

For Six Month Period Ending January 31, 2010
(Insert date)

I - REGISTRANT

1. (a) Name of Registrant (b) Registration No. 5198
Pillsbury Winthrop Shaw Pittman LLP

(c) Business Address(es) of Registrant
50 Fremont Street
San Francisco, CA 94105-2228

2. Has there been a change in the information previously furnished in connection with the following:

(a) If an individual:
(1) Residence address(es) Yes No
(2) Citizenship Yes No
(3) Occupation Yes No

(b) If an organization:
(1) Name Yes No
(2) Ownership or control Yes No
(3) Branch offices Yes No

(c) Explain fully all changes, if any, indicated in items (a) and (b) above.

During the reporting period there was a change in ownership of Pillsbury Winthrop Shaw Pittman by virtue of the departure of some partners and the arrival of others. See Exhibits 1 and 2 for listings of the departures and arrivals.

2010 MAR -3 PM 4: 37
CRM/ISS/REGISTRATION UNIT

IF THE REGISTRANT IS AN INDIVIDUAL, OMIT RESPONSE TO ITEMS 3, 4 AND 5(a).

3. If you have previously filed Exhibit C¹, state whether any changes therein have occurred during this 6 month reporting period.

Yes No

If yes, have you filed an amendment to the Exhibit C? Yes No

If no, please attach the required amendment.

¹ The Exhibit C, for which no printed form is provided, consists of a true copy of the charter, articles of incorporation, association, and by laws of a registrant that is an organization. (A waiver of the requirement to file an Exhibit C may be obtained for good cause upon written application to the Assistant Attorney General, National Security Division, U.S. Department of Justice, Washington, DC 20530.)

4. (a) Have any persons ceased acting as partners, officers, directors or similar officials of the registrant during this 6 month reporting period? Yes No

If yes, furnish the following information:

Name Position Date connection ended

See Exhibit 1

(b) Have any persons become partners, officers, directors or similar officials during this 6 month reporting period?

Yes No

If yes, furnish the following information:

Name Residence address Citizenship Position Date assumed

See Exhibit 2

5. (a) Has any person named in item 4(b) rendered services directly in furtherance of the interests of any foreign principal?

Yes No

If yes, identify each such person and describe his service.

(b) Have any employees or individuals, who have filed a short form registration statement, terminated their employment or connection with the registrant during this 6 month reporting period? Yes No

If yes, furnish the following information:

Name Position or connection Date terminated

(c) During this 6 month reporting period, has the registrant hired as employees or in any other capacity, any persons who rendered or will render services to the registrant directly in furtherance of the interests of any foreign principal(s) in other than a clerical or secretarial, or in a related or similar capacity? Yes No

If yes, furnish the following information:

Name Residence address Citizenship Position Date assumed

6. Have short form registration statements been filed by all of the persons named in Items 5(a) and 5(c) of the supplemental statement?

Yes No

If no, list names of persons who have not filed the required statement.

N.A.

II - FOREIGN PRINCIPAL

7. Has your connection with any foreign principal ended during this 6 month reporting period?
Yes No

If yes, furnish the following information:

Name of foreign principal

Date of termination

8. Have you acquired any new foreign principal² during this 6 month reporting period?
Yes No

If yes, furnish the following information:

Name and address of foreign principal

Date acquired

9. In addition to those named in Items 7 and 8, if any, list foreign principals² whom you continued to represent during the 6 month reporting period.

Secretaria de Economia (Secretariat of Economy)

International Counsel Bureau, Kuwaiti Counsel for the Families of Kuwaiti Citizens at Guantanamo Bay

10. **EXHIBITS A AND B**

(a) Have you filed for each of the newly acquired foreign principals in Item 8 the following:

Exhibit A³ Yes No
Exhibit B⁴ Yes No

If no, please attach the required exhibit.

(b) Have there been any changes in the Exhibits A and B previously filed for any foreign principal whom you represented during the 6 month period? Yes No

If yes, have you filed an amendment to these exhibits? Yes No

If no, please attach the required amendment.

² The term "foreign principal" includes, in addition to those defined in Section 1(b) of the Act, an individual organization any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign government, foreign political party, foreign organization or foreign individual. (See Rule 100(a) (9).) A registrant who represents more than one foreign principal is required to list in the statements he files under the Act only those principals for whom he is not entitled to claim exemption under Section 3 of the Act. (See Rule 208.)

³ The Exhibit A, which is filed on Form NSD-3 (Formerly CRM-157), sets forth the information required to be disclosed concerning each foreign principal.

⁴ The Exhibit B, which is filed on Form NSD-4 (Formerly CRM-155), sets forth the information concerning the agreement or understanding between the registrant and the foreign principal.

III - ACTIVITIES

11. During this 6 month reporting period, have you engaged in any activities for or rendered any services to any foreign principal named in Items 7, 8, and 9 of this statement? Yes No

If yes, identify each such foreign principal and describe in full detail your activities and services:
See Exhibit 3

12. During this 6 month reporting period, have you on behalf of any foreign principal engaged in political activity⁵ as defined below? Yes No

If yes, identify each such foreign principal and describe in full detail all such political activity, indicating, among other things, the relations, interests and policies sought to be influenced and the means employed to achieve this purpose. If the registrant arranged, sponsored or delivered speeches, lectures or radio and TV broadcasts, give details as to dates and places of delivery, names of speakers and subject matter.

See Exhibit 3

13. In addition to the above described activities, if any, have you engaged in activity on your own behalf which benefits any or all of your foreign principals? Yes No

If yes, describe fully.

⁵ The term "political activities" means any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.

IV - FINANCIAL INFORMATION

14. (a) RECEIPTS - MONIES

During this 6 month reporting period, have you received from any foreign principal named in Items 7, 8, or 9 of this statement, or from any other source, for or in the interests of any such foreign principal, any contributions, income or money either as compensation or otherwise? Yes [x] No []

If no, explain why.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies⁶.

Date From whom Purpose Amount

See Exhibit 4

Total

(b) RECEIPTS - FUND RAISING CAMPAIGN

During this 6 month reporting period, have you received, as part of a fund raising campaign⁷, any money on behalf of any foreign principal named in items 7, 8, or 9 of this statement? Yes [] No [x]

If yes, have you filed an Exhibit D⁸ to your registration? Yes [] No []

If yes, indicate the date the Exhibit D was filed. Date _____

(c) RECEIPTS - THINGS OF VALUE

During this 6 month reporting period, have you received any thing of value⁹ other than money from any foreign principal named in Items 7, 8, or 9 of this statement, or from any other source, for or in the interests of any such foreign principal? Yes [] No [x]

If yes, furnish the following information:

Name of foreign principal Date received Description of thing of value Purpose

^{6, 7} A registrant is required to file an Exhibit D if he collects or receives contributions, loans, money, or other things of value for a foreign principal, as part of a fund raising campaign. (See Rule 201(e).)

⁸ An Exhibit D, for which no printed form is provided, sets forth an account of money collected or received as a result of a fund raising campaign and transmitted for a foreign principal.

⁹ Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks," and the like.

15. (a) **DISBURSEMENTS – MONIES**

During this 6 month reporting period, have you

(1) disbursed or expended monies in connection with activity on behalf of any foreign principal named in Items 7, 8, or 9 of this statement? Yes No

(2) transmitted monies to any such foreign principal? Yes No

If no, explain in full detail why there were no disbursements made on behalf of any foreign principal.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies, including monies transmitted, if any, to each foreign principal.

Date	To whom	Purpose	Amount
See Exhibit 5			

Total

(b) DISBURSEMENTS – THINGS OF VALUE

During this 6 month reporting period, have you disposed of anything of value¹⁰ other than money in furtherance of or in connection with activities on behalf of any foreign principal named in Items 7, 8, or 9 of this statement?

Yes No

If yes, furnish the following information:

Date disposed	Name of person to whom given	On behalf of what foreign principal	Description of thing of value	Purpose
---------------	------------------------------	-------------------------------------	-------------------------------	---------

(c) DISBURSEMENTS – POLITICAL CONTRIBUTIONS

During this 6 month reporting period, have you from your own funds and on your own behalf either directly or through any other person, made any contributions of money or other things of value¹¹ in connection with an election to any political office, or in connection with any primary election, convention, or caucus held to select candidates for political office?

Yes No

If yes, furnish the following information:

Date	Amount or thing of value	Name of political organization	Name of candidate
	Pillsbury Winthrop Shaw Pittman made no reportable contributions.		
	Pillsbury short form registrant Anita Epstein made the following reportable contributions:		
10/29/2009	\$500	Friends of John McCain	John McCain

^{10, 11} Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks" and the like.

V - INFORMATIONAL MATERIALS

16. During this 6 month reporting period, did you prepare, disseminate or cause to be disseminated any informational materials¹²?
Yes No

IF YES, RESPOND TO THE REMAINING ITEMS IN SECTION V.

17. Identify each such foreign principal.

International Counsel Bureau, Kuwaiti Counsel for the Families of Kuwaiti Citizens at Guantanamo Bay.

Secretaria de Economia (Secretariat of Economy)

18. During this 6 month reporting period, has any foreign principal established a budget or allocated a specified sum of money to finance your activities in preparing or disseminating informational materials? Yes No

If yes, identify each such foreign principal, specify amount, and indicate for what period of time.

