

Testimony of Cindy Allen
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Every day, in every corner of the world, FedEx is connecting communities, moving goods, and providing services that power the global economy. FedEx fuels innovation, creates and supports local jobs, and helps lift individuals and their communities. That’s why FedEx believes a connected world is a better world. At FedEx, trade is our business. Trade is the lifeblood of the global economy, and FedEx plays a critical role in expanding global trade, helping to build nimble supply chains, and delivering local products and services to customers around the world. We believe everyone benefits when it is easier to bring new ideas and products to the global market. Expanding global trade is essential to our customers, our team members, and the economy. We see the value of trade every day: our more than 500,000 global employees (410,000 in the United States) move an average of 16 million shipments daily, serving more than 220 countries and territories.

In the United States, FedEx provides delivery services to every U.S. ZIP code and accounts for nearly six percent of employees in the U.S. transportation and postal & courier services sectors. In fiscal year 2022 (FY22), FedEx spent nearly \$45 billion with our U.S.-based supply chain partners, and in Tennessee alone, FedEx spent \$257.3 million with local suppliers in the first three quarters of FY22. FedEx plays a crucial role in the U.S. supply chain that keeps this country, our people, and economy moving. We are immensely proud of our global efforts to combat COVID-19, and in the United States alone we have delivered hundreds of millions of COVID-19 vaccine doses and boosters, as well as ancillary kits and other essential supplies. And when the trade disruptions stemming from COVID-19 congested ports in the U.S., FedEx participated in the White House Supply Chain Disruptions Task Force to help develop solutions to stabilize supply chain disruptions to get trade moving again.

American prosperity is linked to growing markets and greater opportunities for U.S. companies, especially small and medium businesses, which comprise more than 98 percent of U.S. exporters.¹ More than 40 million American jobs – roughly 1 in 5 – depend on trade, and trade is critical to the success of many sectors of the U.S. economy.² With 95 percent of the world’s population and 80 percent of its purchasing power outside our borders, global trade will continue to be of critical importance to U.S. economic growth.

It is not just exports that benefit the American economy, but imports as well. Imports bring lower prices and more choices for American families as household budgets are increasingly stretched. Access to imports boosts the purchasing power of the average American household by about \$18,000 annually.³ Imports also give Americans access to products that would not otherwise be available—for example, fresh fruit in the winter. It is not only consumers that benefit from imports, but also U.S. companies that depend on imports for raw materials and other inputs. In fact, nearly 60 percent of U.S. merchandise imports are raw materials, capital goods and industrial products, which are used by U.S. manufacturers

¹ <https://www.uschamber.com/international/trade-agreements/we-cant-stand-still-the-benefits-of-trade-agreements-in-america>

² https://tradepartnership.com/wp-content/uploads/2020/10/Trade_and_American_Jobs_2020.pdf

³ <https://www.piie.com/publications/policy-briefs/payoff-america-globalization-fresh-look-focus-costs-workers>

and farmers to produce goods in the United States.⁴ This lowers costs for manufacturers and other businesses and helps them be more competitive globally. If the U.S. hopes to strengthen its manufacturing base, it must have efficient and reliable access to imported components from around the world.

The rise of global e-commerce represents a sea change in the profile of global trade. The trade landscape is shifting from container-based trade between large multi-national corporations to package-based trade between businesses and individual consumers. Put simply, the global supply chain is more complex and has many more participants. This shift presents unprecedented opportunities to make global trade more inclusive by enabling small and medium-sized businesses (SMEs) to participate in the global economy. But it also presents challenges for governments as they grapple with the impact of increased volumes of low-value shipments and their responsibilities for revenue collection and border safety and security.

Against this backdrop, FedEx supports the U.S. government in its efforts to update its customs rules and adapt to a changing trade environment. We welcomed the U.S. Customs and Border Protection's (CBP) initiative in its 21st Century Customs Framework (21CCF) to address modern trade challenges and opportunities and have been engaging in the 21CCF process since its inception.

