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REGULATORY PERSPECTIVES OF THE AIR EXPRESS INDUSTRY

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ABSTRACT

In its early days, the international air express industry was synonymous with on-board couriers, carrying bags of documents on commercial flights. The industry has changed dramatically. That initial focus on documents has widened into the transport of packages and freight, carried by fleets of fully owned or dedicated aircraft, trucks, trains and delivery vans. The bulk of the business is dominated by 24-hour guaranteed and next-day deliveries. "Every day, hundreds of thousands of employees serve the distribution needs of an increasing number of businesses worldwide from one region to another" (European Express Association, 2002). The express companies are also making use of state-of-the-art information technology systems to provide minute-by-minute control and track and trace information. All the resources in the industry are dedicated to providing customers maximum reliability and flexibility of service.

In this article, detailed information on major regulatory barriers in the air express industry are presented. Furthermore, recommendations on how to minimize the impact of these barriers in order to build a better future (with reference to operational efficiency, cost effectiveness and wider coverage of services to the final customers) are also discussed.

MAJOR REGULATORY CHALLENGES

Due to its presence in more than 200 countries around the world, the air express industry is tightly influenced by local regulatory environments. Government policies, practices and regulations always effect the ability of air express companies to operate efficiently and can reduce the potential economic benefits associated with air express services. The following are the major regulatory challenges:

- 1) Customs clearance
- 2) Air traffic rights
- 3) Labor law
- 4) Company ownership
- 5) Local postal regulation
- 6) Ground transportation

These barriers will be discussed in light of the researchers' definition of regulatory problems as well as an analysis of the tangible and intangible impacts to the industry. Possible resolutions to

mitigate the anticipated damages are then raised.

Customs Clearance

Customs clearance is by far the biggest regulatory barrier impacting the efficient flow of cargo between countries. This barrier is now more obvious and severe after the terrorist attacks of Sept 11, 2001. There are many customs laws and/or resolutions that can easily affect the flow of cargo in and out of countries. The following is a list of the most common customs regulations in many countries:

- De minimis value - This is a measure of worth determined by customs. If the shipment value is lower or equal to this value, there will be no duty and tax levied on the importer. Although many countries have increased their de minimis values to an acceptable level that enables smooth movement of cargo importation, there are still a number of countries that either do not set any de minimis value (and tax virtually all imports) or the value is too low. This practice results in almost all shipments into that country being subject to tedious and costly clearance procedures as well as high import duties and taxes. Some relevant examples of countries with this barrier are the Philippines, Vietnam and India.
- Licensing control - For controlled shipments such as telecommunication equipment, foods and drugs, magazines and video tapes, it is very common that the importers will have to obtain permits or licenses in order to clear these shipments. In some countries, such as Thailand, China, Vietnam, and the Philippines, the application for licenses and permits can take several weeks, often causing packages to be held at the airport customs warehouse for many days.
- Shipment information submissions - Due to the tightening of customs controls, many countries have started implementing pre-flight shipment information submission

schemes, or as they are more commonly called, "Advanced Cargo Manifests." This regulation has a profound impact on the air express industry. The window between the cutoff time for package pickup to loading into the aircraft can often be very small, making it very difficult for air express companies to complete all of the required information before loading the aircraft. Many express carriers have already started developing contingency plans to minimize the potential risks of not being able to accept same day shipments due to the new requirements.

- Original supporting documents - Customs laws in some developing countries still require original supporting documents (commercial invoice, power of attorney, packing list) to be furnished together with the customs entry form before shipments can be released. This requirement can result in long delays in the entire clearance process. The consignee will need to submit the original documents to the customs broker before the arrival of the shipment.
- Pre-clearance - In order to ensure that all cargoes can be successfully delivered to customers the day after pickup, it is necessary to carry out pre-clearance procedures at the destination. One task of pre-clearance is to submit all necessary supporting documents and entry forms to customs before flight arrival. Then the goods can be released based purely on information within the submission and without the presence of the physical package. Many countries have already allowed express carriers to do so in view of their "race against time." However, there are still some countries that insist on waiting until package arrival before their release can be approved. This mode of operation is causing at least half a day delay on the shipment release.