19. During this 6 month reporting period, did your activities in preparing, disseminating or causing the dissemination of informational materials include the use of any of the following:

- Radio or TV broadcasts
 - Magazine or newspaper articles
 - Motion picture films
 - Letters or telegrams
 - Advertising campaigns
 - Press releases
 - Pamphlets or other publications
 - Lectures or speeches
 - Internet
 - Other (specify) Interviews with print and broadcast journalists
- [Electronic mail]

20. During this 6 month reporting period, did you disseminate or cause to be disseminated informational materials among any of the following groups:

- Public officials
- Newspapers
- Libraries
- Legislators
- Editors
- Educational institutions
- Government agencies
- Civic groups or associations
- Nationality groups
- Other (specify) _____

21. What language was used in the informational materials:

- English
- Other (specify) _____

22. Did you file with the Registration Unit, U.S. Department of Justice a copy of each item of such informational materials disseminated or caused to be disseminated during this 6 month reporting period? Yes No

23. Did you label each item of such informational materials with the statement required by Section 4(b) of the Act? Yes No

Short-form registrant Anita Epstein inadvertently omitted the FARA label and filing for certain materials distributed to a small number of individuals in late August 2009 on behalf of Economia. The recipients had all previously been informed that Pillsbury was acting behalf of Economia. We have enclosed copies of the distributed materials for reference as Appendix A.

12 The term informational materials includes any oral, visual, graphic, written, or pictorial information or matter of any kind, including that published by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or any means or instrumentality of interstate or foreign commerce or otherwise. Informational materials disseminated by an agent of a foreign principal as part of an activity in itself exempt from registration, or an activity which by itself would not require registration, need not be filed pursuant to Section 4(b) of the Act.

VI – EXECUTION

In accordance with 28 U.S.C. §1746, the undersigned swear(s) or affirm(s) under penalty of perjury that he/she has (they have) read the information set forth in this registration statement and the attached exhibits and that he/she is (they are) familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his/her (their) knowledge and belief, except that the undersigned make(s) no representation as to the truth or accuracy of the information contained in the attached Short Form Registration Statement(s), if any, insofar as such information is not within his/her (their) personal knowledge.

(Date of signature)

(Type or print name under each signature¹³)



Stephan E. Becker, Partner

2010 MAR - 8 PM 4: 37
CRM/ISS/REGISTRATION UNIT

¹³ This statement shall be signed by the individual agent, if the registrant is an individual, or by a majority of those partners, officers, directors or persons performing similar functions, if the registrant is an organization, except that the organization can, by power of attorney, authorize one or more individuals to execute this statement on its behalf.

UNITED STATES DEPARTMENT OF JUSTICE
FARA REGISTRATION UNIT
NATIONAL SECURITY DIVISION
WASHINGTON, D.C. 20530

NOTICE

Please answer the following questions and return this sheet in triplicate with your Supplemental Statement:

1. Is your answer to Item 16 of Section V (Informational Materials – page 8 of Form CRM-154, formerly Form OBD-64-Supplemental Statement):

YES _____^x_____ or NO _____

(If your answer to question 1 is "yes" do not answer question 2 of this form.)

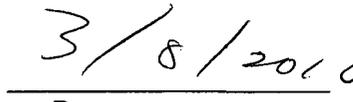
2. Do you disseminate any material in connection with your registration:

YES _____ or NO _____

(If your answer to question 2 is "yes" please forward for our review copies of all material including: films, film catalogs, posters, brochures, press releases, etc. which you have disseminated during the past six months.)



Signature



Date

Stephan E. Becker

Please type or print name of
Signatory on the line above

Partner

Title

CRM/ISS/REGISTRATION UNIT
2010 MAR -8 PM 4: 37



U.S. Department of Justice

National Security Division

Washington, DC 20530

THIS FORM IS TO BE AN OFFICIAL ATTACHMENT TO YOUR CURRENT SUPPLEMENTAL
STATEMENT - PLEASE EXECUTE IN TRIPLICATE

SHORT-FORM REGISTRATION INFORMATION SHEET

SECTION A

The Department records list active short-form registration statements for the following persons of your organization filed on the date indicated by each name. If a person is not still functioning in the same capacity directly on behalf of the foreign principal, please show the date of termination.

Short Form List for Registrant: Pillsbury Winthrop Shaw Pittman, LLP

Last Name	First Name and Other Names	Registration Date	Termination Date	Role
Becker	Stephan E.	02/13/2002		
Epstein	Anita K.	04/09/1998		
Cynamon	David J.	08/07/2006		
MacLean	Matthew	08/07/2006		

2010 MAR -8 PM 4:38
CRM/ISS/REGISTRATION UNIT



U.S. Department of Justice

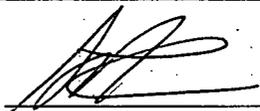
National Security Division

Washington, DC 20530

SECTION B

In addition to those persons listed in Section A, list below all current employees rendering services directly on behalf of the foreign principals(s) who have not filed short-form registration statements. (Do not list clerks, secretaries, typists or employees in a similar or related capacity). If there is some question as to whether an employee has an obligation to file a short-form, please address a letter to the Registration Unit describing the activities and connection with the foreign principal.

Name	Function	Date Hired

Signature: 

Date: 3/8/2010

Title: Partner

2010 MAR -8 PM 4:38
CRM/ISS/REGISTRATION UNIT

Exhibit 1

Question 2(b)(2): "Has there been a change in the information previously furnished in connection with the [ownership or control of the organization?]"

Question 4(a): "Have any persons ceased acting as partners, officers, directors or similar officials of the registrant during this 6 month reporting period?"

Departure of partners at Pillsbury Winthrop Shaw Pittman LLP from August 1, 2009 through January 31, 2010:

Name	Residence	Citizen Status	Position	Date Departed
Thomas A. Cawley Jr.	22522 Forest Run Drive Ashburn, VA 20148-6937	USA	Partner	10/30/09
Jerone J. English	66 18th Street Hermosa Beach, CA 90254	USA	Partner	9/11/09
Richard S. Franklin	19098 Boyer Fields Place Leesburg, VA 20176	USA	Partner	1/15/10
Michelle R. Hallsten	3380 Sierra Oaks Drive Sacramento, CA 95864	USA	Partner	8/21/09
Marla A. Hoehn	1104 Phyllis Avenue Mountain View, CA 94040	USA	Partner	12/4/09
Clifford C. Hyatt	2621 N. Commonwealth Ave Los Angeles, CA 90027	USA	Partner	1/31/10
Kevin T. Kramer	419 Queen Street Alexandria, VA 22314	USA	Partner	9/11/09
Richard Liebeskind	1654 34th Street NW Washington, DC 20007	USA	Partner	11/20/09
Toru Nakahara	1380 Veteran Avenue #208 Los Angeles, CA 90024	USA	Partner	12/31/09
Denis Petkovic	The Old Vicarage Church Street Cambridge, CB4 9EP	AUS	Partner	12/15/09
Jeffrey S. Ross	44 Grattan Street San Francisco, CA 94117	USA	Partner	9/17/09
Lawrence A. Schultis	1050 Loudoun Drive Haymarket, VA 20169	USA	Partner	1/22/10
Bo Yaghmaie	16 East 71st Street #F New York, NY 10021	USA	Partner	10/30/09

2010 MAR -8 PM
RM/ISS/REGISTRATION

Exhibit 2

Question 2(b)(2): "Has there been a change in the information previously furnished in connection with the [ownership or control of the organization?]"

Question 4(b): "Have any persons become partners, officers, directors or similar officials during this 6 month reporting period?"

New partners at Pillsbury Winthrop Shaw Pittman LLP from August 1, 2009 through January 31, 2010:

Name	Residence	Citizen Status	Position	Date Assumed
Ian Ferguson	19 McKay Road Wimbledon London SW20 0HT	GBR	Partner	9/7/09
Marjorie P. Fisher	11921 Ledgerock Court Potomac, MD 20854	USA	Partner	1/1/10
Jay D. Kelley	3729 Ella Lee Houston, TX 77027	USA	Partner	2/5/10
Michael G. Lepre	1448 Laburnum Street McLean, VA 22101	USA	Partner	1/1/10
Brian D. Martin	4455 Vereda Luna Llana San Diego, CA 92130	USA	Partner	1/1/10
René L. Siemens	676 S Bronson Avenue Los Angeles, CA 90005	USA	Partner	2/18/10
Michael J. Sullivan	59 Woodland Avenue San Francisco, CA 94117	USA	Partner	11/23/09
Philip Jonathan Tandler	2285 Cedar Street Berkeley, CA 94709	USA	Partner	1/1/10

Exhibit 3

Question 11: “During this 6 month reporting period, have you engaged in any activities for or rendered any services to any foreign principal named in Items 7, 8 and 9 of this statement?”

A. Activity on behalf of *Secretaria de Economia* (“Economia”) during the period August 1, 2009 to January 31, 2010:

Pillsbury Winthrop Shaw Pittman LLP (“Pillsbury”) provided law firm services to Economia during the reporting period. In addition, Pillsbury engaged in “political activities,” as defined in the Foreign Agents Registration Act, on behalf of Economia on certain occasions, as discussed below in Question 12.

B. Activity on behalf of *International Counsel Bureau, Kuwaiti Counsel for the Families of Kuwaiti Citizens at Guantanamo Bay* (“ICB”) during the period August 1, 2009 to January 31, 2010:

During the reporting period, Pillsbury principally provided law firm services to ICB. In addition, Pillsbury engaged in “political activities” on behalf of ICB on certain occasions, as discussed below in response to Question 12.

