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Submitted electronically to http://www.regulations.gov

May 10, 2013

Mr. David Weiner
Deputy Assistant U.S. Trade Representative for Europe
Office of the United States Trade Representative
600 Seventeenth Street, N.W.
Washington, D.C. 20508

Re: Request for Comments Concerning Proposed Transatlantic Trade and Investment Agreement
Docket No. USTR-2013-0019

Dear Mr. Weiner:

Federal Express Corporation ("FedEx Express") appreciates this opportunity to provide the following input in response to the Notice published in the Federal Register by the Office of the U.S. Trade Representative concerning the proposed Transatlantic Trade and Investment Partnership (TTIP) negotiations.

The FedEx Express global network, spanning 220 countries and territories, connects 95% of global GDP within 72 hours. The express delivery service provided by FedEx enables customers to realize the efficiencies of "just-in-time" delivery strategies, reduced amounts of capital tied-up unproductively in inventory stockpiles, and maximization of the potential of global value chains, whereby components from many countries around the world are combined to produce innovative high value products as efficiently as possible. Connecting the U.S. and the EU is a large and important component of FedEx's business, and we look forward to the TTIP facilitating our continued expansion and innovation in the services we offer our customers on both sides of the Atlantic.

The TTIP negotiations will provide a unique and invaluable opportunity to promote economic growth in both the U.S. and the EU, which together account for approximately half of global economic output. The value of trade in goods and services between the U.S. and EU already accounts for close to $1 trillion each year. By committing both sides to implementing best practices for trade facilitation; enshrining principles that will ensure market access and open and fair competition among delivery service providers; and achieving harmonization and convergence of regulations affecting international commerce including in particular air cargo security regulations; the U.S. and the EU can achieve economic efficiencies for their businesses and consumers which will significantly raise their respective GDP. Moreover, an ambitious, high-standard TTIP covering such a large proportion of global economic output will inevitably set the rules for international trade in the 21st century which other countries will seek to join or emulate. The U.S. and EU must not fail to seize the moment to capitalize to the fullest on this global leadership opportunity.

Trade Facilitation

One of the richest opportunities presented by the TTIP to enhance economic growth is in the area of trade facilitation. For this reason, FedEx Express urges the U.S. Government to attach high priority to achieving the most ambitious possible outcome on these issues. As documented in the report "Enabling Trade – Valuing Growth Opportunities" issued by the World Economic Forum in January 2013 in collaboration with Bain & Company and the World Bank, eliminating all remaining tariffs has the potential to increase global GDP by less than 1%, while improving trade facilitation has the potential to increase global GDP by almost 5%. The reason for this, as explained in the report, is that tariffs primarily serve to reallocate resources from one location to another, while improving trade facilitation actually reduces the waste of resources.

Both the U.S. and EU score better than many areas of the world on objective surveys of trade facilitation best practices, such as the World Bank's "Doing Business" Report, but both still have ample room for improvement. In the 2013 Doing Business Report, only one jurisdiction within the TTIP area, Denmark, was ranked within the top five in the category of ease of trading across borders (the others comprising the top five were Singapore, Hong Kong, Republic of Korea, and the United Arab Emirates). The TTIP provides the vehicle for both sides to commit to bridging their trade facilitation gaps and committing to implement best-in-class trade facilitation practices, to the benefit of their producers, consumers, and broader economic interests.

A longstanding opportunity in this regard is the "de minimis" level – in other words, the threshold below which shipments may enter a country without the need for a customs entry to be made or for duties and taxes to be paid. Numerous economic studies have documented that the cost of collecting duties and taxes on low value shipments often exceeds the amount of revenue generated. Thus, while the government foregoes a nominal amount of revenue by waiving in low value shipments without subjecting them to duties and taxes, that loss may be more than offset by the savings the government realizes in not having to process the paperwork associated with these shipments. In addition, relieving the customs administration from having to devote resources to this exercise which offers such limited returns enables them to focus their efforts on such important tasks as ensuring correct duties and taxes are collected on higher value shipments; detecting and intercepting goods which infringe intellectual property rights; and ensuring contraband and other harmful goods and substances are kept out of the country. Furthermore, the shipper and recipient of the low value goods is spared the burden and expense of hiring a customs broker to navigate the paperwork and entry procedures which would need to be complied with if the goods were subject to the customs regime applicable to higher value shipments.

