each destination, than are goods that are less likely to travel by air. The negative coefficient estimates on *rating* in column 1 indicate that customs environments affect trade. Countries with poor customs environments import fewer goods (the selection equation); they also import less of those products that they do import (the trade equation). This finding is consistent with evidence from aggregate gravity equations in other studies.[23]

Specification 2 introduces a variable that allows an evaluation of how the effect of customs environments varies across goods. In specification 1, the coefficient on rating provides the cross-commodity average impact of customs environments. In specification 2, the *airrating* variable, which is calculated by multiplying a commodity's air share by the destination country's customs rating, measures the degree to which customs environments affect goods shipped by air differently than goods shipped by sea. The negative and statistically significant sign on *airrating*, in specification 2 and in all subsequent specifications, makes it clear that exports of goods that are primarily shipped by air are impeded to a greater degree than goods that are shipped primarily by sea. Conditional on other factors,[24] goods that are shipped by air are less likely than other goods to be exported to countries with poor customs environments (the selection equation). Conditional on other factors, U.S. exports of a given commodity to countries with poor customs environments are lower than are exports of the same commodity to countries with good customs environments (trade equation).

Given the statistical significance of the interaction, *airrating*, term in equation 2, it is appropriate to investigate other potential non-linearities in the estimating equation. Equation 3 includes $airshare^2$ and $rating^2$ (squares of the *airshare* and *rating* variables, respectively) in the specification. Non-zero coefficient estimates on the non-linear terms indicate that the effect of each of the variables varies across countries and commodities. Section 4 provides a framework for understanding these results in a non-technical way.

Specifications 4, 5, and 6 consider the effect of additional control variables on the basic coefficient estimates. Column 4 adds three country characteristics variables: *island, lndlck*, and *english*. Column 5 adds regional dummy variables *latinamerica, europe, mideast, caribbean nonmeasia* and *Australia/NZ* (*SSAfrica* is the omitted region dummy). Regression results are fairly similar across these specifications. Column 6 adds two more variables, *limports* and lnT^k, which measure logged total

---

[22] The a priori prediction for the sign of the *lgdpcap* coefficient is ambiguous. In estimation, the sign is consistently negative and statistically significant, indicating that, conditional on the other variables in the regression (including country characteristics *lgdp, ldist, free, rating*, and a series of country dummies), U.S. exports are more likely to go to poor countries.

[23] See Wilson, Mann and Otsuki.

[24] The other factors considered are other variables included in the regression analysis such as, gross domestic product and distance.

imports in the destination country and log total U.S. commodity k exports, respectively. Both these variables take the expected sign. While the inclusion of these two controls affects some of the other coefficient estimates, the coefficient on *airrating* remains virtually unchanged. This persistent relationship across multiple specifications indicates a robust relationship: time-sensitive goods are more affected by customs procedures than are other goods.

The coefficient estimate ρ measures the correlation between error terms in the two equations. The estimate of rho remains high across all specifications, indicating that goods that are exported to more destinations tend to have greater trade values on a given route than goods that are traded along that route, but are not shipped to many destinations.

Interpretation and Limitations

The coefficient estimates in table C-4 are informative about the relative impact of customs procedures on both the probability that trade occurs and the level of trade, given that it occurs. Given the non-linearities in the estimation (there are non-linearities implied by the selection model and by the inclusion of non-linear regressors), it can be difficult to clearly understand the degree to which customs environments affect bilateral trade. This section conducts a counterfactual analysis to assess the impact of changes in the customs environment on the bilateral trade pattern. Further the section examines the effect of a modest improvement in customs environments across goods.

The calculations below consider the impact on U.S. exports of a 1 point reduction in the summary country customs ratings. The experiment improves the customs environment (reduces the summary rating) by one point in all countries (see table C-1). A one point reduction would move The Bahamas, Colombia, El Salvador, Italy, Kazakhstan, Morocco, New Zealand, Norway, Turkey and United Arab Emirates from average to good, and would move Argentina, Aruba, Haiti, Netherlands Antilles, Peru, Poland, Russia, South Africa and Thailand from poor to average. The exercise considers a one point improvement (a one-point reduction in the summary *rating* variable) across all countries at once, and provides a means for assessing the differential impact of customs reform across countries and commodities. Improvements in customs procedures can affect trade patterns by increasing the number of countries that purchase a given U.S. export commodity, and by increasing trade in commodities along routes where trade already occurs. The exercise considers the effect of customs reform on these aspects of trade separately. The estimates that inform all subsequent counterfactual experiments are taken from column 5 of table C-4.

In order to calculate the effect of a one-unit change in a country's rating on the probability that U.S. exports of a commodity to a country are observed, the regression parameters are used to find the expected probability of trade, given the country and product characteristics in the regression. A one-unit reduction in the *rating* variable (and corresponding changes to *airrating* and $rating^2$) is conducted, and predicted probabilities are re-calculated. The difference between the predicted probabilities in the two experiments becomes the variable of interest. Similarly, the expected change in trade flows is calculated by estimating the predicted log trade flows (conditional on trade being observed), reducing *rating* and the related variables by the appropriate amount, predicting new conditional log trade flows, and then subtracting the old predicted flows from the new predicted flows.

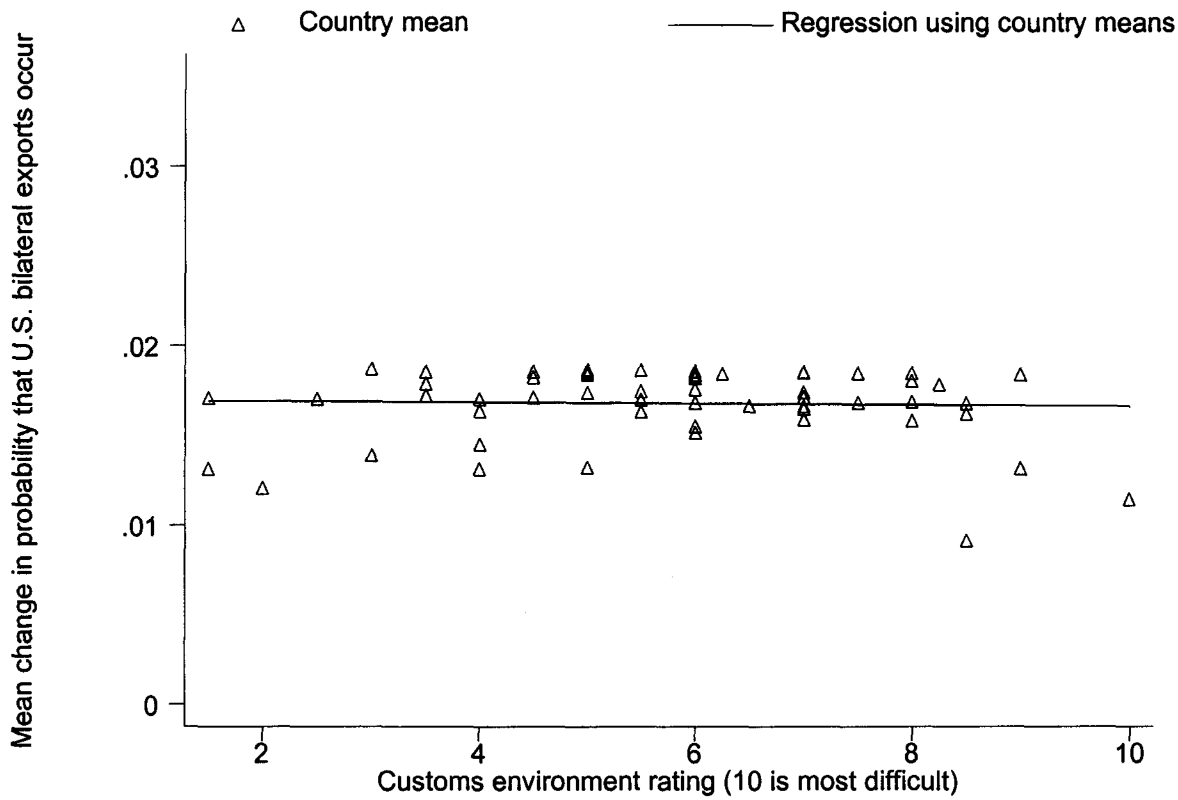
Given the non-linearities in the estimation strategy and in the independent variables, changes in the probability of trade and in the level of conditional expected trade vary over countries and commodities. The figures below show country and commodity mean changes, in the probability of trade and the level of expected trade, and relates those changes to variables of interest.