Question 12: “During this 6 month reporting period, have you on behalf of any foreign principal engaged in political activity as defined below?”

A. Political activity on behalf of Economia during the period August 1, 2009 to January 31, 2010:

Date	Contact	Subject
8/14/09	Disseminate information to E. Perez, staff for Gov. Perry, and T. Martinez, staff for Gov. Richarson	U.S. – Mexico cross border trucking
8/24/09	Disseminate information to P. Gonzales and C. Cushing, staff for Gov. Brewer	U.S. – Mexico cross border trucking
8/26/09	Disseminate information to M. Emmerman, staff for Gov. Brewer	U.S. – Mexico cross border trucking

B. Political activity on behalf of ICB during the period August 1, 2009 to January 31, 2010:

Date	Contact	Subject
8/10/09	Interview with WNYC	Detainee Issues
9/25/09	Disseminate court decision to various members of the media	Detainee Issues
10/13/09	Disseminate court decision to various members of the media	Detainee Issues
10/29/09	Communication with C. Rosenberg, Miami Herald	Detainee Issues
10/30/09	Communications with Senate Armed Services Committee, Sens. Boren and Hagel, DOD, DOJ and DNI Inspectors General	Detainee Issues
12/14/09	Communication with DNI Inspector General	Detainee Issues
12/15/09	Communications with DOD and DOJ Inspectors General	Detainee Issues

Exhibit 4

Question 14(a): “During this 6 month reporting period, have you received from any foreign principal named in Items 7, 8, and 9 of this statement, or from any other source, for or in the interests of any such foreign principal, any contributions, income or money either as compensation or otherwise?”

A. Activity on behalf of Economia during the period August 1, 2009 to January 31, 2010:

(i) Compensation for services rendered in connection with “political activities” as defined in the Foreign Agents Registration Act:

Date	From Whom	Purpose	Amount	
11/18/09	Economia	Fees	\$	2,557.50
Total:			\$	2,557.50

(ii) Compensation for services *not* associated with “political activities” as defined by the Act:

Date	From Whom	Purpose	Amount	
9/28/09	Economia	Fees	\$	121,160.33
9/30/09	Economia	Fees	\$	23,564.50
10/29/09	Economia	Fees	\$	42,429.00
11/18/09	Economia	Fees	\$	21,930.00
12/14/09	Economia	Fees	\$	73,211.07
Total:			\$	282,294.90

(iii) Compensation for general expenses incurred (whether or not associated with “political activities”):

Date	From Whom	Purpose	Amount	
9/28/09	Economia	Expenses	\$	1,388.96
9/30/09	Economia	Expenses	\$	562.72
10/29/09	Economia	Expenses	\$	38.12
11/18/09	Economia	Expenses	\$	174.85
12/14/09	Economia	Expenses	\$	6,110.55
Total:			\$	8,275.20

B. Activity on behalf of ICB during the period August 1, 2009 to January 31, 2010:

(i) Compensation for services rendered in connection with “political activities” as defined in the Foreign Agents Registration Act:

Date	From Whom	Purpose	Amount	
8/10/09	ICB	Fees	\$	2,771.00
9/28/09	ICB	Fees	\$	2,370.25
Total:			\$	5,141.25

(ii) Compensation for services *not* associated with “political activities” as defined by the Act:

Date	From Whom	Purpose	Amount	
8/10/09	ICB	Fees	\$	368,898.50
9/28/09	ICB	Fees	\$	1,004,369.75
Total:			\$	1,373,268.25

(iii) Compensation for general expenses incurred (whether or not associated with “political activities”):

Date	From Whom	Purpose	Amount	
8/10/09	ICB	Fees	\$	19,649.83
9/28/09	ICB	Fees	\$	112,270.35
Total:			\$	131,920.18

2010 MAR -8 PM 4:38
CRM/ISS/REGISTRATION UNIT

Exhibit 5

Question 15(a)(1): “During this 6 month reporting period, have you disbursed or expended monies in connection with activity on behalf of any foreign principal named in Items 7, 8, and 9 of this statement?”

A. Summaries of disbursements on behalf of *Economia* during the period August 1, 2009 to January 31, 2010 are provided below.

Economia		
August 2009		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	446.54
Salaries	\$	0.00
Travel and Local Transportation	\$	0.00
Meals – Meetings	\$	0.00
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	446.54

Economia		
September 2009		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	2010.80
Salaries	\$	0.00
Travel and Local Transportation	\$	44.35*
Meals – Meetings	\$	0.00
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	2,055.15

*** These expenses were incurred for local travel around Washington, DC.**

Economia		
October 2009		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	965.47
Salaries	\$	0.00
Travel and Local Transportation	\$	0.00
Meals – Meetings	\$	0.00
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	965.47

Economia		
November 2009		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	255.10
Salaries	\$	0.00
Travel and Local Transportation	\$	0.00
Meals – Meetings	\$	0.00
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	255.10

Economia		
December 2009		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	427.18
Salaries	\$	0.00
Travel and Local Transportation	\$	0.00
Meals – Meetings	\$	0.00
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	427.18

Economia		
January 2010		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	0.00
Salaries	\$	0.00
Travel and Local Transportation	\$	36.00*
Meals – Meetings	\$	0.00
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	36.00

*** These expenses were incurred for local travel around Washington, DC.**

B. Itemized summaries of disbursements on behalf of ICB during the period August 1, 2009 to January 31, 2010 are provided below.

ICB		
August 2009		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	25,509.00*
Salaries	\$	0.00
Travel and Local Transportation	\$	607.00**
Meals – Meetings	\$	0.00
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	26,116.00

*** Includes \$23,624.16 in translation services associated with litigation on behalf of our clients held at Guantanamo Bay.**

**** Travel and Local Transportation – Costs correspond to travel within and around Washington, DC by Pillsbury attorneys David Cynamon and Matthew MacLean. The purpose of this travel was to prepare for and participate in hearings on behalf of the firm’s clients held at Guantanamo Bay. No Government officials or media representatives were guests in connection with this travel.**

ICB		
September 2009		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	16,137.46*
Salaries	\$	0.00
Travel and Local Transportation	\$	1,960.00**
Meals – Meetings	\$	491.96**
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	18,589.42

*** Includes \$13,727.98 in translation services associated with litigation on behalf of our clients held at Guantanamo Bay.**

**** Travel, Local Transportation and Meals – Costs correspond to travel to Guantanamo Bay taken between Sept. 29 and Sept. 30, 2009 by Pillsbury attorneys David Cynamon and Matthew MacLean. The purpose of this travel was to meet with our clients to discuss litigation matters. No Government officials or media representatives were guests in connection with this travel.**

ICB		
October 2009		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	10,558.25*
Salaries	\$	0.00
Travel and Local Transportation	\$	3,847.70**
Meals – Meetings	\$	191.85**
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	14,597.80

*** Includes \$7,604.70 in translation services associated with litigation on behalf of our clients held at Guantanamo Bay.**

**** Travel, Local Transportation and Meals – Costs correspond to travel to Guantanamo Bay taken between Oct. 1 and Oct. 2, 2009 by Pillsbury attorneys David Cynamon and Matthew MacLean. The purpose of this travel was to meet with our clients to discuss litigation matters. No Government officials or media representatives were guests in connection with this travel.**

ICB		
November 2009		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	2,335.14
Salaries	\$	0.00
Travel and Local Transportation	\$	133.00*
Meals – Meetings	\$	30.14*
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	2,498.28

*** Travel, Local Transportation and Meals – Costs correspond to travel within and around Washington, DC by Pillsbury attorneys David Cynamon and Matthew MacLean. The purpose of this travel was to attend meetings and travel to secure facility to review classified information on behalf of the firm’s clients held at Guantanamo Bay. No Government officials or media representatives were guests in connection with this travel.**

ICB		
December 2009		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	19,029.74*
Salaries	\$	0.00
Travel and Local Transportation	\$	1,284.00**
Meals – Meetings	\$	168.66**
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	20,482.40

*** Includes \$14,524.49 in translation services associated with litigation on behalf of our clients held at Guantanamo Bay.**

**** Travel, Local Transportation and Meals – Costs correspond to travel to Guantanamo Bay taken between Dec. 1 and Dec. 4, 2009 by Pillsbury attorneys David Cynamon and Matthew MacLean. The purpose of this travel was to meet with our clients to discuss litigation matters. No Government officials or media representatives were guests in connection with this travel.**

ICB		
January 2010		
Cost Type	Amount	
Office Expenses (includes computer research, document processing, postal and delivery services, court costs, translation services and telecommunications costs)	\$	1,180.74
Salaries	\$	0.00
Travel and Local Transportation	\$	150.00*
Meals – Meetings	\$	79.86*
Entertainment	\$	0.00
Advertising	\$	0.00
Public Relations	\$	0.00
TOTAL	\$	1,410.60

*** Travel, Local Transportation and Meals – Costs correspond to travel to Guantanamo Bay taken between Jan. 11 and Jan. 14, 2010 by Pillsbury attorneys David Cynamon and Matthew MacLean. The purpose of this travel was to meet with our clients to discuss litigation matters. No Government officials or media representatives were guests in connection with this travel. Note that airfare or other expenses for this travel may be disbursed by the firm in other months.**

2010 MAR - 8 PM 4: 38
SRM/ISS/REGISTRATION UNIT

APPENDIX A

From: Epstein, Anita K.
Sent: Friday, August 14, 2009 10:42 AM
To: Martinez, Tony, GOV
Subject:

Tony:

Here it is. Let me know if there is anything else you need. By the way, when do you start your new job.