In the U.S. the current de minimis level is $200. Legislation is currently in Congress, which appears to enjoy bipartisan and bicameral support, to raise the de minimis level to $800 – a figure which, incidentally, would match the amount U.S. residents may bring into the country duty-free when they return from foreign travel. Other countries, such as Australia, already have de minimis levels higher than the $800 proposed in the pending U.S. legislation, recognizing that their customs administration resources are more properly allocated to higher return activities, and that their economies will be rendered more globally competitive by sparing their consumers and businesses, particularly small- and medium-sized enterprises, the burden and expense of processing customs entries for low value shipments.

Meanwhile, in the EU, the current de minimis level is a mere € 22. Thus, a European consumer or small business making a purchase of a spare part, consumer goods, or other merchandise valued at € 23 or more, is faced with the prospect of having to engage a customs broker to complete the paperwork and process a customs entry, a burden that could easily more than double the total cost of the purchase and thus, render the transaction uneconomic. Both the prospective purchaser in Europe, and the prospective seller in the U.S., lose the benefit of the bargain they would otherwise readily enter into.

To enable consumers and businesses on both sides of the Atlantic to take full advantage of the potential of e-commerce, and to promote the global competitiveness of both economies, the U.S. and EU should commit in the TTIP to establishing a de minimis level of $800 applicable to both duties and taxes, which would be indexed to increases in the consumer price index going forward. It is vital U.S. negotiators insist on enshrining a mutual commitment along these lines in the TTIP in order to avoid competitive disadvantage to American manufacturers, retailers, and especially, e-commerce platforms. Even under the regime which exists today, it is obviously inequitable that American exporters face the burden of having to make a customs entry and pay duties and taxes on every shipment going into the EU valued at more than € 22, while European exporters are free to send goods into the U.S. market valued at up to $200 without incurring any such impediments. Once the U.S., as expected, raises its de minimis level to $800, this inequity will become even more egregious. To establish a level competitive playing field for all exporters of low value shipments but especially for e-commerce businesses, it is critical that the de minimis levels in the U.S. and EU be harmonized and set at a commercially meaningful level, i.e., $800.

Another opportunity to enhance trade facilitation would be the creation of a "single window" for the electronic submission of information required for clearance of goods across the border. Given the high level of information technology utilization by both business and government in the U.S. and the EU, there is no valid reason for perpetuating inefficient practices which rely on paper-based submission of information, failure to consolidate data requirements of all relevant government agencies such that they can be satisfied with a single data submission, and failure to agree on a common set of import and export data items. Moreover, all government agencies with hold authority at the border, including those with responsibility for customs, security, product safety, etc., should be obliged to coordinate their inspection functions such that goods can be cleared with a single release.

Both the U.S. and EU are committed to a layered and risk-based approach to security, policies which should be reaffirmed in the TTIP. In this regard, the TTIP provides an opportunity to harmonize and achieve convergence of trusted trader programs, such as the Customs-Trade Partnership against Terrorism (C-TPAT) in the U.S., and Authorized Economic Operator (AEO) programs in the EU. The value of these programs for both government and the private sector would be significantly enhanced by providing for a single online application covering participation in both C-TPAT and AEO programs, single validation and revalidation visits accepted by both the U.S. and EU, definite reductions in the likelihood of inspections for participants, expedited handling of participants' shipments when inspections do occur and in post-incident recovery situations, and providing that documents and commercial information may be furnished subsequent to release of the goods.