The figures show the effect of a 1-unit improvement in the customs rating in all countries in the sample. Figures C-1 and C-2 show the mean change in the probability that trade occurs in a given commodity or country, and relates those changes to *rating* and *airshare*. Figure C-1 shows that a 1-unit improvement in the rating variable would cause, on average, between a 1 and 2 percent increase in the likelihood that a country would import a given product from the United States. There is no systematic variation according to the country's summary customs rating. Figure C-2 shows the cross-country mean change in the probability that a commodity would be exported as a result of a 1-unit summary rating change ranges from just under 1 percent to just over 3 percent, depending on the share of the U.S. export value in that commodity that is shipped by air. Commodities with higher airshares would experience the largest increases in the probability of trade.

Figures C-3 and C-4 relate mean percentage changes in the expected level of trade to the *rating* and *airshare* variables. Figure C-3 shows that a 1-unit improvement in the summary ratings world-wide would increase trade most in countries that already have good customs environments. Predicted changes range from virtually no change in countries with the poorest customs environments to 20 percent increases in expected trade with the countries with good customs environments. Figure C-4 helps explain this result. Goods that travel primarily by sea are predicted to experience only modest increases in U.S. exports (about 2 percent for those goods traveling only by sea). U.S. exports that travel exclusively by air would experience a 17 percent increase in trade. Since air-shipped goods are more likely to go to countries with good customs environments, the differential impact on goods causes a disproportionate impact on the predicted level of a country's imports from the U.S.

While the results clearly indicate that a given improvement in customs environments would have a larger impact in those countries that already have good customs environments, the finding does not necessarily indicate that customs reforms in these countries would be most productive. The estimates here provide only a framework for understanding the benefits of customs reform, and do not account for the costs of such reform or the feasibility that policy changes would be effective in improving specific customs environments. Justifying further investment in customs environments, or the decision to push for customs reform (relative to other concessions that might be negotiated in an agreement) would require a cost benefit analysis of specific investments or policy changes, which is beyond the scope of this report. The primary contribution of this analysis is to show that customs reform, if undertaken successfully, would likely have a larger impact on air shipments, and therefore on time-sensitive shipments, than on other freight movements.

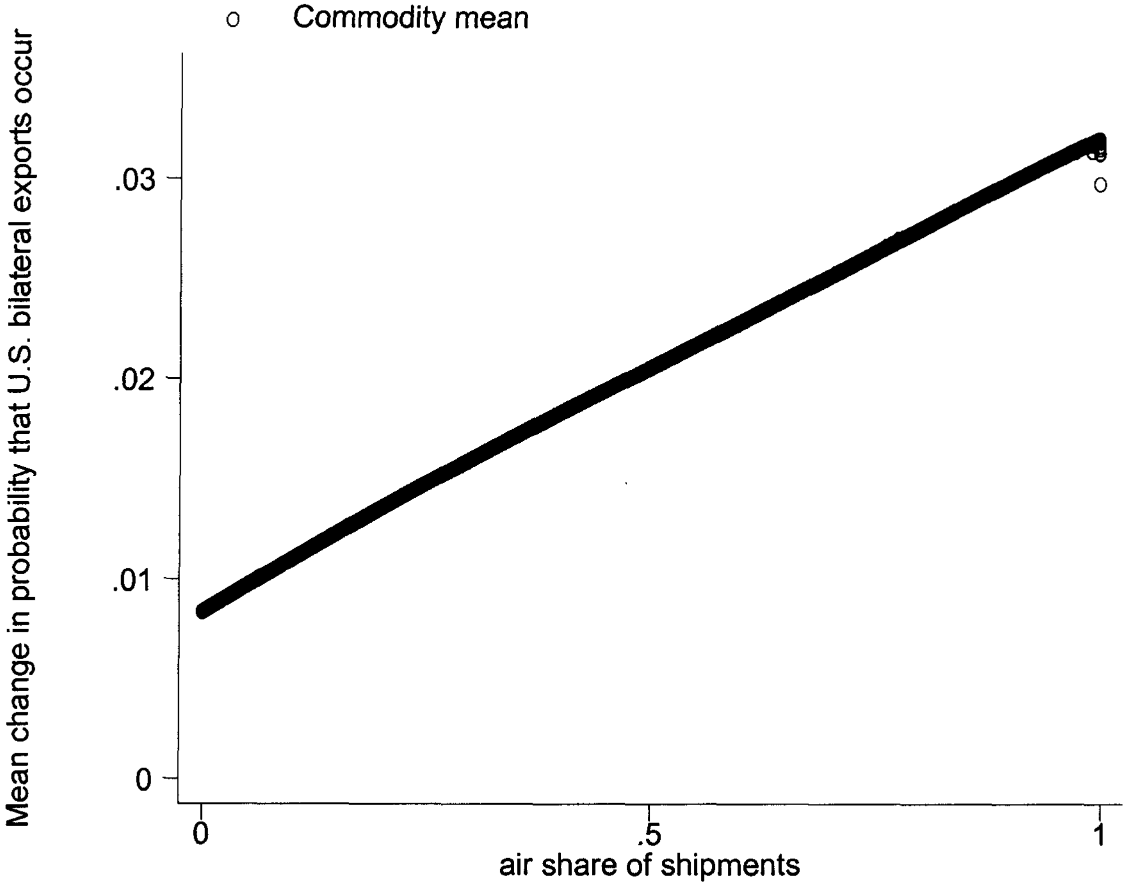
Figure C-1
Mean predicted change, due to a 1-unit improvement in the customs rating, in the probability that a country imports a product from the U.S., relative to the customs environment rating in a given country



Note.--The triangles represent the cross-commodity mean, within each country, of the simulated change in the probability that the U.S. would export a given commodity to that country as a result of a 1-point improvement in customs ratings. The graph indicates that the model estimates some variation in the mean effect of customs improvements across countries. However, the virtually horizontal regression line through the country means suggests that the differences in the estimated of customs improvements across countries are not dependent on the initial customs environment of the country. Probability is usually expressed on a [0,1] scale. The estimates suggest that the mean change in the probability that a product is exported to a given country is approximately 0.015. That suggests a roughly 1.5 percent increase in the likelihood that trade is observed. Consult the "Interpretation and Limitations" section beginning on page C-15 for further details and a discussion of policy implications.

Source: Compiled by the Commission.

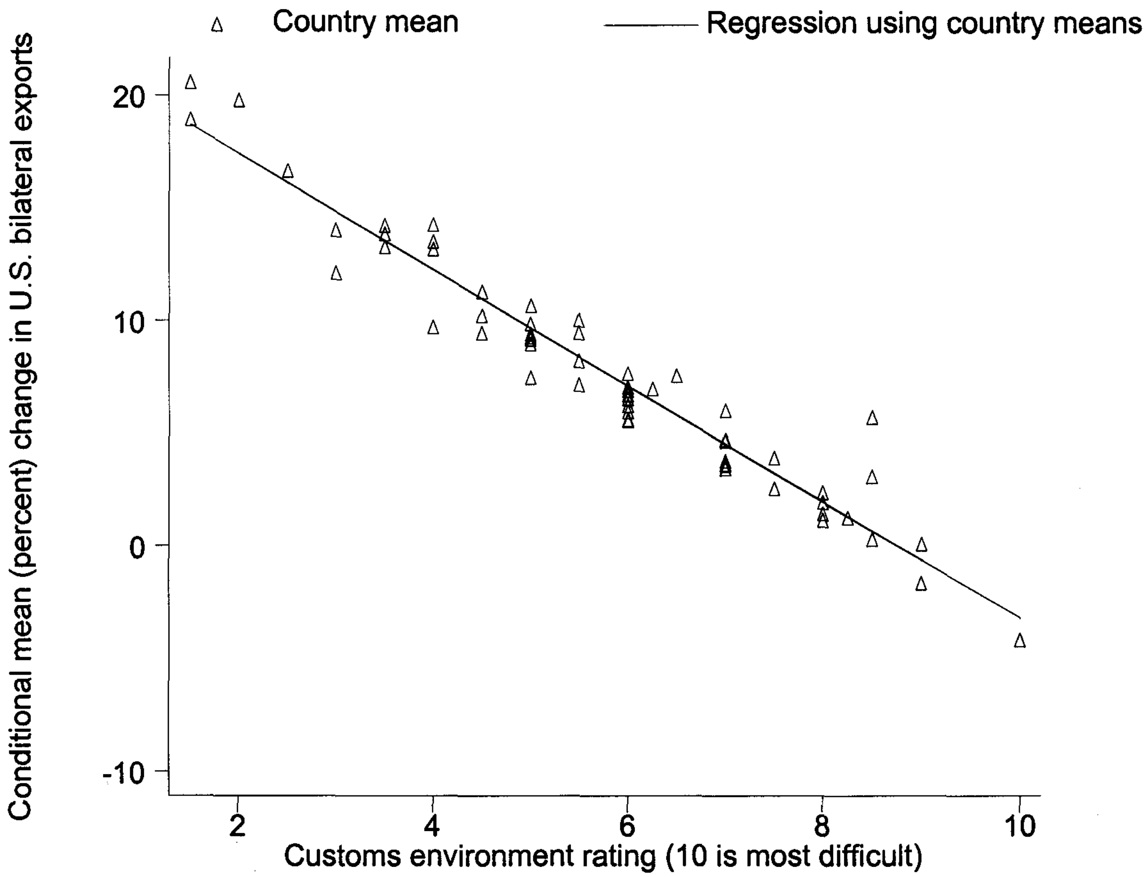
Figure C-2
Mean predicted change, due to a 1-unit improvement in country customs ratings, in the probability that the U.S. exports a product to a given country, relative to the share of air shipments in U.S. exports of that commodity