Do you have any time to do lunch next week?



Barack Obama
(2).pdf (49 KB)

2010 MAR -8 PM 4:38
CRM/ISS/REGISTRATION UNIT

From: Epstein, Anita K.
Sent: Monday, August 24, 2009 2:42 PM
To: Chris Cushing
Subject: Barack Obama (2).pdf

Here as promised is the letter to the President. Is there anything else I promised?

I will hold off on the counties for a bit. Thank you so much for everything.



Barack Obama
(2).pdf (49 KB)

2010 MAR -8 PM 4: 39
CRM/ISS/REGISTRATION UNIT

From: anepstein@msn.com
To: memmermann@az.gov
Subject: U.S.-Mexico Trucking Issue
Date: Wed, 26 Aug 2009 11:53:25 -0400

Margie:

It was great talking to you today.

As promised, I've attached material on the cross-border trucking issue, starting with a draft letter from the Border Governors to the President and the newest research on the issue (by the Congressional Research Service) showing that Mexican trucks and drivers have safety records that are comparable -- and in some cases better -- than U.S. truckers.

I've also included three other brief documents that debunk myths about the issues and provide a chronology of the dispute.

Let me know if there's anything else I can do -- and please let me know the next time you're in Washington so we can catch up on what's been happening in our lives.

Best,
Anita

Anita Epstein
301 Ellsworth Drive
Silver Spring, MD 20910
(301) 495-5864

The Honorable Barack H. Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear President Obama:

We are writing to express our concern about the long delay in resolving the U.S.-Mexico dispute over cross-border trucking. In these difficult times, our states are suffering enough without having to bear the additional pain resulting from Mexico's understandable tariffs on U.S. goods,

Prompted by the 14-year violation of the U.S. commitment to let Mexican trucks deliver international cargo throughout our nation, Mexico's long-authorized retaliatory levies are hurting exports from many part of our nation. They are particularly damaging, however, to workers and businesses in our border states, which rely disproportionately on exports to our southern neighbor.

Some U.S. interests, of course, have claimed for years that Mexico's trucks were not safe. Mexico, therefore, patiently agreed to a test program to disprove that claim – a program that imposed higher safety standards on Mexican trucks than on those from the United States or Canada.

After more than 45,000 Mexico-U.S. truck crossings, an interim report on the demonstration effort – conducted by the U.S. Department of Transportation's Inspector General – indicated that Mexican trucks were in fact *safer* than their U.S. counterparts. Yet the Congress still insisted on cutting off all funding for the test program.

We admire the commitment you made months ago to resolve this dispute in a manner that is consistent with U.S. promises made in 1995 in the North American Free Trade Agreement. We urge you now to halt the needless suffering of our citizens by implementing that commitment as swiftly as possible.

Sincerely,



North American Free Trade Agreement (NAFTA) Implementation: The Future of Commercial Trucking Across the Mexican Border

John Frittelli
Specialist in Transportation Policy

May 6, 2009

2010 MAR -8 PM 4: 39
CRM/ISS/REGISTRATION UNIT

Congressional Research Service

7-5700

www.crs.gov

RL31738

CRS Report for Congress

Prepared for Members and Committees of Congress

Summary

NAFTA set forth a schedule for implementing its trucking provisions that would have opened the border states to cross-border trucking competition in 1995 and all of North America in 2000, but full implementation has been stalled because of concern with the safety of Mexican trucks. Congress first addressed these concerns in the FY2002 Department of Transportation Appropriations Act (P.L. 107-87) which set 22 safety-related preconditions for opening the border to long-haul Mexican trucks. In November 2002, the U.S. Department of Transportation announced that all the preconditions had been met and began processing Mexican applications for U.S. long-haul authority. However, a suit over environmental compliance delayed implementation further. After the suit was resolved, in February 2007, the U.S. and Mexican Secretaries of Transportation announced a demonstration project to implement the NAFTA trucking provisions. The purpose of the project was to demonstrate the ability of Mexico-based motor carriers to operate safely in the United States beyond the border commercial zones. Up to 100 Mexico-domiciled carriers would be allowed to operate throughout the United States for one year and Mexico would allow the same for up to 100 U.S.-based carriers. With passage of the U.S. Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110-28), Congress mandated additional requirements before the project could begin. After failing to defund the demonstration project in the FY2008 Consolidated Appropriations Act (P.L. 110-161), Congress succeeded in terminating the demonstration project through a provision in the FY2009 Omnibus Appropriations Act (P.L. 111-8). Subsequently, Mexico announced it would retaliate by increasing import duties on 90 U.S. products. The Obama Administration has indicated it intends to propose a revamped program that will address the concerns of Congress.

One truck safety statistic, "out-of-service" rates, indicates that Mexican trucks operating in the United States are now safer than they were a decade ago. The data indicate that Mexican trucks and drivers have a comparable safety record to U.S. truckers. Another study indicates that the truck driver is usually the more critical factor in causing accidents than a safety defect with the truck itself. Service characteristics of long-haul trucking suggest that substandard carriers would likely not succeed in this market. As shipment distance increases, the relative cost of trucking compared to rail increases, and thus shippers utilizing long-haul trucking are willing to pay more because they require premium service, such as precise delivery windows or cargo refrigeration. These exacting service requirements would seem to disqualify truckers with unreliable equipment or incompetent drivers. In contrast, the short-haul "drayage" carriers that Mexican long-haul carriers would displace, typically use older equipment because of the many hours spent idling awaiting customs processing at the border. If Mexican carriers do eventually receive long-haul authority, the short term impact is expected to be gradual as Mexican firms deal with a number of stumbling blocks, including lack of prearranged back hauls and higher insurance and capital costs, in addition to the customs processing delays. In the long run, use of drayage companies is likely to decline as they lose part of their market share to Mexican long-haul carriers. The most common trips for these carriers will probably be from the Mexican interior to warehouse facilities on the U.S. side of the border or to nearby cities in the border states.

Issues for Congress include evaluating the Obama Administration's pending proposal and evaluating the safety record of Mexican trucks. Other oversight issues include whether the role of Mexican customs brokers and drayage operators in cross-border trade is a barrier against U.S. trucking firms, and the leasing of Mexican trucks and drivers by U.S. firms for use in the United States.

Contents

NAFTA's Commercial Trucking Provisions: Background and Implementation History	1
Demonstration Project Results After One Year	5
Truck Safety Linkage to Service Characteristics	5
"Long-Haul" Trucking Defined	6
Short-Haul Trucking Over the Border	7
Determinants of U.S. Truck Safety and Applicability to Mexican Carriers	7
Mexican Truck Out-of-Service Rates Comparable to U.S. Trucks	9
Cross-Border Trucking Operations: An Overview	10
The Scope of Cross-Border Truck Traffic	10
Cross-Border Commercial Trucking: The Trade Flow Process	13
Mexico-U.S. Crossings	13
U.S.-Mexico Crossings	14
The Maquiladora Exception	15
Hazardous Materials and Agricultural Trade	15
The Border's Distinctive Institutions: Drayage and Mexican Customs Brokers	16
Drayage: Deadheads and Bobtails	16
Mexican Customs Brokers	17
Traffic Congestion	18
Mexican Trucks Illegally Operating Beyond the Border Zone	18
The Outlook for Commercial Trucking Under NAFTA	18
The Short Term: Expectations and Limitations	19
The Short Term Prospects for Mexican Long-Haul Trucking in the United States	19
The Short Term Prospects for U.S. Long-Haul Trucking in Mexico	21
The Short Term Outlook	21
The Long Term: Business Structure and Competition	22
The Cross-Border Business Paradigm	22
The Low Cost Producer: Time and Distance Is Money	24
The Distinctive Institutions	26
Caveat	26
Congressional Issues	26

Figures

Figure 1. Incoming Truck Movements from Mexico (thousands), 1987-2007	11
Figure 2. Top Ports for Transborder Merchandise Freight by Truck: 2006	12

Tables

Table 1. Roadside Inspections of Trucks Operating in the United States by Country of Domicile: 2004 to 2008	10
---	----

Contacts

Author Contact Information 28

NAFTA's Commercial Trucking Provisions: Background and Implementation History

NAFTA set forth a schedule for implementation of its trucking provisions that would have opened the border states to cross-border trucking competition on December 17, 1995, and all of North America on January 1, 2000. However, because of known safety concerns with Mexican trucks, the provisions were never implemented. The U.S. Department of Transportation (U.S. DOT) decided that until safety concerns about Mexican trucks were resolved, the trucks would continue to be restricted to the commercial zones just along the border. (These commercial zones generally extend from about 3 miles to 20 miles into the United States at official ports of entry so that Mexican trucks, after clearing customs, can continue on to make local deliveries).¹ Mexican trucks, inspected from January 1996-December 1996, were put out of service 45% of the time compared to a U.S. truck out-of-service rate of 28%.² At the time, Mexican drivers operated without hours-of-service limits and maintained no driver log books. In addition, Mexican trucks reportedly were not required to have front brakes and were allowed a gross vehicle weight 17,000 pounds heavier than allowed on U.S. roads. The wage differential between Mexican and U.S. long-haul drivers was also an issue of concern. Some labor unions and their supporters expressed concerns that the wage differential would lead to a loss of jobs for U.S. commercial truck drivers, especially in the border states and along the major highway trade corridors in the United States.