Apart from customs regulations, there are also many practices in customs agencies around the world that cause costly delays in customs clearance processes. The following are the most

common practices that delay clearance and release:

- Duty and tax payment – Before packages can be released from the airport customs warehouse, the importer or the customs broker has to make payment on import duty and all associated taxes. Except for some developed countries, many customs agencies are still unable to accept Electronic Funds Transfer (EFT), or implement post-payment when the importer/broker is allowed to make payment after the shipment is released. All duty and tax payments can only be made by check or cash in person at the customs office. This practice causes huge bottlenecks at cashier counters and packages can be held up in the warehouse for an entire day.
- Customs office working hours – The air express industry is a 24 X 7 industry with most of its operations running almost non-stop everyday. Flight operations are concentrated in the evening and early morning hours. Consequently, most customs clearance operations have to be carried out in the early morning in order to ensure that packages can be released and delivered in the afternoon. The same pattern occurs 7 days a week and 365 days a year. Public sectors, such as customs administrations, find it difficult to provide express carriers with extended hours of operation. Countries such as Thailand, China, Vietnam, and India only offer normal daytime office hours for customs services, and this often results in large numbers of held packages, particularly over weekends.
- Entry form submission – This process is essentially the most important part of the customs clearance. The customs broker is required to assist the importer in completing the customs entry form, making sure that all information is accurately entered and submitted to the authority on time. Air express companies often handle up to 1,000 entries a night, and it is important to ensure the preparation and submission process is efficient and reliable. In most developed countries, the

submission of customs entry forms is already fully automated through Electronic Data Interchange (EDI). However, in countries such as Vietnam, Thailand, and China, the customs authorities still demand original documents, causing the entire submission process to be time-consuming and error-prone.

- Consistency – Consistency in customs enforcement is an important issue for the air express industry. As a result of the large volume of cargo handled in any particular country, the inconsistent practices of some customs officers can be quite a big issue to resolve. This problem is especially common in developing countries where different officers (when on duty) can make decisions based on their own judgment. One of the more common causes for variance in practice in some countries is the use of bribery by officials. Air express companies are required to carry out illegal activities in order to do business with these public agencies. Hence, these companies become the victims of corruption in these countries.
- Physical inspection – Package inspection is another important part of the customs clearance process. In developed countries, packages are inspected selectively before release, and the selection is based on risk management techniques, such as assessing the risk profile of the shipment. The main reason why risk management is used in customs is because of the ever increasing volume of cargoes entering and exiting countries. It is virtually impossible to inspect all packages physically. However, in some countries, there is an “open box” inspection requirement on shipments with declared value above a certain threshold. This practice has a significant impact on the efficiency of the entire shipment flow when additional manpower is needed as volume increases.

Customs regulations and practices can either assist or restrict economic growth in any country. This is by far the most challenging area

facing the air express industry since its inception.

Air Traffic Rights

Flying into a country and picking up cargo is not a simple task. It involves long negotiation between the two relevant governments on the agreement of air traffic flying rights. These rights entitle airlines to fly into the country whether just for refueling or to pick up passengers and cargo. This is defined as "degree of freedom" in the air traffic industry. In order to minimize the cost of flying an aircraft into a country, it is ideal if the local authority allows the express carrier to load the cargoes during a "technical stop" (refueling) and proceed to a third location. Such a stop-over tactic is termed a "5th degree of freedom." However, this is not common in most countries, except for countries which have adopted an "Open Sky" policy. For example, Singapore Airlines is not allowed to fly to London and pick up passengers or cargo and then fly directly to New York. Similarly, Federal Express is not allowed to fly to China (from USA) to pick up cargoes and fly directly to a third destination. This restriction has greatly impacted the cost efficiency of flying aircraft in and out of many countries.

Another common challenge is the number of air traffic rights between two countries. Many countries release limited air traffic rights to other countries, in order to protect their own carriers. One good example is the service between the U.S. and China. Due to year long negotiation between the two governments, weekly air service between the U.S. and mainland China will grow nearly 400% by 2010 under a treaty announced in June 2004. The treaty will enable more than double the number of carriers allowed to fly between the U.S. and China. Under the agreement, the number of weekly commercial flights between the two nations aboard U.S.-based airlines will rise gradually to 249 from 54 (Reed, 2004).

Air traffic rights are a sensitive political issue and need to be handled with care and sensitivity. There is usually no quick resolution to such problems, since it often takes a few years for two governments to agree on what needs to be done to liberalize air space bilaterally.