Note.--Each circle represents the cross-country mean, within each commodity, of the simulated effect of a one point customs improvement on the probability that trade occurs in that commodity. Because there are so many commodities (over 17,000 lines in the HTS schedule), the density of overlapping circles give a (false) impression that a line has been drawn through the points. Other than the airshare variable, there is very little estimated difference in the effect of custom reform across commodities. The graph shows that model estimates imply that a 1-point improvement in customs environments would have a larger impact on commodities shipped predominantly be air than on commodities shipped predominately by sea. Probability is usually measured on a [0,1] scale. The figure shows that model estimates imply that the cross-country mean estimate of the effect of a 1-point customs improvement on goods shipped by air is that such an improvement would increase the likelihood that a product is exported to a country by almost 3 percent. For goods shipped exclusively by sea, that estimate is just under 1 percent. Consult the "Interpretation and Limitations" section beginning on page C-15 for further details and a discussion of policy implications.

Source: Compiled by the Commission.

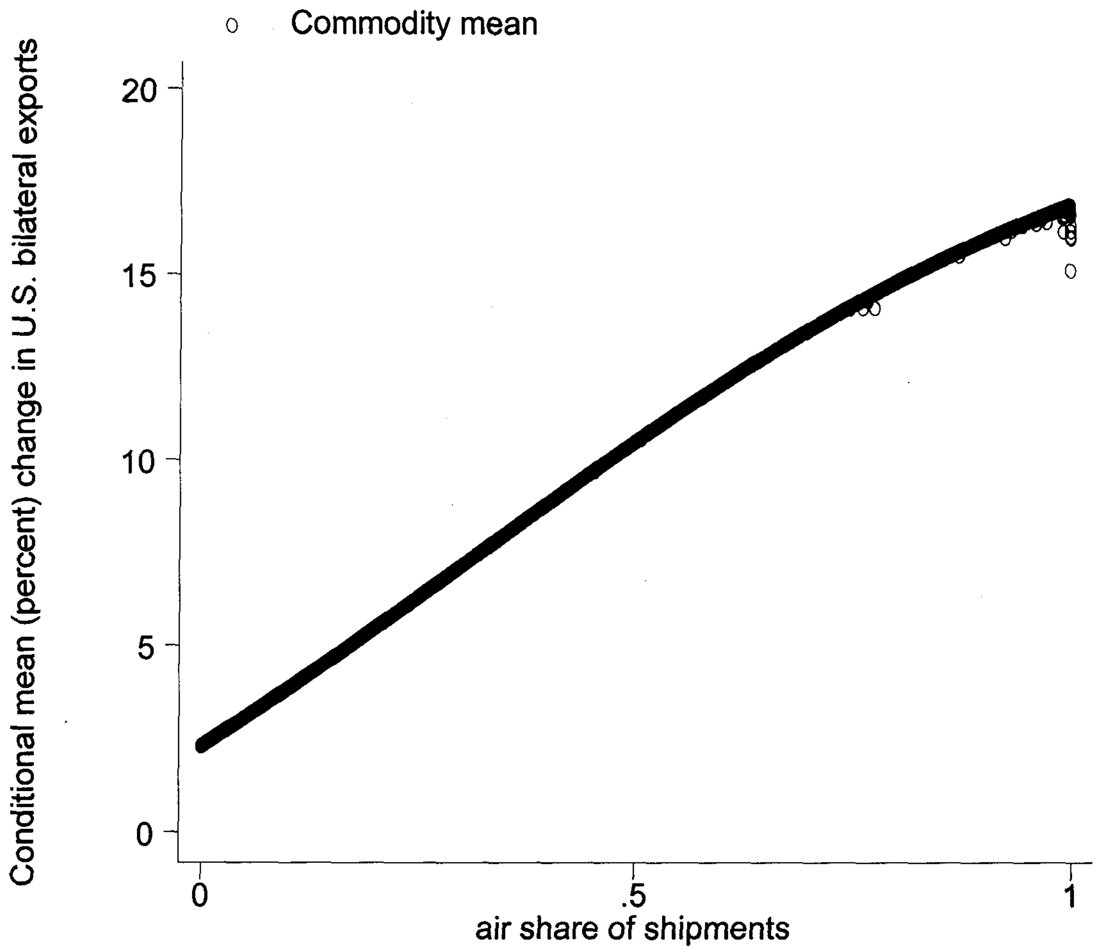
Figure C-3
Mean predicted percent change, due to a 1-unit improvement in the customs rating, in the value of U.S. exports to a given country, relative to the customs environment rating in a given country



Note.--The triangles represent country means (across commodities) of the simulated effect of a 1 point improvement in customs environment ratings. The estimates suggest that improvements in customs environments would affect the value of shipment most in those countries that already have good customs environments. The intuition for this result is that the countries with the best environments import relatively more goods that are primarily shipped by air. A 1-point improvement in the customs rating among the countries with the best customs environments would raise their exports in the average commodity by 20 percent. The effect is weaker among countries with poorer customs environments. Consult the "Interpretation and Limitations" section beginning on page C-15 for further details and a discussion of policy implications.

Source: Compiled by the Commission.

Figure C-4
Mean predicted percent change, due to a 1-unit improvement in the customs rating, in the value of U.S. exports of a commodity, relative to the share of air shipments in U.S. exports of that commodity



Note.--Each circle represents the cross-country mean, within each commodity, of the simulated effect of a one point customs improvement on the level of trade in that commodity. Because there are so many commodities (over 17,000 lines in the HTS schedule), the density of overlapping circles give a (false) impression that a line has been drawn through the points. The upward slope of the line suggests that a 1-unit improvement in customs environments would affect commodities shipped primarily by air more than commodities shipped primarily by sea. Consult the "Interpretation and Limitations" section beginning on page C-15 for further details and a discussion of policy implications.

Source: Compiled by the Commission.

Transportation Mode Choice

In addition to the above findings that customs environments affect a) the probability that trade occurs, b) the level of trade, given that it occurs, and c) the composition of trade (the degree to which time sensitive goods are present), given that it occurs, customs environments may also affect a firm's choice of transportation mode. This section employs a probit model of transportation mode choice to determine the degree to which customs environments affect the choice of transportation mode. Because the model is estimated on only those shipments that actually took place, the model isolates the transportation mode choice from the overall decision to export a given commodity to a given market. The model identifies a small negative impact of poor customs environments on the demand for air (relative to ocean) shipment. The effect is small; it is statistically significant in most regressions, but not in all regressions. It therefore appears that customs environments affect the transportation mode choice, independent of the decision to trade, but that the evidence is not fully conclusive.