Despite ongoing bilateral consultations aimed at bringing the Mexican trucks and drivers up to U.S. safety requirements, no agreement was reached and in 1998 Mexico protested the postponement of NAFTA trucking provisions under NAFTA dispute settlement procedures. The final report of the arbitration panel concluded that the blanket refusal to process the applications of Mexican motor carriers was in breach of the NAFTA obligations of the United States and that alleged deficiencies in Mexico's regulation of commercial trucking did not relieve the United States of its treaty obligations. The panel did, however, state that the United States could subject Mexican carriers to different requirements than those that apply to U.S. and Canadian carriers.³

The Bush Administration originally set the end of 2001 as a goal for the U.S. Federal Motor Carrier Safety Administration (FMCSA) to begin processing Mexican applications seeking operating authority throughout the United States. Congress, however, included 22 preconditions for opening the border beyond the commercial zone to Mexican trucking in the FY2002 Department of Transportation Appropriations Act (P.L. 107-87). Among the 22 preconditions in the act were the following requirements:⁴

¹ The commercial zone is defined at 49 CFR 372, subpart B. A map of the zones and further details are available at <http://ai.fmcsa.dot.gov/International/border.asp?redirect=commzone.asp>.

² Roadside inspectors target trucks that appear to have a deficiency, so out-of-service rates would be higher than if trucks were randomly chosen for a roadside inspection. U.S. General Accounting Office (now the U.S. Government Accountability Office). *Commercial Trucking: Safety Concerns About Mexican Trucking Remain*. GAO/RECD 97-68. Washington, GAO, 1997. p. 1-4. See also U.S. DOT, Office of the Inspector General, *Motor Carrier Safety at the U.S.-Mexico Border*, Report Number: MH-2001-096, Washington, 2001. The IG found that the Mexican out-of-service rate had improved to 37% for FY2000.

³ North American Free Trade Agreement Arbitral Panel Established Pursuant to Chapter Twenty in the Matter of Cross-Border Trucking Services; Final Report of the Panel. Washington, NAFTA Secretariat, 2001. p. 81-82. Available at http://www.nafta-sec-alena.org/app/DocRepository/1/Dispute/english/NAFTA_Chapter_20/USA/ub98010e.pdf.

⁴ U.S. Federal Motor Carrier Safety Administration final rules for implementation of the NAFTA trucking provisions (continued...)

- all Mexican motor carriers must undergo U.S. DOT safety examinations prior to being granted provisional operating authority, with at least 50% of such carrier examinations to be conducted on-site in Mexico;
- Mexican carriers applying to operate beyond the commercial zone must have a distinctive U.S. DOT number (that distinguishes them from Mexican trucks certified to operate within the zone only) and must undergo safety monitoring initially and during an 18-month provisional period;
- Mexican motor carriers must all pass a full safety compliance review prior to receiving permanent operating authority;
- federal and state inspectors must verify the validity of the license of every driver carrying hazardous materials or undergoing a Level I safety inspection, as well as the licenses of 50% of all other drivers;
- Mexican carriers, operating under provisional authority, and for three years after receiving permanent authority, must display a Commercial Vehicle Safety Alliance inspection decal (which are good for 90 days), verifying satisfactory completion of a safety inspection;
- weigh-in-motion scales must be installed at the ten highest volume crossings;
- Mexican trucks may only cross at border crossings where a certified motor carrier safety inspector is on duty; and
- a number of other safety reviews and studies must take place.

These requirements are in addition to requirements that predate the enactment of P.L. 107-87, including requirements that Mexican carriers meet all U.S. safety (hours of service and log book rules, alcohol and drug tests, etc.) and insurance requirements.⁵

On November 27, 2002, then Secretary of Transportation, Norman Y. Mineta, announced that all the preconditions mandated in the FY2002 Appropriations Act had been met and directed the FMCSA to act on the applications of Mexican motor carriers seeking authority to transport international cargo beyond the U.S. border commercial zones.⁶ On January 16, 2003, however, the Ninth Circuit Court of Appeals, in *Public Citizen v. Department of Transportation*, delayed implementation pending completion of a National Environmental Policy Act (NEPA) environmental impact statement (EIS) and a Clean Air Act (CAA) conformity determination. FMCSA began the EIS process and has also filed a petition asking the Supreme Court to review the 9th Circuit Court decision in *Public Citizen v. DOT*.⁷ On June 7, 2004, the Court reversed the 9th Circuit Court's decision.⁸

(...continued)

may be found at http://www.fmcsa.dot.gov/rulesregs/mexican/Part_365.pdf; http://www.fmcsa.dot.gov/rulesregs/fmcsr/final/Safety_certification.pdf; and http://www.fmcsa.dot.gov/rulesregs/mexican/Parts_368_and_387.pdf.

⁵ Mexican carriers, planning only to operate in the commercial zone along the border, had to apply by October 20, 2003, for provisional Certificates of Registration. FMCSA made efforts to publicize this deadline to new and existing Mexican commercial zone certificated carriers. The provisional Certificate cannot be made permanent for at least 18 months, until the carrier has passed a safety audit.

⁶ U.S. Department of Transportation. U.S. Transportation Department implements NAFTA Provisions for Mexican Trucks, Buses. Available at <http://www.fmcsa.dot.gov/contactus/press/2002/112702.htm>.

⁷ See U.S. Federal Motor Carrier Safety Administration. *NAFTA Environmental Analysis*. Available at (continued...)

In January 2005, the U.S. DOT Inspector General (DOT IG) issued a report that the FMCSA had sufficient staff, facilities, equipment, and procedures in place to substantially meet eight of the 22 requirements which Congress had requested the DOT IG to review as specified in section 350 of the DOT FY2002 Appropriations Act (P.L. 107-87).

In February 2007, the U.S. and Mexican Secretaries of Transportation announced a demonstration project to implement certain NAFTA trucking provisions. As stated in the Federal Register on May 1, 2007,⁹ the project was to demonstrate the ability of Mexico-based motor carriers to operate safely in the United States beyond the commercial zones. This would be accomplished by the Mexican-based carriers adopting certain safety programs and by the monitoring and enforcement activities established by U.S. DOT. Up to 100 Mexico-domiciled carriers would be allowed to operate throughout the United States for one year and Mexico would allow the same for up to 100 U.S.-based carriers. The Mexican carriers and truck drivers were required to comply with all U.S. regulations applicable to trucking, including those related to safety, customs, immigration, vehicle registration and taxation, and fuel taxation. These trucks were to be carefully monitored by FMCSA and state law enforcement, a joint U.S.-Mexico monitoring group, and an independent U.S. evaluation panel. Data would be collected and evaluated at the end of the demonstration project before considering further implementation of NAFTA trucking provisions.

On April 30, 2007 the U.S. DOT announced that the demonstration project would not start until Mexico was ready with its reciprocal program to allow U.S.-trucks into Mexico.¹⁰

On May 24, 2007, with passage of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110-28, section 6901), Congress mandated additional requirements before the project could begin. Among them was the requirement that Mexico have its program to allow U.S. trucks to cross into Mexico ready to proceed, that the FMCSA first seek public comment on five aspects of the demonstration project, that the demonstration project meet the same requirements of a "pilot program" as defined at 49 U.S.C. 31315(c), and that the DOT IG review the U.S. DOT's program as to whether sufficient measures were in place to ensure the safety of Mexican trucks.¹¹ This act also prohibited Mexican carriers of hazardous materials and buses from participating in the demonstration project. On August 17, 2007, the FMCSA announced its intent to proceed with the project, once the DOT IG issued its review.¹² On September 6, 2007, the DOT IG issued his report and U.S. DOT issued a letter to Congress addressing the issues raised by the DOT IG. The demonstration project began the same day.

(...continued)

<http://www.fmcsa.dot.gov/naftaeis/>; U.S. Department of Justice. Office of the Solicitor General. *United States Department of Transportation, et al., Petitioners v. Public Citizen, et al., on Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit*. Docket no. 03-358. Washington, the Department. 27 p. Available at <http://www.usdoj.gov/osg/briefs/2003/2pet/7pet/2003-0358.pet.aa.pdf>; See also DOJ Supreme Court Appeal in Mexico Truck Case Puzzles Activists. *INSIDE Cal/EPA*. Sept. 12, 2003. p. 14.

⁸ The Supreme Court's decision reversing the 9th Circuit Court's decision is available at <http://supct.law.cornell.edu/supct/pdf/03-358P.ZO>.

⁹ 72 FR 23883.

¹⁰ U.S. DOT Press Release, DOT 43-07, April 30, 2007.

¹¹ see 72 FR 31877-31894, June 8, 2007 for the request for public comment.

¹² see 72 FR 46263 – 46289, August 17, 2007.

On September 27, 2007, U.S. DOT announced that it would outfit long-haul Mexican trucks operating in the United States with GPS devices (as well as U.S.-based long-haul carriers operating in Mexico) in order to enforce hours-of-service and cabotage¹³ prohibitions, as well as to time and date stamp border and state crossings. The U.S. DOT entered into a contract with the DOD for \$500,000 to install these devices and as of October 2008, almost all of the Mexican trucks participating in the demonstration project had been outfitted. The U.S. DOT did not pay for full GPS capability; the GPS units provide periodic (every 30 minutes or more) tracking “pings” instead of continuous tracking.