Labor Laws

The air express industry is a labor intensive business. It employs tens of thousands of workers to process the packages. This industry operates in 24 X 7, "around the clock" work pattern. Consequently, domestic labor laws can be a big challenge for the efficient running of air express operations.

Most of the developed countries set the benchmark in labor relations for others to follow. The labor conditions in many of the industrialized economies are very restrictive for express carriers to operate in. Truck drivers, air pilots, airport workers and customs broker unions are some of the biggest and strongest labor groups. They often threaten to withdraw labor in disputes in the air express industry. This problem becomes more serious in countries such as Australia, the United States, Germany, France and South Korea. The root cause of the labor problems in these developed countries is mainly liberal labor laws that give considerable power to labor unions to represent employees in the negotiations with employers on salary and other benefits.

Any strike caused by the labor movement can be devastating to the express company. This comes about because many of the operations are still relatively manual and cannot be replaced by machines. In August 1997, 185,000 members of the International Brotherhood of Teamsters, one of the largest and historically most powerful unions in the U.S., struck against United Parcel Service (UPS). UPS ships 80 percent of all packages in the U.S. It was the first nationwide strike in the 90-year history of UPS. It involved

more workers than any strike in that decade (The Internationalist, 1997). That strike cost UPS tens of millions in lost revenue, and it was called off after two weeks when the management team from the company agreed on the terms proposed by the union.

In addition to the threat of strikes, in many countries, there are unreasonable labor laws that make operating in such markets very costly and noncompetitive. The following are a few examples of such laws and regulations—

- Due to Argentina's current high unemployment rate, the government restricts the ability of employees to incur overtime. Overtime hours are limited to 30 per month and failure to adhere to the policy will result in penalties.
- In Germany and France, the governments have implemented 35-hour work week for all employees, raising operating costs for almost all businesses in these countries.
- Australian workers are entitled to at least one "continuous weekend rest" in a month. Therefore, it is impossible for the employer to schedule staff to work on every Saturday or Sunday. Failure to comply will subject the employer to higher percentages of overtime payments and/or penalties.
- Mandatory minimum wages in many countries have caused high operating costs for businesses. Express companies are often a victim of such wage restrictions due to the labor intensive nature of their business.
- In New Zealand, it is necessary to have at least two or more staff working in any office from 12 midnight until morning. This policy aims to ensure the safety of the employees. This regulation causes companies to schedule at least one more employee in late hours that may not have sufficient work, increasing operational costs with lower productivity.

Company Ownership

In most developed countries, express companies are free to set up a wholly-owned entity to handle the business. There are still many developing countries that do not allow foreign companies to have 100 percent wholly-owned representation. Such restriction forces express carriers to use local handling agents. Also, it is usual that there is only one company (which is usually owned at least 51 percent by the government) to provide the warehouse storage, customs clearance, and pick up and delivery services. The express carriers are forced to operate in a high cost environment in these markets. Barriers to foreign ownership may also cause poor service quality and corruption or no service differentiation between different express companies. In some countries, there is only one company licensed to operate door-to-door courier services. This is a major regulatory issue in Vietnam, China, Indonesia and the Philippines.

Local Postal Regulations

Many countries around the world have stringent regulations prohibiting or controlling the offering of domestic and international courier services in their domestic market. This practice is designed to protect the monopoly advantage of the local postal service providers. The following are some typical examples of such restrictions:

- In Thailand, there is a postal fine of THB\$25 per document delivered by express courier companies. This is to ensure that international express courier services are priced higher than the local Thailand postal service provider.
- Under postal laws of many countries, there are differences in customs clearance requirements between postal and express shipments. Normally it is easier and more cost effective to move shipments via local postal services than by express couriers. Postal shipments usually enjoy higher de

minimis thresholds, fewer inspections and fewer documentation requirements.

- The majority of the governments around the globe prohibit foreign companies from entering into the domestic postal market. This is common for both developed countries and third world economies.

Postal restrictions are an outdated regime by which governments protect their local postal agency. This practice usually results in lower efficiency of the local agency and waste of public resources, since there is virtually no competition. Nevertheless, this issue is always raised during negotiations of free trade agreements between two countries.