The estimation model for this experiment is a probit estimation of the propensity to choose air transport as a function of the country and commodity characteristic variables outlined above. Formally, the estimating equation is:

3) $\Pr\left(\text{mode} = air_{ij}^{k}\right) = \gamma_{\mathbf{0}} + \vec{\gamma}_{\mathbf{x}}\vec{\mathbf{X}}_{\mathbf{j}} + \vec{\gamma}_{\mathbf{Z}}\vec{\mathbf{Z}}^{\mathbf{k}} + \eta^{k}$

where the γ's are parameters to be estimated and η is a normally distributed error term. In this case, the transportation mode information is coded as a binary variable. A coding of 1 indicates that the predominant mode of transportation for a particular good along a particular route is air freight.[25] Table C-5 provides the parameter estimates associated with various specifications of equation 3.

The results in table C-4 suggest a negative impact of the rating variable on the probability that exporters choose the air transport mode. As expected, the coefficient on rating is statistically significant and negative in the initial specification. The coefficient on $rating^2$ is positive in specifications 2 and 3, suggesting an offsetting effect of the $rating^2$ variable on the generally negative effect of a negative rating coefficent. In the final specification, estimated coefficients on both rating and $rating^2$ are negative, but neither coefficient is statistically different from zero. However, a test of the hypothesis that the two coefficients are jointly zero is rejected with a high degree of significance.

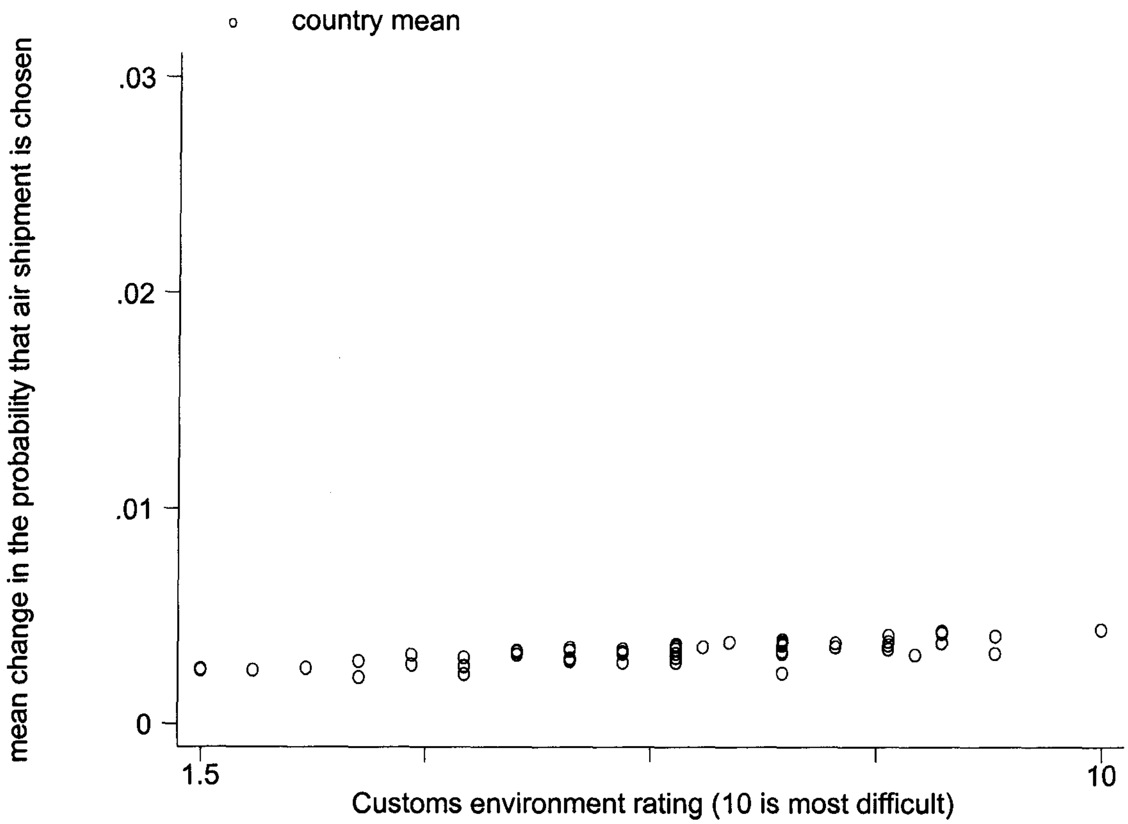
Overall the evidence suggests that customs environments can affect the choice of transportation mode (even after the decision to trade has been factored out). However, the evidence is not highly conclusive, for the positive coefficient on $rating^2$ offsets the negative effect of the *rating* coefficient. In most cases, the marginal impact is negative, but this is not uniformly true.

---

[25] Hummels points out that there are a few cases where both sea and air modes are used. While there are rational economic reasons for shipping under both modes (e.g. goods normally travel by sea but emergency shipments travel by air), Hummels is concerned that data may have been miscoded. Following Hummels, the data here are coded 1 if the value of trade traveling by air exceeds the value of trade moving by sea.

Following the method from the earlier estimations, figure C-5 shows the impact of a 1-unit improvement in the customs rating (a unit reduction in rating). The estimates are taken from the final column of table C-5. The marginal impact is small, but positive, and relatively stable across countries. The estimates suggest that in addition to increasing trade, customs improvements would shift the relative demand for air versus sea transportation toward the air mode.

Figure C-5
Marginal impact of customs reform of the probability of air (relative to sea) transportation



Note.--Each circle represents a cross-commodity country mean of the simulated effect of a 1 point improvement in the customs environment on the probability that exporters choose to export by sea. Probability is usually expressed on a [0,1] scale. The estimate suggest a slight increase in the probability (well under a 1 percent change in the likelihood) that exporters choose air shipment. This estimate is not statistically significant in most specifications. Consult the "Transportation Mode Choice" section beginning on page C-22 for details.

Source: Compiled by the Commission.

Table C-5
Estimates of the probit model of transportation mode choice

	-0.048*	-0.072*	-0.043*	-0.007
rating	(0.001)	(0.005)	(0.005)	(0.006)
		0.002*	0.0003	-0.0003
rating^2		(0.0004)	(0.0004)	(0.0005)
	-1.676*	-1.676*	-1.667*	-1.654*
wv	(0.066)	(0.066)	(0.065)	(0.065)
	0.102*	0.101*	0.104*	0.045*
lgdp	(0.001)	(0.001)	(0.001)	(0.002)
	0.082*	0.084*	0.087*	0.089*
lgdpcap	(0.002)	(0.002)	(0.003)	(0.006)
	0.113*	0.118*	0.111*	0.060*
ldist	(0.002)	(0.002)	(0.003)	(0.003)
	-0.042*	-0.050*	-0.041*	-0.057*
free	(0.003)	(0.004)	(0.004)	(0.004)
	-3.390*	-3.309*	-3.519*	-1.725*
Constant	(0.042)	(0.045)	(0.046)	(0.072)
lndlck, island, english included . .	no	no	yes	yes
Regional dummies included	no	no	no	yes

* Statistically significant at the 1% level. 662,660 observations in each specification. Estimated standard errors reported in parentheses. Chi-squared test on column 4 estimates rejects the hypothesis that *rating* and *rating*^{2} both equal zero with p-value of less than 0.0001.

Note.—The table reports coefficients from a probit regression of the transportation mode choice as a function of various country and commodity variables. The coefficients are used as inputs into the calculations underlying Figure C-5. Consult the “Transportation Mode Choice” section beginning on page C-22 for details.

Source: Commission estimates.