In December 2007, Congress passed the FY2008 Consolidated Appropriations Act (P.L. 110-161) which included a provision prohibiting any funding from being used “to establish” a cross-border trucking program. The Administration concluded that the demonstration project could continue because it had already been established. The Teamsters Union and environmental groups filed suit in the 9th Circuit Court of Appeals in San Francisco and in oral arguments in February 2008 argued that the demonstration project should end, but a decision is still pending.

On March 11, 2008, marking six months of the project, the U.S. DOT testified before the Senate Commerce Committee regarding the demonstration project and stated that FMCSA was “checking”¹⁴ 100% of the long-haul Mexican carriers as they crossed the border to check that the vehicles have the proper safety decals (as a result of passing a pre-authority safety audit), the driver has a valid license, and that the driver is proficient in English.¹⁵ (Statutorily, the FMCSA is only required to check 50% of the drivers at the border for a valid license). A Mexican driver’s English proficiency is tested by asking a series of questions in English and requiring the driver to answer in English. The driver is also shown a set of U.S. road signs and the driver must explain their meaning in either English or Spanish. The U.S. DOT also stated that since 1995, the FMCSA had spent more than \$500 million to improve border inspection stations and hired 125 federal safety inspectors, 149 auditors and investigators, and that the southern border states had hired an additional 349 inspectors. The DOT IG also issued a six month interim report.¹⁶

On August 4, 2008 the U.S. DOT announced a two year extension of the project because only 29 Mexican carriers had participated thus far.

In October 2008, an independent evaluation panel (IEP) appointed by the FMCSA released its report evaluating the demonstration project after one year.¹⁷ The panel consisted of a former U.S. Representative, a former U.S. DOT Deputy Secretary, and a former DOT IG.

In March 2009, Congress passed the FY2009 Omnibus Appropriations Act (P.L. 111-8), which included a provision with unequivocal language terminating the demonstration project. In response to the abrupt end of the program, the Mexican government announced that it would

¹³ Mexican-based carriers are not allowed to transport cargo from a U.S. origin to a U.S. destination, i.e. engage in U.S. domestic transport of cargo.

¹⁴ The FMCSA used the word “checking” to describe this process because it is different than the process associated with an “inspection” which is defined in regulations.

¹⁵ Written statement of Mary E. Peters, Secretary of Transportation, before the Senate Committee on Commerce, Science, and Transportation, March 11, 2008.

¹⁶ DOT IG, Report # MH-2008-040.

¹⁷ Independent Evaluation Panel (IEP) Report to the U.S. Secretary of Transportation, U.S.- Mexico Cross-Border Trucking Demonstration Project, October 31, 2008. The report is available at <http://www.dot.gov/affairs/PanelReport.pdf>.

retaliate by increasing duties on 90 U.S. products with an import value of \$2.4 billion. The tariffs, effective as of March 19, 2009, range from 10% to 45% and cover a range of products that include fruit, vegetables, home appliances, consumer products, and paper.¹⁸ The Obama Administration has stated it is working on a new program to satisfy the concerns of Congress and the country's NAFTA commitments.¹⁹

Demonstration Project Results After One Year

At the close of the first year of the demonstration project (September 6, 2008), 29 Mexican carriers had received long-haul authority to operate in the United States and 118 Mexican trucks were pre-inspected on-site in Mexico as part of the pre-approval process. These 29 Mexican carriers indicated they intended to use about 110 different drivers for long-haul moves into the United States. Two of the Mexican carriers subsequently withdrew from the program and two carriers never sent any trucks to the border. During the year, the participating firms' trucks crossed the border 12,516 times to make U.S. deliveries. To put this number in perspective, in 2007, 4.8 million Mexican trucks crossed the border, about 20,000 crossings per weekday.

About 775 Mexican carriers submitted applications to participate in the project, of these:

- 340 applications were rejected because they were incomplete;
- 138 carriers were rejected after initial review because of alleged security issues, they intended to carry hazardous material or passengers, or because they had unpaid FMCSA penalties or other unresolved safety issues;
- 297 applications were put on hold because the carrier could not be reached at the contact information provided or because when contacted the applicant had decided not to further pursue long-haul authority; and
- of the 100 carriers that had undergone the Pre-Authorization Safety Audit (PASA), 32 failed the audit.

As of August 6, 2008, ten U.S. carriers were participating in Mexico's reciprocal project. These carriers were operating 55 trucks making 2,245 trips into Mexico.²⁰

Truck Safety Linkage to Service Characteristics

The average value of the cargo in a truck from Mexico is about \$50,000. The cost of transporting that cargo is a small fraction of the cargo's value. While price is important when choosing a trucker, the buyer or seller of the cargo (the Mexican exporter or U.S. importer) is equally concerned with the trucker's reliability and performance. To save a few dollars in trucking costs, a shipper is not likely to risk loss of the cargo or damage to it because the truck crashed, nor risk a

¹⁸ For further information on the U.S.-Mexico trade relationship, see CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

¹⁹ The White House, Office of the Press Secretary, Press Briefing by Press Secretary Robert Gibbs, March 16, 2009. See also, Lisa Caruso, "Jump Starting Mexico's Trucks," *The National Journal*, March 28, 2009; and "LaHood To Share Mexico Trucking Proposal With Congress Soon," *Inside U.S. Trade*, May 1, 2009.

²⁰ 73 FR 45797, August 6, 2008.

missed delivery because the trucker was put out of service at a roadside safety inspection. Because long-haul truck cargo is typically higher value and time sensitive, reliability and performance is even more critical for long-haul truckers. While trucks carrying any type of cargo can be involved in an accident, the safety record of different categories of trucks indicate tendencies which are useful in evaluating the safety risk posed by Mexican trucks.

“Long-Haul” Trucking Defined

Although opening the border to Mexican long-haul trucks conjures up images of encounters with these trucks anywhere in the United States, the economics of long-haul trucking will limit most Mexican trucks to the border states. Results from the demonstration project bear this out. Of the 12,516 trips made by Mexican project participants, only about 11.5% of these trips (1,439 trips, about 6 per weekday) were actually for “long-haul” deliveries—that is, for destinations beyond the commercial zone. Moreover, the Independent Evaluation Panel’s (IEP) review of FMCSA data indicate that only 4% of the 1,439 long-haul trips (80 trips) over the course of the year were to destinations beyond a border state.²¹ Almost all (95%) of the “long-haul” trips were to destinations within Texas and California. Only a handful of long-haul trips were to destinations to the two other border states, New Mexico and Arizona. The IEP also reported that more than 30 states had not encountered a Mexican project participant at a roadside inspection.²²

Because of the cost, relatively few trucks haul loads for long-distances. For example, in the United States, about one-half of all trucks typically travel within 50 miles of their home base and almost three-fourths stay within their home state.²³ Only 3% of the total tons that U.S. trucks carry as a single mode shipment are hauled 750 miles or greater (750 miles is about the distance between El Paso, TX and Wichita, KS).²⁴ Conversely, nearly 80% is hauled less than 100 miles (about the distance between Baltimore and Philadelphia). Railroads are often a cheaper alternative for shipments over 500 – 750 miles and in the United States they capture an increasing share of the truck/rail market as the distance and volume of freight increases in a particular corridor. Truckload carriers are among the largest customers of the railroads, putting their trailers on the railroad for the line-haul portion of a move. Kansas City Southern Railroad, which markets itself as the “NAFTA railroad,” has a particularly large stake in Mexico – U.S. cross-border traffic. It and other U.S. railroads having been making infrastructure improvements on routes to Mexico to better compete with trucks for cross-border freight. Railroads carry about 15% of the cargo units and value of imports from Mexico by land modes (truck and rail) and 25% of the weight.²⁵ Thus, competition from railroads is one limiter of the market potential for long-haul trucking across the border.

The market characteristics of long-haul trucking suggest that carriers with substandard equipment or unreliable drivers would not compete successfully for this business. As shipment distance

²¹ IEP Report to the U.S. Secretary of Transportation, U.S.- Mexico Cross-Border Trucking Demonstration Project, October 31, 2008, p. 13.

²² IEP report, p. xvii.

²³ U.S. Department of Transportation, Federal Highway Administration, Office of Freight Management and Operations, *Freight Facts and Figures 2007*, Table 3-6, p. 25.

²⁴ U.S. Department of Transportation, Bureau of Transportation Statistics and U.S. Census Bureau, *1997 Commodity Flow Survey* (Washington, DC, 1999), Table 3, pp. 11-13. Includes for hire trucks and private trucks.

²⁵ DOT, BTS North America TransBorder Freight Data. Vehicles account for 75% of the value of cargo imported by railroads.

increases, the relative cost of shipping by truck rather than by rail increases. Consequently, truck freight that is hauled long-distances tends to be higher-value, requiring expedited delivery, and often requiring refrigeration. Trucks carry about 95% of refrigerated (“reefer”) cargo, even over distances that otherwise would be rail competitive, because trucks have proven to be more reliable than railroads in keeping the cargo at the required temperature. Fruits, vegetables, beverages, confectionary and other products requiring either refrigeration or temperature protection account for over a quarter of the total weight of cargo imported in trucks from Mexico.²⁶ Auto parts are another major commodity group that is imported from Mexico in trucks. Auto manufacturers are credited with inventing the concept of “just-in-time” shipping schedules and have since advanced to the concept of “just-in-sequence” deliveries. This requires trucks to deliver some parts just as they are needed on the assembly line, requiring a delivery window that may be measured in minutes. Because of the more demanding service requirements associated with long-haul truck cargo, it seems plausible that shippers of such cargo would choose carriers with modern equipment, reliable drivers, and a track record of on-time performance.

