

U.S. – Mexico Cross Border Trucking Dispute

Separating Myth from Reality

Background

The North American Free Trade Agreement's (NAFTA) trucking provisions were established as a key component of the agreement to improve cross-border trucking operations. Improving such efficiency is essential considering the substantial growth in trade volumes among the NAFTA partners. NAFTA's trucking provisions provide for developing a safe and secure seamless cross-border trucking process at the U.S.-Mexico border similar to what already exists on the U.S.-Canada border.

The present cross-border trucking process creates increased congestion, delays and "over handling" of shipments, adding roughly \$400 million in transactional costs according to U.S. government estimates. This number does not account for warehousing, delays, and other harder to quantify costs.

Fifteen years after its original starting date, the U.S. and Mexico continue to struggle to implement NAFTA's trucking provisions. In 2007, both countries agreed to establish a NAFTA trucking Demonstration Project (DP). In 2009, the United States unilaterally stopped the DP and, shortly thereafter, Mexico established compensatory tariffs on a variety of U.S. exports to Mexico. On January 6, 2011, the U.S. Department of Transportation (DOT) released a "Concept Document" to re-engage Mexico, the U.S. Congress, and interested stakeholders in discussions to implement NAFTA trucking.

Notwithstanding the impasse, DOT and U.S. Border States have spent significant resources to ensure truck safety at U.S.-Mexico border crossings. DOT has also worked with Mexico to establish systems and mechanisms to gather and share information on Mexican motor carriers, drivers, and trucks seeking to operate in the U.S.

As was verified in the short-lived 2007 Demo, motor carriers are able to operate safely and in compliance with regulatory requirements in both countries. More importantly, the efforts, programs, and systems of the 2007 Demo were verified by an Independent Evaluation Panel. The Panel's report revealed that the systems and mechanisms put in place were effective in ensuring compliance by participating motor carriers.

Perhaps of even greater consequence is the fact that over 850 Mexican domiciled motor carriers have operated safely in the U.S. well before NAFTA was negotiated. These Mexican motor carriers were either "grandfathered" before the 1982 moratorium on Mexican trucks was established, or were issued Certificates of Registration shortly thereafter. Again, these motor carriers have operated safely on U.S. highways for many years delivering cross-border cargo.

But even with all these milestones, NAFTA trucking opponents continue to paint a bleak picture of negative stereotypes and harmful myths about U.S.-Mexico cross-border trucking. Following is a compilation of myths and distortions regarding cross-border highway safety, border security, and the potential for job losses. The intent of this document is to dispel these myths and to apply a dose of reality and common sense to the NAFTA trucking deliberations.

MYTH vs. REALITY

HIGHWAY SAFETY

Myth: Once NAFTA's trucking provisions are implemented, any Mexican trucking company and all Mexican trucks will be allowed to enter the U.S.

Reality: NAFTA's trucking provisions are not an "open door" policy to all Mexican trucks. Mexican trucking companies will not be allowed to operate in the U.S. until they have first undergone a thorough application process with DOT. The process includes undergoing a Pre-Approval Safety Audit (PASA), including on-site visits to the Mexican carrier's facilities and a review to demonstrate the carrier's ability to meet all U.S. safety standards, in addition to satisfying a long list of other requirements, including having the appropriate insurance coverage provided by a U.S. licensed insurance company.

Myth: Because Mexico's size & weight regulations allow for heavier trucks than U.S. regulations, Mexican trucks operating in the U.S. will be heavier than U.S. trucks.

Reality: Not true. Any foreign truck, either Canadian or Mexican, must follow U.S. size and weight state and federal regulations. Like Mexico, Canada allows for heavier trucks to operate on their highway network. However, when operating in the U.S., Canadian trucks must comply with U.S. size and weight regulations. The same requirement applies to Mexican trucks operating in the U.S. In addition, Mexican trucks authorized to operate beyond the U.S. border commercial zones during the 2007 Demonstration Project were inspected each and every time they entered the U.S., including the weight of the vehicle. A similar process is included in the proposed DOT Concept Document.

Myth: Mexican commercial drivers will not comply with U.S. Drug and Alcohol (D&A) testing regulations, posing a greater safety risk on U.S. highways.

Reality: During the 2007 Demo, DOT established a D&A testing process for participating Mexican commercial drivers that required separate sample collection protocols and testing only by laboratories certified by the U.S. Department of Health and Human Services (HHS). The established D&A testing mechanisms were carefully evaluated and verified by the Independent Evaluation Panel and were found to address U.S. D&A testing requirements.

Myth: Adequate enforcement and oversight resources are lacking at the border to ensure the safety of Mexican trucks.

Reality: According to DOT, since 1995 the federal government has spent more than \$500 million to improve their inspection capabilities at U.S.-Mexico border crossings, hiring and training hundreds of federal and state commercial vehicle inspectors. These efforts have already had a positive effect in the safety of present day cross-border trucking operations and will continue to do so under NAFTA trucking.

Myth: Mexican truck drivers will ignore U.S. Hours of Service regulations, thus increasing the potential for fatigued drivers on U.S. roads.

Reality: As it did in the 2007 Demo, DOT will require Mexican motor carriers seeking to operate beyond U.S. border commercial zones to install electronic monitoring systems, such as GPS, to verify and validate driver logbooks. This process worked well in the 2007 Demo to discover drivers who falsified their logbooks, allowing DOT to take necessary steps to correct such problems by initiating a compliance review and/or terminating the company's U.S. authority.

BORDER SECURITY

Myth: Implementing NAFTA's trucking provisions will increase the potential for drug smuggling and other illicit cargo into the U.S.

Reality: Implementing NAFTA's trucking provisions will improve the ability of border inspection agencies to improve security by improving their enforcement capabilities. For example, in 1997, the then U.S. Customs Service, now U.S. Customs and Border Protection, in a report to Congress released by the Office of Drug Control Policy at the White House, stated:

The high congestion of truck traffic entering the United States is, in part, a result of restrictions imposed by both the United States and Mexico on cross-border motor carrier operation... over 50% of commercial trucks enter the United States empty, contributing to border congestion and increasing the inspection burden for border agencies.

In essence, implementing NAFTA's trucking provisions would result in a reduced number of trucks having to cross the border by allowing a single tractor to haul a trailer in a cross-border operation from origin to destination without having to interchange with another tractor. This reduces the number of empty trailers, and "bobtail" tractors that must be cleared for entry into the U.S.

In addition, by eliminating unnecessary stops to drop off trailers before crossing the border, shipments can proceed straight to the port of entry once they've been assessed and cleared in advance by customs agencies. Keeping cargo moving and reducing the number of parties handling cross-border shipments actually improves security.

JOBS

Myth: U.S. drivers will lose their jobs because Mexican drivers are paid lower wages than their U.S. counterparts?

Reality: Foreign drivers operating into or out of the U.S. are only allowed to transport international cargo, and are prohibited from performing any domestic moves. For example, a Mexican driver and truck will be able to pick up a load at Monterrey, Mexico, enter the U.S. and drop off the cargo at Dallas. The Mexican driver and equipment will then be allowed to pick up cargo that is bound for an international destination, be it Canada or Mexico. However, only U.S. drivers can haul U.S. domestic cargo.