APPENDIX D
Issues Pertaining to DHL's Operation of DHL Airways and ABX Air in the U.S. Domestic Market

On August 15, DHL Worldwide Express, Inc. acquired Airborne, Inc. for $1.05 billion, or $21.25 per share. Airborne, Inc. was the parent company of Airborne Express, which housed the company's ground-based pick-up and delivery network, and ABX Air, which provided air transport through the company's hub in Wilmington, Delaware. Under the merger agreement, ABX Air was spun off into a separate legal entity whose ownership remained with the previous shareholders of Airborne, Inc. (figure D-1).[1] The merger was approved by U.S. antitrust authorities in July 2003.[2]

The U.S. Department of Transportation (USDOT) is currently examining if ABX Air satisfies the legal requirements necessary to permit it to operate in the U.S. domestic market. According to U.S. law, only an entity possessing an air certificate issued by USDOT may provide point-to-point air transport service in the United States. A prerequisite for obtaining such a certificate is U.S. citizenship.[3] In order to meet U.S. citizenship requirements, an airline must be incorporated under the laws of the United States; its president and two-thirds of its board of directors must be U.S. citizens; and no less than 75 percent its voting stock must be owned by U.S. citizens. In addition, the airline may be required to demonstrate that its operations are under the effective control of U.S. citizens.[4] Under the DHL/Airborne merger agreement, ABX Air would be contractually obligated to DHL Worldwide through a series of Aircraft, Crew, Maintenance, and Insurance (ACMI) agreements.[5] Because these agreements would require ABX Air to provide a large proportion of its business to DHL Worldwide, a wholly-owned German subsidiary, it is proposed that this could potentially violate U.S. airline citizenship laws.

The determination as to whether ABX Air will be permitted to conduct air transport services in the United States will follow a similar case concerning the airline operations of DHL International, Ltd., which was acquired by Deutsche Post in September 2000. Proceeding its acquisition of DHL, Deutsche Post established the

---

[1] According to the terms of the merger, Airborne shareholders received one share of ABX Air for each share of Airborne they owned. "Airborne Purchase Complete," Press Release, Deutsche Post, Aug. 15, 2003, found at Internet address *http://www.deutschepost.de/*, retrieved Dec. 4, 2003.

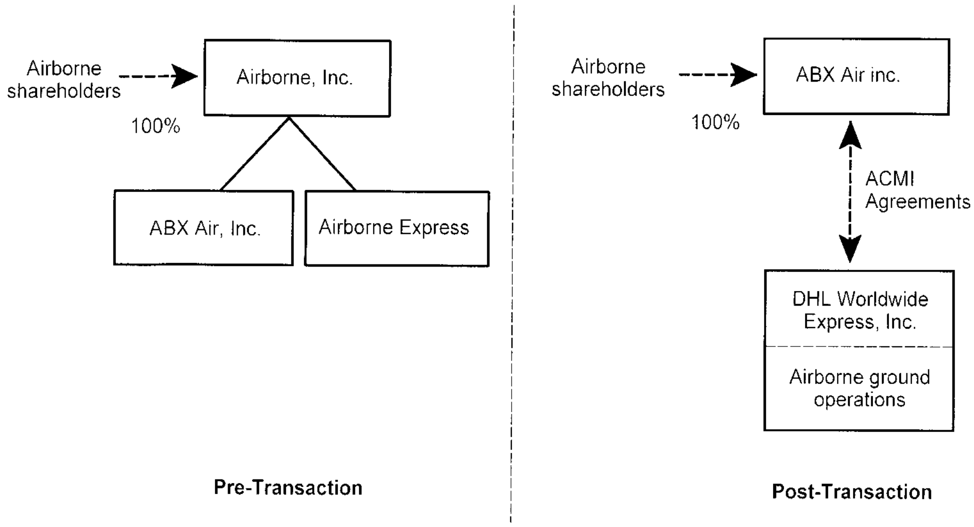
[2] Industry representative, telephone interview with USITC staff, Dec. 15, 2003.

[3] USDOT, "Airline Legal Topics: Airline Citizenship," found at Internet address *http://www.dot.gov/ost/ogc/subject/faqs/international/airlineCitizenship.html/*, retrieved Dec. 5, 2003. For the text of statutes relating to airline citizenship (Title 49, sections 40102(a)(15) and 41102), see Legal Information Institute (LII) at Internet address *http://www4.law.cornell.edu/uscode/49/index.html/*.

[4] Language regarding "effective"or "actual" control by U.S. citizens is said to be an interpretation of the meaning of U.S. citizenship requirements under Title 49, section 40102(a)(15). USDOT, "Airline Legal Topics: Airline Citizenship," found at Internet address *http://www.dot.gov/ost/ogc/subject/faqs/international/airlineCitizenship.html/*, retrieved Dec. 5, 2003.

[5] The agreements require ABX Air to supply air cargo transportation services to DHL Worldwide's newly-acquired Airborne subsidiary using ABX Air's own aircraft and crew, and including the provision of maintenance and insurance services. For more information, see U.S. Securities and Exchange Commission (SEC), Amendment No. 3 to Form S-4: ABX Air, Inc., July 11, 2003, found at Internet address *http://www.abxair.com/ir/S-4%20Amend%203.pdf/*, retrieved Dec. 15, 2003.

Figure D-1
Change in ownership structure following the merger of Airborne and DHL



Source: Compiled by the Commission.

company's airline as a separate legal entity (DHL Airways), and 75 percent of the airline's voting stock was placed under the ownership of William Robinson, a U.S. citizen (figure D-2).[6] In May 2002, USDOT determined that DHL Airways met U.S. citizenship requirements after conducting an informal fitness review of the airline's operations.[7] However, in August 2002, USDOT initiated a formal investigation of the airline's ownership structure as requested by Congress and in response to complaints issued by FedEx, Lynden Air Cargo, and United Parcel Service (UPS).[8] As part of the formal review, USDOT evaluated the nature of ACMI agreements between DHL Airways and DHL Worldwide (figure D-3), and whether these agreements placed the effective control of DHL Airways under the auspices of a foreign entity. On December 19, 2003, an administrative law judge from USDOT ruled in favor of DHL Airways (now Astar Air Cargo), concluding that while the

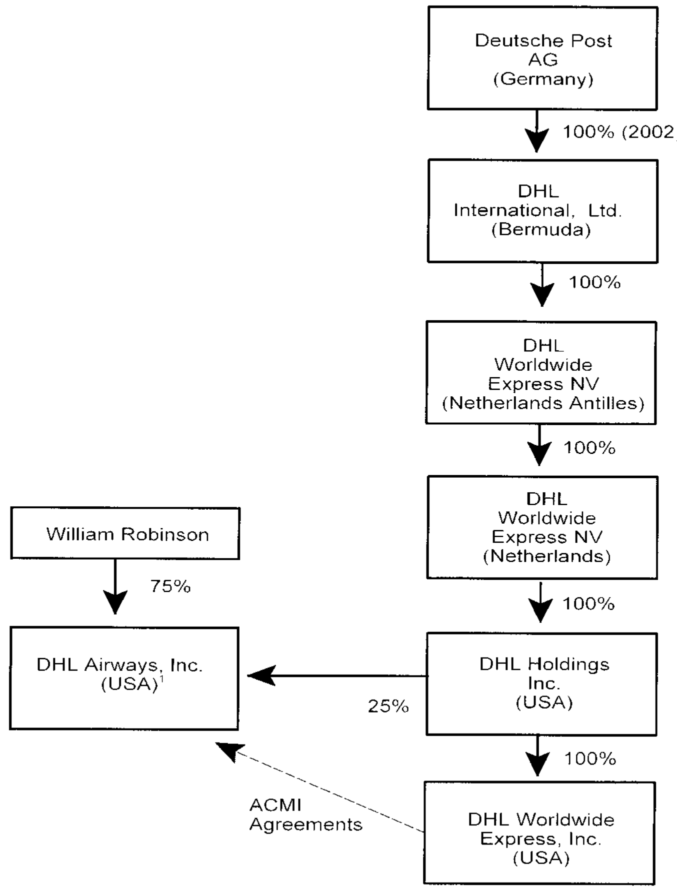
---

[6] In the summer of 2003, DHL Airways was sold by Mr. Robinson and DHL Holdings for $57 million to a group of three U.S. investors, and its name was changed to Astar Air Cargo LLC. *Atlanta Business Chronicle*, "Astar Cargo Gets New Judge," Aug. 13, 2003, found at *http://www.bizjournals.com/*, retrieved Dec. 4, 2003; and industry representatives, interview with USITC staff, Dec. 11, 2003.

[7] The U.S. Department of Transportation conducts a "fitness review" of an airline to determine if it meets certain requirements permitting it to operate in the U.S. domestic market. Such a review usually takes place following a substantial change in the airline's ownership, management, or operational structure. Kenneth Mead, Inspector General, USDOT, letter to Chairman Don Young, U.S. House of Representatives Transportation and Infrastructure Committee, Mar. 4, 2003.