Short-Haul Trucking Over the Border

The short-haul truck market, “drayage” as it is called, exhibits characteristics that raise safety and security concerns. Drayage carriers pull the trailers through the customs processing lanes and can spend hours idling and inching forward as they wait for their turn in the customs booth.²⁷ This puts strain on truck engines and thus drayage carriers typically purchase older equipment. Drayage firms charge low rates and operate on very slim profit margins. Their drivers are generally the lowest paid in the industry. Once they have cleared U.S. customs,²⁸ the drayage carrier will continue on to make final delivery if the receiver is located within the border zone or will drop the trailer for a U.S. long-haul carrier if the receiver is located beyond the zone and the Mexican carrier does not have U.S. long-haul authority.

The extra trucking segment at the border, particularly at the location where the trailer is exchanged between the long-haul and drayage carrier, could create additional opportunity for infiltration by smugglers. The drayage carrier and driver are also additional entities that U.S. customs must screen for certification into the Customs Trade Partnership Against Terrorism (C-TPAT) program and the Free And Secure Trade (FAST) program.

Determinants of U.S. Truck Safety and Applicability to Mexican Carriers

To better target its safety enforcement activities toward those carriers that pose a greater safety risk, the FMCSA has studied the safety performance of different categories of trucking. These studies indicate that safety performance does vary depending on the type of cargo hauled, which can be useful for evaluating safety statistics of Mexican trucks cited below. As hypothesized earlier, one study found that refrigerated trucks do have a better *vehicle* safety record compared to

²⁶ Based on 2008 data. DOT, BTS, North America TransBorder Freight Data.

²⁷ Drayage carriers are also found at U.S. seaports for the same reason; long wait times to be processed through the port’s entry gate.

²⁸ In this report, “U.S. customs” refers to U.S. Customs and Border Protection.

several other segments of the trucking industry.²⁹ This study also found that U.S. drayage carriers have a relatively poor *vehicle* safety record, but this finding may not be applicable to Mexican drayage carriers because of an important difference in the trailer equipment used. U.S. drayage carriers predominantly haul international shipping containers at seaports or at inland rail terminals which use a separate piece of equipment—a chassis that is an I-beam frame with wheels, to pull the container over the road. The chassis are owned and maintained by the ocean carriers but their proper maintenance has been a widely recognized problem and is likely a contributing factor to the poor vehicle safety performance of U.S. drayage carriers. At the Mexican border, truck trailers (the wheels and “container” are inseparable) are predominantly the equipment being pulled.

Studies also indicate that *drivers* of refrigerated cargo are found with safety violations more often than drivers in several other categories of trucking.³⁰ This may be because refrigerated cargo is time sensitive and hauled longer distances so drivers may be more prone to falsify hours-of-service log books. One study found that while there was little difference between refrigerated and non-refrigerated trucking in terms of number of accidents and moving violations, drivers of refrigerated trucks had more logbook violations.³¹ This study found that drivers that graduated from college or had some college were 27% more likely than high school graduates to violate their logbook. The study authors reasoned that as education level increased, drivers became more sophisticated in manipulating the logbook or felt more confident that they could do so without being caught.

While U.S. drayage carriers receive low scores for vehicle safety, their drivers generally receive higher safety scores than other segments of the trucking industry.³² Hours-of-service violations and falsifying log books are the most common violations found among U.S. truck drivers but since drayage carriers predominantly make short-haul trips, it seems logical that this violation would be less common among these drivers. Since Mexican truckers in the United States are predominantly making short-haul trips one could expect that they too would have relatively good driver safety scores, which the data in **Table 1** do indicate.

A congressionally mandated study of the causation of accidents in the United States involving large trucks that resulted in at least one fatality or injury found that the driver is a more critical factor than the vehicle.³³ The study reports that in those incidents in which the truck was determined to be primarily responsible for the crash (as opposed to a passenger vehicle), in only about 10% of the cases was the critical factor related to a problem with the truck; in 87% of the incidents the driver was considered the critical factor in the crash.

²⁹ Thomas M. Corsi, Marius Stefan, “Motor Carrier Safety Performance Profile,” prepared for FMCSA, February 2004. Available at <http://ai.fmcsa.dot.gov/CarrierResearchResults/PDFs/MCSafPerfProfile.pdf>.

³⁰ Thomas M. Corsi, Marius Stefan, “Motor Carrier Safety Performance Profile,” prepared for FMCSA, February 2004; and William C. Horrace, Thomas P. Keane, “Ranking and Selection of Motor Carrier Safety Performance by Segment,” August 2003. Available at <http://www.horrace.com/AAP%20Horrace%20Keane%20August%202003.pdf>.

³¹ Kristen Monaco, Emily Williams, “Assessing the Determinants of Safety in the Trucking Industry,” *Journal of Transportation and Statistics*, April 2000.

³² Thomas M. Corsi, Marius Stefan, “Motor Carrier Safety Performance Profile,” prepared for FMCSA, February 2004; and William C. Horrace, Thomas P. Keane, “Ranking and Selection of Motor Carrier Safety Performance by Segment,” August 2003. Available at <http://www.horrace.com/AAP%20Horrace%20Keane%20August%202003.pdf>.

³³ U.S. DOT, FMCSA, Report to Congress on the Large Truck Crash Causation Study, November 2005. Available at http://www.ai.volpe.dot.gov/lccs/data/documents/reportcongress_11_05.pdf.

Mexican Truck Out-of-Service Rates Comparable to U.S. Trucks

According to one indicator of safety performance, the safety of Mexican trucks has improved from a decade ago and is now comparable with U.S. trucks. “Out-of-service” violations are those that are serious enough to keep the truck from continuing its journey until the violation is resolved. Common *vehicle* out-of-service violations include defective brakes, inoperative turn signal or lamps, a flat tire or tire leak. Common *driver* out-of-service violations include an hours-of-service violation, failure to keep or falsifying a log book, operating without a license or the wrong license for the type of vehicle. In 1998, the Mexican vehicle out-of-service rate was found to be 59%.³⁴ This compares with U.S. truck vehicle out-of-service rates that are typically about 22%. Mexican carriers that participated in the demonstration project had vehicle out-of-service rates of about 12% and driver out-of-service rates of about 0.25% (versus 7% for U.S. drivers). However, one would suspect these rates to be low given that Mexican project participants were assured of being at least “checked” at the border while the typical U.S. trucker shipping domestically can expect only a chance of being inspected.

However, recent data provided by the FMCSA and summarized by the IEP and the DOT IG indicate that other Mexican trucks are as safe as U.S. trucks and that the drivers are generally safer than U.S. drivers. For instance, another group of Mexican trucks operating in the United States are those operating within the border commercial zone. There are 7,134 Mexican carriers with 28,533 trucks that have authority to operate within the border commercial zone.³⁵ Between FY2004 – FY2008, these Mexican trucks had vehicle out-of-service rates that were slightly less than U.S. trucks (about 21% versus 22%) and driver out-of-service rates that were significantly lower than U.S. drivers (1% versus about 7%).³⁶ For the one year period between September 2007 and September 2008, the IEP found very similar results.³⁷

Perhaps more significant, Mexican carriers that have been legally operating beyond the border commercial zone, outside the demonstration project, also have comparable out-of-service rates to U.S. carriers. These Mexican trucks obtained their long-haul authority under U.S. provisions predating NAFTA, between 1982 and 1994. Most of them have Certificates of Registration to carry certain exempt commodities between specific points (as indicated on the certificate). They are Mexican-domiciled trucking companies but majority U.S.-owned (more than 51%) and can be private carriers or for-hire carriers. In addition, a handful of Mexican-domiciled carriers are legally operating throughout the United States as a result of being grandfathered into the 1982 moratorium on Mexican and Canadian-domiciled carriers operating in the United States.³⁸ According to the Independent Evaluation Panel, in 2008, about 861 Mexican-domiciled carriers representing 1,749 trucks were legally operating in the United States under these authorities. The safety of these trucks is on par with the safety of U.S. trucks according to the FMCSA’s database of roadside truck inspections occurring in the United States.³⁹ While operating in the United

³⁴ Written statement of Mary E. Peters, Secretary of Transportation, before the Senate Committee on Commerce, Science, and Transportation, March 11, 2008, p. 5.

³⁵ IEP report, p. 52.

³⁶ DOT IG, Report # MH-2009-034, pp. 12-13.

³⁷ IEP report, p. xiii.

³⁸ The moratorium was imposed by section 6 of The Bus Regulatory Reform Act of 1982. For a legislative history of these two long-haul authorities, see Appendix D of the IEP report, pp. 71-72.

³⁹ DOT, IG, Status Report on NAFTA Cross-border Trucking Demonstration Project, Report No. MH-2009-034, February 6, 2009, pp. 12-13.

States from FY2004 – FY2007, these long-haul Mexican carriers had an out of service rate for the vehicle of roughly 20%, matching U.S. vehicle out of service rates during the same years. With respect to the drivers, Mexican drivers of certificated or grandfathered carriers had a much lower out-of-service rate than did U.S. drivers (about 1% versus 7%). Similar results were obtained by the Independent Evaluation Panel when they reviewed FMCSA data for a subsequent year (September 7, 2007 through September 6, 2008).⁴⁰

Table 1 shows the out-of-service rates resulting from roadside inspections while operating in the United States for U.S., Mexican, and Canadian domiciled trucks over the last five years. As the figures indicate, Mexican trucks have lower driver out-of-service rates and slightly lower vehicle out-of-service rates than U.S. trucks.