Given the increased number of trade participants globally, the first goal of any customs modernization proposal must be to properly define the roles and responsibilities of these new actors. As the U.S. government begins to assess what new information should be required for importation, it must remain focused on requiring the right data, at the right time, from the right party. Rules requiring additional data from new stakeholders must ensure that gaps in data availability or transmission do not lead to bottlenecks at U.S. ports. Responsibility for the accuracy of data should be appropriately assigned to the party most responsible for the creation and retention of that data. In addition, new legislation should not delegate unfettered authority to government agencies. Any new authorities should include appropriate guardrails to prevent unnecessary burdens on companies and supply chains in the name of data collection.

Governments around the world look to the United States for leadership and as a provider of global best practices. The United States must be mindful that new approaches to importing processes could be adopted by other countries. Therefore, the United States should, when considering new requirements on U.S. imports, ask whether U.S. exporters, especially SMEs, would support the same requirements being placed on their exports by third countries.

A truly successful customs modernization needs a "co-creation" approach, where the public and private sectors identify the challenges, they are trying to address and leverage best practices to develop feasible joint solutions. While CBP deserves credit for its outreach efforts on 21CFF to date, more in-depth and widespread engagement of the private sector is needed as the agency fills in the details behind its goals. Moreover, most of the discussion has focused on increased trade controls and enforcement, and very little on trade facilitation. Any customs modernization effort should balance grants of additional authority to border agencies with appropriate guardrails and trade facilitations to receive support from

⁴ https://tradepartnership.com/wp-content/uploads/2020/10/Trade_and_American_Jobs_2020.pdf

industry. Described more fully below are some of the trade facilitative measures that FedEx supports including in such an effort.

- **Achieving a Government-Wide Policy Approach to Accompany the Single Window:** The International Trade Data System (ITDS) as outlined in the original Customs Modernization Act, has been achieved with the delivery of the Automated Commercial Environment (ACE), establishing the technical side of intergovernmental operability with one single window for all agencies who have the authority to regulate the importation and exportation of goods. Unfortunately, this has become a 47 paned window due to various policy, procedures, and processes established by each agency. Customs Modernization should define a government-wide decision making, policy, and authority process that is centralized and coordinated with CBP. This policy and coordination approach could be achieved through a council such as the Border Interagency Executive Council (BIEC). Regardless of the mechanism, the authority to make and drive decisions must reside within this forum. Additionally, trade participation to assist in guiding in a manner that is achievable in current and future trade processes should be included.
- **Enabling Global Entry for Cargo:** Shipments have a history when they arrive at the border. Government agencies, specifically CBP, have expressed an interest in receiving the critical data associated with the shipment to assist with targeting purposes and allow better informed admissibility decisions. An iterative or progressive filing of data should be codified and developed to allow the best party, with access to the relevant data, to file it at the earliest available time, building the data for each shipment until the arrival at the border. This should be linked to trusted trader and Authorized Economic Operator (AEO) benefits, such as admissibility decisions that the trade can rely upon, qualifying of certain free trade agreement benefits, and ensuring a secure and compliant supply chain. This program would be in addition to the information already filed for security purposes, especially in the air environment.
- **Limiting Redelivery Authority:** Outdated language allows CBP to recall goods up to 60 days after admissibility decisions are made. This authority was vested in old statues around quota and visa transshipment concerns that do not exist today. Today, with the speed of cargo delivery, especially when it is direct to the consumer, it is almost impossible to redeliver something to CBP custody outside of 24 hours. This redelivery authority should be removed except in cases that post safety and security concerns.
- **Establishing Timelines for Government Response:** In most circumstances, the trade is bound by defined timelines, yet there are few timelines CBP is bound by. This leads to uncertainty for U.S. businesses as they try to move forward with business planning and product launches and causes financial uncertainty. The customs modernization effort should establish reasonable timelines for CBP to respond to trade actions and requests such as petitions, protests, advice, and customs rulings. If a decision is not produced within the timeline, it should be considered an affirmative response for the trade. Holding agencies accountable to provide timely decisions should be a key part of this legislation.