[8] USDOT, "DOT to Hold Hearing on DHL Citizenship," DOT 32-13, found at Internet address *http://www.dot.gov/*, retrieved Apr. 17, 2003.

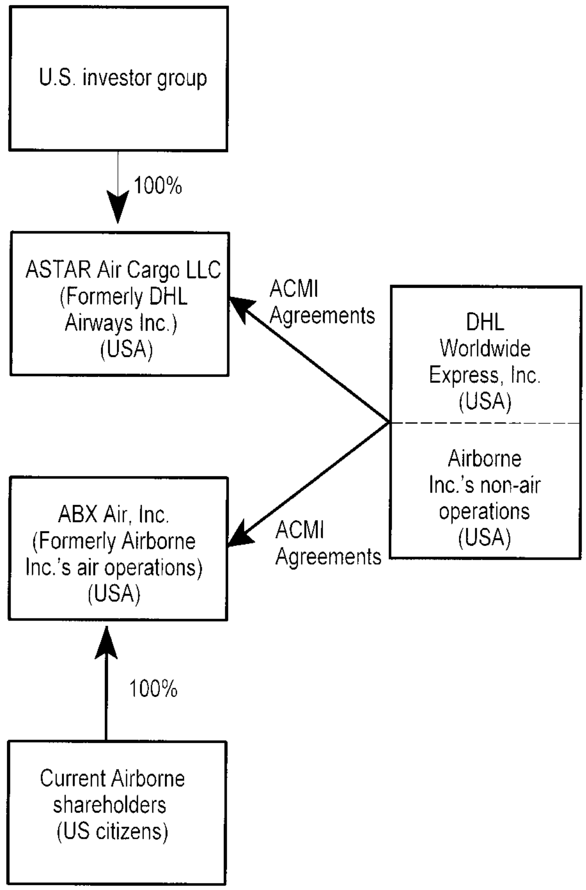
Figure D-2
Ownership structure of DHL Airways following the acquisition of DHL International by Deutsche Post in September 2000



[1] In 2003, DHL Airways was sold by Mr. Robinson and DHL Holdings to a group of three U.S. investors and renamed ASTAR Air Cargo. As a result, Deutsche Post and its subsidiary, DHL, no longer retain an equity stake in the airline.

Source: Compiled by the Commission.

Figure D-3
ACMI agreements between DHL and ASTAR Air Cargo and ABX Air



Source: Compiled by the Commission.

airline served as a client of DHL Worldwide, it was effectively controlled by U.S. citizens.[9] The decision issued by the administrative law judge will be recommended to the Secretary of the U.S. Department of Transportation, and the final determination as to whether Astar Air Cargo meets U.S. citizenship requirements will be made by a senior aviation official within USDOT.

[9] Industry representative, telephone interview with USITC staff, Jan. 5, 2004. For more information, see United States Department of Transportation, Office of Hearings, Washington, DC, "DHL Airways, Inc. (ASTAR)," Docket No. OST-2002-13089, served Dec. 19, 2003; and BNA, Inc. "DOT ALJ Says Astar Air Cargo is Controlled by U.S. Citizens, is Eligible to Fly in States," Dec. 23, 2003, p. A-28.

APPENDIX E
Trade Impediments

Appendix E
Trade Impediments in selected countries

Country	Trade Impediment	Effect of impediment on U.S. EDS firms
Argentina	• There is no *de minimis* level for duties and taxes charged on items delivered by express delivery firms, whereas items shipped by Argentina's postal operator, Correo Argentino, have a *de minimis* threshold of $30 (under which no duties or taxes are charged).	• Discriminatory fees and taxes increase costs of doing business for express delivery firms.
	• Only goods that are less than 50 kilograms in weight or $3000 in value can receive expedited clearance at customs. Goods exceeding these limits are treated as regular cargo.	• Increases costs of doing business for express delivery firms.
	• All goods shipped by express delivery firms must be cleared through a bonded warehouse managed by a majority government-owned entity, Edcadassa. Edcadassa charges express delivery firms $0.50 per kilogram per day for use of the warehouse. This requirement does not pertain to items shipped by Correo Argentino.	• Increases costs of doing business for express delivery firms.
	• Express delivery firms must manually inspect all packages that they ship to Argentina because they are liable for duties and taxes placed on items that are not properly documented in shipping manifests.	• De facto mandatory inspection slows delivery times and compromises efficiency of express delivery operations.
	• Regulations affecting express delivery operations are non-transparent and unduly burdensome. Express delivery firms are subject to some of the same regulations that pertain to postal, air transport, trucking, and customs brokerage firms.	• Creates regulatory uncertainty and compromises efficiency of express delivery operations.
	• U.S.-based firms face discriminatory fees at Buenos Aires International airport. U.S.-based firms must pay all fees in U.S. dollars, while Aerolineas Argentinas pays in pesos.	• As a result of the pesos devaluation, provides Argentine competitors with an unfair cost advantage over U.S.-based firms .
Australia	• Express delivery firms face discriminatory treatment with regard to customs duties and taxes, such as: (1) Express shipments are subject to a *de minimis* level of A$250, whereas postal shipments are subject to a *de minimis* level of A$1000; (2) Express delivery firms must obtain export clearances for shipments over A$500 vs. $A2000 for the post office; and (3) Express delivery firms are charged A$45 on the reporting of consolidated shipments, whereas the post office is exempt from this fee.	• Discriminatory fees and taxes raise costs for express delivery firms.
Canada	• There are allegations that Canada Post cross-subsidizes its express divisions - Xpresspost and Priority Courier - with monopoly profits.	• Cross-subsidization gives the express delivery arms of postal operators an unfair advantage when competing with private express delivery service (EDS) firms, and may keep potential competitors from entering the market.
	• Canada levies customs duties and taxes on any item that is valued above CN$20.	• Raises the costs of shipping items to Canada, which in turn serves as a deterrent to international trade.

Appendix E–*continued*
Trade Impediments in selected countries

Country	Trade Impediment	Effect of impediment on U.S. EDS firms
European Union	• Firms providing road transport services to and from an EU member state must be established in another member state. National treatment for foreign road transport firms established in an EU member state is not guaranteed. • Lack of uniform customs procedures among EU member states, including those pertaining to the treatment of express shipments, may result in barriers to trade. In addition, there exists no EU-wide administrative body or set of procedures to help rectify inconsistent customs practices. • The *de minimis* level for EU countries is currently 22 euros, which is considered low.	• Potentially limits the ability of EDS firms to provide intermodal transport services between EU member-states. • May restrict or hamper express delivery services provided between EU member-states. • Increases costs to express delivery firms and their customers.
Finland	• For an aircraft to be registered in the Finnish registry, the aircraft must be owned by either a Finnish citizen or a Finnish corporation. • Licensing requirements exist for foreign express delivery firms, which include a 20-percent tax on the revenues of firms competing with Finland Post. • Authorization is required to provide road freight transportation within Finland and is not extended to foreign-registered vehicles.	• Potentially limits the ability of EDS firms to provide intermodal transport services. • Potentially limits the ability of private EDS firms to compete in the market, and raises the costs of doing business. • Potentially limits the ability of EDS firms to provide intermodal transport services.
France	• France places night flight restrictions at Paris-Charles de Gaulle (CDG) airport, which affect the air transport operations of express delivery firms.	• May adversely affect the ability of express delivery firms to provide on-time deliveries.
Germany	• Private express delivery firms allege cross-subsidization and monopoly abuse on the part of Deutsche Post.	• Cross-subsidization gives the express delivery arms of postal operators an unfair advantage when competing with private EDS firms, and may keep potential competitors from entering the market.