Ground Transportation

Due to traffic conditions in various countries, express courier companies often encounter local transportation barriers when operating in these markets. One of the most prominent examples is Singapore's highly stringent traffic laws to curb the increase of car ownership. Strategies used to restrict car ownership include:

- Certificate of Entitlement (COE) – All vehicles must have a COE before driving on the road. This certificate is only obtained and issued through an open bidding system. The bid occurs once every month. The cost of one certificate can be as high as US\$15,000 for one box truck that is normally used by the courier company. Furthermore, these certificates are only valid for ten years. This policy has drastically increased the operating costs in Singapore for all express companies as they require a large fleet of trucks and vans.
- Electronic Road Pricing (ERP) – This is an automated version of road tolls for all drivers passing through certain stretches of road. All vehicles have to install a special electronic cash-card reader. This enables sensors mounted on overhead gantries to deduct the appropriate amount of the road toll automatically. This amount is determined based on different timings of travel during the day (Chin, 2002). It can be costly for cargo vans and trucks to go in and out of central business districts during the pick-up and delivery cycles. ERP definitely increases the operating costs for express courier companies.
- Higher Taxes on Cars & Petrol – In order to further curb the growth of car ownership in Singapore, the government has also implemented higher duties and taxes on cars and petrol. All car imports are required to pay 175 percent import duty. Similarly, there is high tax on petrol consumption. These regulations cause business costs for express courier companies in Singapore to be among the highest in the entire industry.

There are other rules and regulations that are implemented in other countries to control traffic volumes and conditions:

- In Thailand and the Philippines, trucks of certain tonnage are not allowed to travel during peak hours or into certain business districts. This regulation makes the delivery and pick-up of large packages very difficult during peak hours and in prescribed business districts. Careful planning and additional resources are needed to satisfy customers under these conditions.
- It is very difficult to find suitable parking lots in Taipei City. Hence, illegal parking is very common, especially during office hours. The Taipei traffic police have adopted tough measures on illegal parking. Vehicles are always towed away within minutes of illegally parking. In order to collect the vehicle, the owner must pay up to several hundred U.S. dollars. Such regulations create huge challenges for many courier companies.
- In the Philippines, certain cars are prohibited from traveling into the city areas on certain days. The prohibited vehicles are determined by the last digit on the car number plate (odd or even digit). This

regulation results in firms incurring additional costs, since they will need to have vehicles with different plate numbers in order to drive on the roads every day.

Strategies to Overcome Regulatory Barriers

A lot of regulatory challenges have been outlined in this article. These barriers cannot be resolved overnight, and careful strategies are required to address them separately and at different socio/economic and political levels. A number of divergent strategies can be used by the air express industry to overcome the regulatory barriers imposed. These strategies include:

(1) Cooperation between local agencies and company's representatives in country.

Air express companies need to set up local operations in many countries that they serve. These in-country or national operations are normally managed by local management teams. There are many issues best handled by a local country management team, rather than at the corporate level in another country. Examples of day-to-day regulatory issues best handled locally are

- inconsistencies of practices by customs officers,
- poor system reliability of customs EDI connections, and
- frequent flight delays due to Air Traffic Control (ATC) problems.

Local management teams can also work with regional and local governments during trade agreement negotiations. This can help to ensure the removal of unreasonable regulations that obstruct the growth of the air express business.

The largest air express companies (FedEx, DHL, UPS, and TNT) have joined together to set up various local industry representatives to lobby for regulatory improvement. The local

industry representatives are important to demonstrate to the public agencies the unity to be found in the air express industry. These companies pool their resources together and work closely with governmental agencies in countries where they have joint operations.

(2) Collaboration between regional organizations and industry representatives.

The four major air express companies have formed a regional representative organization called the Conference of Asia Pacific Express Carriers (CAPEC). The main objective of this organization is to provide a platform for all four companies to work toward common goals in the areas of regulatory lobbying and deregulation. Through this organization, the air express industry actively organizes many regional forums with customs agencies and regional associations. Examples of these regional associations are the European Union, APEC (Asia-Pacific Economic Corporation) and ASEAN (The Association of Southeast Asian Nations). They express the concerns of the industry to these groups and provide suggestions to work with the authorities in order to achieve common objectives. The regional office of UPS and FedEx also constantly work with the U.S.-ASEAN Business Council to provide valuable feedback to local governments on the existing regulatory barriers and to propose ways to remove them.