The U.S. and EU should commit in the TTIP to harmonize customs clearance processes and in particular, to immediate release of goods upon arrival. Under existing arrangements, carriers provide extensive data on inbound shipments to customs administrations in advance of the arrival of the goods, enabling the authorities to conduct risk-based targeting and identification of shipments requiring physical inspection prior to arrival. Correspondingly, release of the very high proportion of shipments which consist of legitimate trade and are not targeted for further inspection should not be unnecessarily delayed, a result which only imposes needless cost on traders and diminishes the economic competitiveness of both American and European enterprises. Similarly, the TTIP should incorporate a provision permitting customs duties to be billed and paid in arrears, the same arrangement that is already in place for virtually all other taxes. The procedure whereby imported goods are held by customs as security for the payment of duties is a relic from a bygone era which results in unnecessary cost for both governments and industry.

Market Access and Competition in the Express Delivery Sector

In line with the content of recent high-standard trade promotion agreements to which the U.S. is a party, the TTIP must reflect commitments to market access and national treatment for providers of express delivery services. Laws, regulations, and policies which offer an advantage to one class of provider such as a national postal authority, should be prohibited insofar as competitive services are concerned. A specific example of this sort of discrimination which has arisen in the past, and which the TTIP should prohibit going forward, is the practice of establishing "Limited Traffic Zones" in the historic centres of some European cities, whereby privately owned vehicles such as those operated by express delivery carriers are generally prohibited from operating except perhaps for a brief window of time in the early morning hours, while vehicles of the national postal authority, which may carry not only mail but also competing express delivery products, are exempt.

Equally, the TTIP should prohibit the abuse of monopoly positions to cross-subsidize services provided in a competitive environment. To the extent there is regulation of the express delivery sector, it should be accomplished by an impartial and independent entity, not affiliated with any provider of delivery services such as a postal authority, and its procedures should be transparent, non-discriminatory, and carried out through objective criteria.

Regulatory Harmonization and Convergence

Another extremely promising opportunity provided by the TTIP to enhance economic competitiveness and promote growth is in regard to regulatory harmonization and convergence. Simply stated, in so many areas both the U.S. and EU seek a consistent and coherent policy outcome, but when they achieve it through divergent regulatory approaches, needless costs are imposed on their producers, and their economies are needlessly rendered less competitive.

While there are many sectors of the economy which will no doubt be the subject for regulatory harmonization and convergence in the course of the TTIP negotiations, one area of particular interest to FedEx Express is air cargo security. In order to maximize the security benefits and minimize the cost for shippers and carriers, it is vital the U.S. and EU recognize the validity of each other's cargo security programs, and also harmonize such things as their definitions of high risk cargo, standards for screening methods and security equipment, standards for training, and cooperate more fully on intelligence sharing.

Further, the U.S. Air Cargo Advance Screening (ACAS) pilot program and the pilot programs launched in several member states of the EU in regard to advance cargo information should be harmonized to reflect common requirements for data, communications protocols, and risk criteria.

Cooperation on air cargo security is a prime example of how the TTIP can provide a template of "best practices" which will serve as a model to be emulated by other countries beyond the U.S. and Europe. If our governments have the foresight to seize this opportunity, the benefits that will accrue will not only be reflected in greater economic efficiencies and competitiveness, but also in enhanced security for the public and greater attainment of other important public policy objectives.

Conclusion

In summary, FedEx Express commends the Governments of the United States and the European Union for coming forward with this proposal to launch Transatlantic Trade & Investment Partnership negotiations. The task will not be an easy one – there are obvious reasons this has project not been undertaken sooner. But it is an important, indeed essential, step in ensuring the prosperity of the economies on both sides of the Atlantic, and in reinvigorating the global leadership the U.S. and EU have long displayed in the fields of trade, economic, and commercial affairs.

We trust these comments will be constructive, and extend our best wishes for all possible success to the U.S. negotiators as they move forward with this ambitious project which promises such enormous rewards.

Respectfully submitted,

FEDERAL EXPRESS CORPORATION

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