Appendix E–*continued*
Trade Impediments in selected countries

Country	Trade Impediment	Effect of impediment on U.S. EDS firms
India	• The Central Government is given substantial flexibility to regulate the transmission of “postal articles.” “Postal articles” are broadly defined, and may include items shipped by express delivery firms.	• Lack of clear regulations that affect express delivery items creates uncertainty for foreign firms, and may impede market access.
	• Restrictions exist that prevent express delivery firms from obtaining a tarmac pass at airports and from performing their own groundhandling services.	• Restrictions on airport usage and groundhandling services may hamper the intermodal transport operations of EDS firms.
	• India Post is not required to pay a service tax on gross revenues, as are private EDS providers.	• Increases costs of doing business for express delivery firms.
	• Customs procedures are unduly burdensome. For example, goods that pass through customs are released only after payment of required duties; the *de minimis* threshold for goods that pass through customs is low; there is no electronic data interchange (EDI) system in place; and delays exist in the redelivery of goods.	• Increases costs of doing business and compromises efficiency of express delivery operations.
Indonesia	• Foreign investment in the national airline is limited to a minority stake.	• Limits the ability of EDS firms to provide intermodal transport services, and may also restrict market access.
	• Foreign suppliers may only engage in courier services through a joint venture with an existing local trucking or other ground transportation company, with foreign equity share limited to 49 percent.	• Joint venture requirements reduce EDS firms’ control over operations, impeding their ability to provide intermodal transport services, and may also restrict market access.
	• Foreign suppliers may only engage in freight forwarding services through a joint venture with an existing local freight forwarding company as a local partner, and the local partner must have at least a 5 percent equity stake in the joint venture.	• Joint venture requirements reduce EDS firms’ control over operations, impeding their ability to provide intermodal transport services, and may also restrict market access.
	• Foreign suppliers may only provide trucking and air cargo services through a joint venture with an existing airline or trucking firm as a local partner, which must have at least a 5 percent equity stake in the joint venture.	• Joint venture requirements reduce EDS firms’ control over operations, impeding their ability to provide intermodal transport services, and may also restrict market access.
	• Customs clearance procedures are problematic for express delivery firms. For example, there is a maximum weight of 30 kilograms for delivery; documentation requirements and customs procedures are unclear; there is no EDI system for express cargo; there is no 24-hour customs clearance available; and the *de minimis* for express items is $50.	• Increases costs of doing business and compromises efficiency of express delivery operations.
	• Owning and operating trucks for logistics activities is prohibited.	• Impedes ability of express delivery firms to provide integrated services.

Appendix E–*continued*
Trade Impediments in selected countries

Country	**Trade Impediment**	**Effect of impediment on U.S. EDS firms**
Indonesia–*continued*	• There is no prohibition on the abuse of monopoly position by the post office or of preferential customs treatment for the post office.	• The potential for discriminatory treatment of EDS firms may make it difficult for them to compete with the post office for the provision of certain services.
Japan	• Express delivery firms face discriminatory treatment with regard to customs duties and taxes. The *de minimis* level is approximately 30,000 yen for post office items vs. 10,000 yen for express delivery items. For the calculation of the *de minimis* level, EDS firms are required to include transportation costs, whereas the post office is not. EDS firms must also provide detailed manifests for all items, unlike the post office, and the latter is subject to less stringent customs inspection procedures (i.e., there is limited documentation and no electronic data required). • Express services are not explicitly excluded from the scope of the postal monopoly, which leaves open the possibility that Japan Post may determine which express services fall under the monopoly.	• Potentially results in unfair competition with Japan Post, which may increase the costs of doing business for express delivery firms and their customers. • Potentially results in unfair competition with Japan Post, who can arbitrarily define the scope of the market. May also reduce the number of firms that are willing to compete in the market given the lack of clear and transparent rules.
Mexico	• There is currently an equity ceiling of 49 percent for foreign investment in firms that provide courier services and auxiliary air transport services. • Express delivery firms face problems with customs. There exist value limitations of $1000 for express clearance; no post-clearance payment of duties and taxes; and burdensome inspection procedures, which may result in fines and significant delays. In addition, the *de minimis* level for items that pass through customs is low, as items valued above $50 are subject to duties and taxes. • Express delivery firms are restricted from using road transport vehicles that weigh over four tons.	• May impede participation by foreign EDS firms and hamper the potential for competition in Mexico's express delivery services market. • Increases costs of doing business and compromises efficiency of express delivery operations • Impedes the ability of EDS firms to provide intermodal transport services in Mexico.
Netherlands	• EDS firms can compete with the postal operator in its reserved area, but must offer these services at higher prices than TPG Post.	• Limits the ability of express delivery firms to compete for the provision of certain services, and potentially increases the costs of these services to consumers.

Appendix E–*continued*
Trade Impediments in selected countries

Country	Trade Impediment	Effect of impediment on U.S. EDS firms
Russia	• Different licenses may be required by each city and/or region for the provision of express delivery services, even if the provider holds a national license. • Postal regulations require the payment of fees assessed as a percentage of express delivery firms' gross revenues. Contribution to the Postal Research and Development Fund is also mandatory. • Express delivery firms face problems with customs. In particular, certification requirements impede deliveries by EDS firms; documentation requirements and custom procedures are difficult and unclear; there is no pre-arrival processing; and 100 percent of all items that pass through customs are inspected. In addition, there is no *de minimis* level (i.e., all items, regardless of value, are subject to duties and taxes.) Further, customs regulations regarding the classification and valuation of items differ from city to city, and there is no mechanism to ensure the integrity of customs officials.	• Burdensome licensing requirements may artificially limit the operations of EDS firms or increase their costs of doing business. This, in turn, may result in loss of competition and adversely impact express delivery customers. • Increases costs to EDS firms and may place them at a competitive disadvantage with postal operators who benefit from such fees. • Increases costs of doing business and compromises efficiency of express delivery operations.
South Africa	• According to South Africa's Postal Services Act, licenses are required to ship letters and parcels weighing less than one kilogram. Such licenses carry a fee of R550,000 per year, then 2 percent of annual revenues. Licenses granted to EDS firms are valid for a maximum of 10 years, while licenses granted to the South African Post Office are valid for 25 years.	• Discriminatory licensing criteria place EDS firms at a competitive disadvantage vis-a-vis the national postal provider. Licensing fees increase the costs of doing business for EDS firms, which may be passed on as higher prices to EDS customers.
Sweden	• For an aircraft to be registered in the Swedish registry, the aircraft must be owned by either a Swedish citizen or a Swedish corporation. • Foreign firms providing commercial freight services in Sweden must be authorized by the government. Authorization is based on the applicant's financial status, experience, and capability to supply services. Limitations on the use of leased vehicles exist for such operations.	• Potentially limits the ability of EDS firms to provide intermodal transport services. • Potentially limits the ability of EDS firms to provide freight services.

Appendix E–*continued*
Trade Impediments in selected countries

Country	Trade Impediment	Effect of impediment on U.S. EDS firms
United Arab Emirates	• The United Arab Emirates has introduced new licensing requirements for the express delivery of documents, letters, and parcels. The national postal provider, Emirates Post, is charged with administering the requirements but it is not subject to them. The new licensing regime includes the following conditions: the license-holder must be a UAE national; the license is valid for one year only; and the license holder is subject to an annual fee equivalent to 10 percent of overall sales revenue. In addition, under the licensing regime, Emirates Post is authorized to conduct inspections and audits of financial records of licensed firms, many of whom compete directly with the post office. • EDS providers are prohibited from pricing the delivery of letters or parcels below certain thresholds, which are based upon prices charged by Emirates Post.	• Potentially limits market access by foreign express delivery firms, and unfairly subjects them to regulatory oversight by Emirates Post, a competitor. • Discriminatory treatment impedes competition by EDS firms, and may lead to higher prices for consumers.

Source: Compiled by the U.S. International Trade Commission, based on industry input.

APPENDIX F
Calendar of Public Hearing

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Express Delivery Services: Competitive Conditions Facing U.S.-Based Firms in Foreign Markets

Inv. No.: 332-456

Date and Time: November 5, 2003 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, DC.

ORGANIZATION AND WITNESS:

Air Courier Conference of America, International

Susan M. Presti, Executive Director, Air Courier Conference of America, International

UPS

Selina Jackson, Vice President, International Public Affairs, UPS

Federal Express Corporation

Matthew A. Vega, Senior Attorney, Legal Regulatory & Industry Affairs, Federal Express Corporation

Coalition of Service Industries

Robert Vastine, President, Coalition of Service Industries

ORGANIZATION AND WITNESS:

Economic Strategy Institute

Robert B. Cohen, Ph.D., Fellow, Economic Strategy Institute

AOL Time Warner, Incorporated

Laura Lane, Vice President, Time Warner, Incorporated

DHL Worldwide Express U.S.