The main reason why there is a need for regional representation of the industry is due to both the variety and number of regulatory issues that need to be addressed. These issues require a high level of attention and focus in order to effectively tackle and resolve them. As a consequence, in most cases, the regional representatives of the air express industry are being assigned greater authority to make decisions on behalf of the company. They are likely to have ample resources to work with the respective agencies. These factors are important and necessary in the negotiation

at the regional conferences with senior governmental officers.

(3) **Worldwide lobbying at the international level.** Worldwide lobbying is similar to the lobbying effort via regional representation. It is used to complement the other channels of regulatory lobbying. There are many important worldwide organizations that are highly influential in setting directions of economic and social policies. They undertake appropriate representation and participation in these international forums so as to be beneficial to the interests of the air express industry. Some examples of such international organizations are

- World Customs Organization (WCO),
- World Trade Organization (WTO),
- International Air Transport Association (IATA),
- Asian Development Bank,
- International Monetary Fund (IMF),
- World Bank, and
- World Economic Forum (WEF).

It is common for the air express industry to send representatives to attend workshops or conferences organized by these international institutions in order to present the views of the air express industry.

(4) **Individual lobbying effort via senior management.** Senior management staff from the four largest express companies work hard to develop close relationships with some local governments. This can be useful when it comes to making requests that improve an individual company's competitive edge. One good example of this

involves the desire for more air flying rights from governments. When two countries have agreed on how many air-lines can fly in and out of their borders, having a good relationship with local governments can help in expanding rights and improving flight schedules.

SUCCESS STORY IN DEREGULATION

Removing regulatory barriers is not likely to happen within days or even weeks. Barrier removal is normally a long process with multi-dimensional efforts and support. There are few success stories to quote on the power of lobbying. One such case study is that of Royal Malaysian customs, which offers a positive example of a close working partnership between industry and a customs agency.

Project ACCESS in Malaysia

In October 1999, CAPEC launched a special project called ACCESS (ASEAN Customs Clearance & Express ServiceS). This project aimed to assist customs agencies in ASEAN countries to improve their customs regulations and operations in line with the explosive cargo volume growth. ASEAN customs directors-General welcomed this initiative, whereby industry would collaborate closely with ASEAN customs administrations to re-engineer and modernize customs procedures and regulations.

Royal Malaysia customs volunteered to be the pilot agency for this project. The following changes in customs procedures have been implemented with help from the air express industry (Wolf, 2003):

- expedite clearance of non-dutiable shipments below RM\$2,000 value,
- increase of de minimis level to RM\$500, a significant improvement from the previous threshold (RM\$200 at Kuala Lumpur International Airport; RM\$10 in other Malaysian airports), and

- develop a post-release declaration for inbound and outbound shipments in free trade zones.

These regulatory changes had profound impacts on both customs and the express industry. The following benefits have been observed after the changes:

- Malaysian customs reduced processing work by approximately 50%;
- Direct release of 60-65% of inbound shipments;
- Formal declarations declined by 20-25%; and
- Businesses in the free trade zones benefit through earlier delivery of import shipments and later pick-up for export shipments.

The important lesson learned in this successful case study is the multi-directional approach of partnership with the customs authority. The industry proposed the idea at the annual ASEAN dialogue session with the directors-general of customs. Two project teams were formed at different levels—a planning team and a working team. The scope and responsibility of the planning team was to collect and analyze proposals from industry on the impacts to local economy

and customs operations. This team took into consideration all recommendations and developed a final proposal submitted to Royal Malaysia Customs. Once the final proposal had been endorsed and accepted by the senior management of Malaysian Customs, a working team was formed to implement the recommendations. This approach proved to be effective and efficient, and the entire project required about three years to complete with positive results.

CONCLUSION

This article has presented many existing regulatory barriers facing the air express industry. Many of these barriers have been around for many years. It is not easy to resolve regulatory barriers due to the political, economic and social pressures facing the local governments. In order to better handle these regulatory challenges, some air express companies (DHL and UPS) have set up dedicated departments to work closely with local authorities. Other air express companies have started sending their senior management staff to participate in the meetings and discussions regarding regulatory reform. Apart from lobbying efforts, all express companies are also investing heavily to improve their operational capability and flexibility in order to mitigate the negative impacts of local regulations.

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