- **Further Facilitating the Informal Entry Procedures:** The United States Congress should expand the United States’ global leadership in facilitating trade by focusing on the informal entry process, those shipments currently between \$800-\$2,500. Congress should raise the \$2,500 ceiling to a more competitive baseline, while granting CBP the regulatory authority to raise it further. For informal entries, a “bucket” system for Harmonized Tariff Schedule (HTS) classification for eligible shipments, e.g., a limited number of classifications instead of the 10,000+ tariff lines should be adopted. Excluded from “bucketing” would be shipments subject to “restricted” goods where 10-digit HTS codes are required. Further, for those highly integrated networks like express carriers, a simplified release by presentation of commercial invoices should be allowed. Since a bucket system for HTS codes would be utilized to further simplify the process, Congress should expand who can file these informal entries to include nominal consignees like carriers (as currently permitted for de minimis entries).
- **Codifying the Express Delivery Sector:** To recognize the express delivery process is a unique procedure for providing expedited clearance of shipments based on longstanding success and shared responsibility, including the investments the express industry has made to ensure it meets all Government requirements for data accuracy and completeness, the express delivery sector must be codified. The codification of the express delivery clearance process will allow for:

 - a single submission of information, a manifest, covering all goods contained in an express shipment;
 - expedited release of these shipments based on the minimum documentation of a single submission of information; and
 - consolidated entries.
- **Codifying the Express Carrier’s Right to File De Minimis Entries and Establish a Waiver for the Express Carriers from More Burdensome Requirements when Filing De Minimis Entries:** Currently, the express industry’s right to file de minimis shipments was created by regulation a long time ago and, for the reasons discussed above, this process should be codified in statute. Further, the hundreds of millions of dollars of investment the express industry has made to segregate Partner Government Agency (PGA) regulated items from its manifest should be considered as a justification for waiving the requirement to provide an HTS code for de minimis shipments in any future CBP rulemaking.

Regardless of any legislative proposal, Congress should take into account competitive considerations. Any new requirements must apply equally to express and international mail shipments. We recognize to modernize the customs process, CBP needs additional funding to support initiatives like the development of ACE 2.0 to meet the technological challenges of the future. Therefore, we support additional funding streams to dedicate more funding to CBP. Specific ideas include a higher percentage of Merchandise Processing Fee collections made directly available to CBP, a charge for each Entry Type 86 Pilot entry (with 100 percent of collected proceeds going to CBP for its costs incurred for processing those entries), and a revival of the Customs Forfeiture Fund, or alternatively creating a new fund of a similar nature, to be used exclusively for CBP enhancements of this variety.

Lastly, FedEx would like to highlight the importance of a current feature of the U.S. customs laws that facilitates trade: the United States' strong de minimis provision. De minimis simplifies and streamlines documentation, expedites border processes, and eliminates duties and taxes, which is a significant trade facilitation measure that benefits U.S. consumers, large and small businesses, e-commerce platforms, transportation companies and many other sectors of the U.S. economy. For example, e-commerce SME customers like Greentop Gifts, a black woman-owned business based in Atlanta, Ga., and AnaOno, a woman-owned, Philadelphia, Pa.-based business, rely on this simplified process in delivering their products.

Established by Congress decades ago, de minimis is a longstanding and key feature of the U.S. import system. Congress looked at the issue recently when it raised the level to \$800 in 2016 via the Trade Facilitation and Trade Enforcement Act (TFTEA). This was a deliberate policy choice Congress got right. As TFTEA explains, the higher de minimis value thresholds provide "significant economic benefits to businesses and consumers in the United States and the economy of the United States through costs savings and reductions in trade transaction costs."

Connecting people with goods, services, ideas, and technologies creates opportunities that fuel innovation, energize businesses, and lift communities to higher standards of living. At FedEx, we believe a connected world is a better world, and that belief guides everything we do. A modernized customs process is key to this.

We would be honored to invite this Committee and its staff to visit the largest customs clearance port of entry in the United States, the Memphis International Airport, where our FedEx Express World Hub is located.