Fred Beljaars, Senior Vice President for Operations, DHL Express

APPENDIX G
Positions of Interested Parties

Air Courier Conference of America (ACCA)

ACCA[1] is an industry association that represents U.S. express delivery providers with large global networks, including Airborne Express, DHL Worldwide Express, FedEx, Purolator, TNT USA, and UPS as well as smaller delivery firms with regional delivery networks such as International Bonded Couriers, Midnite Express, and World Distribution Services. ACCA's members provide door-to-door delivery service for documents and packages, and provide value-added services such as delivery guarantees, electronic information, and brokerages services. ACCA's members employ 510,000 U.S. workers and have operations in over 200 countries.

According to ACCA, express delivery firms face significant barriers that limit their ability to provide services in foreign markets. Since EDS providers rely on intermodal transportation to provide services, trade barriers in any one segment of the delivery chain restrict the provision of express delivery services. For example, restrictions in the areas of customs, postal, ground transportation, operational control, and licensing, as well as restrictions on access to radio frequencies, forms of establishment, and electronic commerce all negatively impact EDS providers.

ACCA believes that all future trade agreements should include a definition of EDS that reflects the integrated nature of the industry, provide for expedited treatment of express delivery service shipments through customs; and specify that postal reservations, if any, do not apply to EDS. In addition, agreements should include full national treatment and market access for express delivery, and should contain provisions that reduce or eliminate postal monopolies' ability to cross-subsidize express delivery services with monopoly profits.

United Parcel Service (UPS)

UPS[2] is the world's largest package delivery company and a global provider of specialized transportation and logistics services. UPS employs 360,000 workers in the United States and operates in more than 220 countries and territories worldwide.

According to UPS, anti-competitive monopoly practices impede competition among express delivery providers in foreign markets. UPS broadly defines anti-competitive monopoly practices as, "improperly leveraging a government-sponsored monopoly network to provide services that compete in the private sector." In particular, UPS cites cross-subsidization as a crucial market access issue for the express delivery industry. UPS claims that the use of revenues from monopoly operations to subsidize EDS operations gives monopoly postal providers an unfair competitive advantage in the provision of express delivery services and reduces market access opportunities for private firms. UPS believes that public monopolies that provide express delivery services in competition with private firms must follow the same rules as private operators. According to UPS, the express delivery industry is working with the U.S. government to resolve this issue under the GATS and free trade agreements.

---

[1] Susan M. Presti, Executive Director.
[2] Selina Jackson, Vice President, International Public Affairs.

In addition to anti-competitive monopoly practices, UPS cites several impediments to trade that reduce its ability to compete in foreign markets. For example, delays and higher costs result from inefficient and non-transparent customs procedures, such as a lack of electronic data interchange; limited hours of operation; a low or non-existent *de minimis* level; and lengthy processing times. Discriminatory regulation pertaining to licensing regimes, taxes and fees, and customs and inspection procedures also adversely affect U.S.-based express delivery service firms. These types of barriers often discriminate against private express delivery firms in favor of national postal providers. International aviation regulations may also impede express delivery firms' ability to provide end-to-end delivery services. For example, the inability to provide cabotage, local restrictions on takeoff and landing slots, environmental restrictions, ground handling restrictions, and limitations on intermodal services reduce the ability of express delivery service firms to establish efficient delivery networks.

Wilmer, Cutler, and Pickering on behalf of DHL

Wilmer, Cutler, and Pickering[3] is a law firm representing the interests of DHL Worldwide Express. DHL Worldwide Express is the U.S. subsidiary of DHL International, which provides express delivery services for documents and packages in more than 200 countries. In December 2002, DHL International became a wholly-owned subsidiary of the German national postal operator, Deutsche Post.

In both its written and oral testimonies before the Commission, DHL stated that express delivery service (EDS) firms continue to face significant trade barriers in both established and emerging markets. Such barriers include, for example, investment restrictions, burdensome customs procedures, and unfair competition with postal monopolies. DHL emphasized that because the EDS industry plays an important role in trade facilitation, barriers faced by EDS firms ultimately have an adverse impact on global economic growth. DHL stated that trade impediments encountered by EDS firms in foreign markets hinder or preclude the supply of high-quality services. These services include not only the time-definite delivery of letters and packages, but other value-added services increasingly provided by EDS firms, such as logistics, supply-chain management, and financial services. In its written testimony, DHL encouraged ongoing trade negotiations with respect to barriers faced by EDS firms through a number of trade fora, including the World Trade Organization (WTO), the Free Trade Area of the Americas (FTAA), the South African Customs Union (SACU), and bilateral negotiations with countries such as Brazil, China, Japan, and Mexico. Finally, DHL testified that foreign EDS firms operating in the U.S. market also face trade impediments, and that U.S. policymakers should take inventory of these barriers before entering into negotiations with other countries.

With respect to cross-subsidization, DHL stated that its parent company, Deutsche Post, no longer subsidizes any portion of its commercial parcel delivery business with

[3] Robert C. Cassidy, Jr., Esquire, Wilmer, Cutler, and Pickering. Fred Beljaars, Senior Vice President for Operations, spoke on behalf of DHL Worldwide Express at the hearing.

revenues generated from the postal operator's reserved area of letter-mail delivery. In addition, in its post-hearing brief, DHL revisited decisions made by the European Court of Justice in March 2001 and June 2002, respectively, with regard to monopoly abuse and state aid cases brought against Deutsche Post by UPS. DHL emphasized that these cases involved activity by Deutsche Post prior to its acquisition of DHL, and that Deutsche Post now maintains separate accounting systems for its postal and commercial services that serve to prevent any form of cross-subsidization.

Federal Express Corporation

The Federal Express Corporation (FedEx)[4] was incorporated in 1971 and began operations in 1973, with headquarters in Memphis, Tennessee. FedEx identifies itself as the premier provider of shipping and related information services. FedEx manages six independent operating companies that compete collectively under the FedEx name worldwide. FedEx Express has the world's largest all-cargo air fleet, delivering to customers in more than 210 countries and handling approximately 3.3 million packages and documents daily. FedEx believes that express delivery services (EDS) are integral to a modern economy that relies on the expedited movement of goods.

FedEx claims that postal regulation in many foreign markets discriminates against private EDS firms. FedEx highlights other impediments pertaining to market access, taxation, and cross-subsidization. Customs impediments include preferential treatment for domestic firms and postal monopolies, the absence of pre-clearance systems, absence of de-minimis values, high rates of inspection, and limited working hours, to name a few. Additionally, FedEx asserts that market access may be impeded by the paucity of GATS commitments related to express delivery services and by restrictions on ownership, licensing, and the inability to maintain full operational control in some countries. FedEx supports U.S. government efforts to obtain full market access and national treatment for express delivery services through trade negotiations. FedEx also supports efforts by the U.S. government to include an industry-supported definition of express delivery services in trade agreements.

[4] David W. Spence, Managing Director, FedEx Corp. Matthew Vega, Senior Attorney, testified at the hearing on behalf of FedEx Corp.

United States Postal Service

The United States Postal Service (USPS)[5] is the provider of universal postal services in the United States. The USPS is the world's largest postal operation, handling about 40 percent of global mail volume. The submission states that USPS has not formed an opinion on the effect of foreign trade impediments on U.S.-based express delivery service firms. Further, USPS is unsure about the effectiveness of trade negotiations to alleviate concerns about foreign impediments. However, USPS believes that the definition of express delivery services used in this investigation is too broad and infringes upon traditional postal services. USPS suggests a definition that distinguishes between services provided under a universal service obligation and those that are not. Further, the USPS notes that foreign regulatory environments that are perceived as impediments by U.S.-based express delivery service firms, such as the lack of an independent regulator and discriminatory customs treatment, are present in the U.S. market as well. The USPS does not believe that private delivery firms should receive the same treatment as national postal providers that are required to observe costly universal service obligations.

USPS notes that in trade negotiations, the United States must be willing to liberalize to the same degree as that it seeks from its trading partners. Therefore, the USPS asserts that the debate on postal liberalization within the United States should be settled before trade negotiators begin negotiations on postal services. According to the USPS's submission, debates on postal reform should take place in a transparent, open forum.

[5] R. Andrew German, Managing Counsel and Anthony Alverno, Attorney, Law Department, Legal Policy & Ratemaking, United States Postal Service, Washington, DC, written submission to the Commission, Nov. 19, 2003.