Table 1. Roadside Inspections of Trucks Operating in the United States by Country of Domicile: 2004 to 2008

Out-Of-Service Rates (OOS)	Average # of Inspections per Year					
		2004	2005	2006	2007	2008
<i>Driver OOS Rates:</i>						
- U.S. Driver	2,838,534	6.9%	6.9%	7.4%	7.2%	6.7%
- Mex. Driver	176,286	1.7%	1.2%	1.3%	1.0%	1.3%
- Can. Driver	96,888	6.6%	6.1%	7.2%	6.3%	6.1%
<i>Vehicle OOS Rates:</i>						
- U.S. Truck	2,089,265	23.9%	23.7%	23.3%	22.6%	22.7%
- Mex. Truck	161,141	22.7%	22.6%	21.2%	21.8%	20.9%
- Can. Truck	56,111	14.2%	13.6%	13.6%	12.9%	14.1%

Source: FMCSA Motor Carrier Management Information System (MCMIS) December 19, 2008, snapshot.

Notes: 2008 data as of December 19, 2008. Driver OOS rate is based on inspection levels I, II, III, and VI. Vehicle OOS rate is based on inspection levels I, II, V, and VI.

Cross-Border Trucking Operations: An Overview

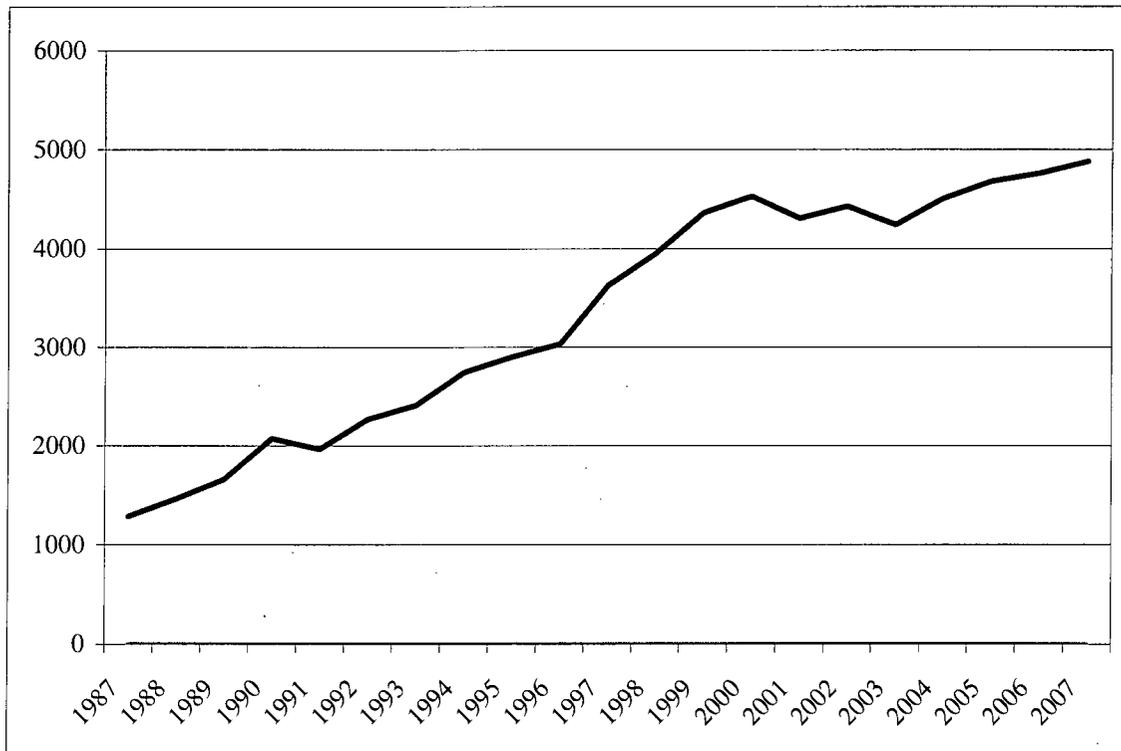
The Scope of Cross-Border Truck Traffic

The chart in **Figure 1** shows the trend in incoming truck movements across the border with Mexico since 1985. Cross-border truck movements accelerated in the mid-1980s following Mexico’s accession to the General Agreement on Tariffs and Trade and then again in the mid-1990s under NAFTA. Trucks carry roughly 80% of the cargo, by value, across the border and trends in cross-border truck movements track closely with trends in Mexico-U.S. trade. Under NAFTA the value of trade between the two nations crossing the border by truck increased from

⁴⁰ Independent Evaluation Panel Report, U.S. – Mexico Cross-Border Trucking Demonstration Project, October 31, 2008, p. 19.

\$74 billion in 1994, to \$235 billion in 2008. In the year 2007, over 4.8 million truck crossings were made from Mexico into the United States.

Figure 1. Incoming Truck Movements from Mexico (thousands), 1987-2007



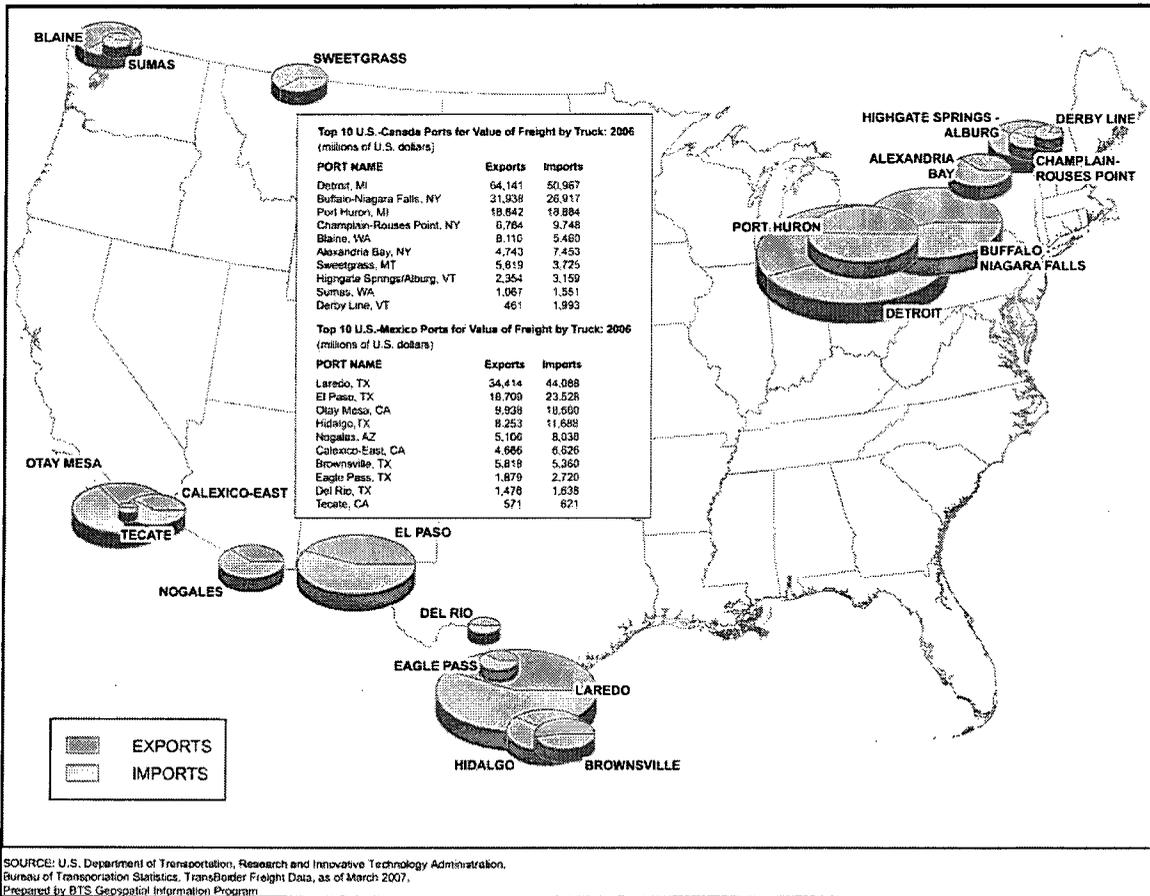
Source: U.S. Customs and Border Protection.

The link between economic growth and truck crossings is important because once the two countries' economies rebound, the growth in cross border shipping will increase the stress on the border's physical infrastructure, as well as the capacity of the U.S. federal agencies that staff the Ports of Entry (POE) (e.g. U.S. Customs and Border Protection, and the Federal Motor Carrier Safety Administration, among others).

The distribution of commercial traffic among the 25 POEs that handle commercial traffic is uneven. The map in **Figure 2** illustrates the relative volumes of imports and exports by truck across U.S. land borders. In 2007, the top ten POEs handled 97% of the value of truck freight crossing into the United States from Mexico and the top four ports: Laredo, El Paso, and Hidalgo, Texas, and Otay Mesa, California, handled nearly 80%.⁴¹ The busiest POEs are the ones expected to experience the most growth in traffic.

⁴¹ U.S. DOT, BTS, North American Transborder Freight Data.

Figure 2. Top Ports for Transborder Merchandise Freight by Truck: 2006



In 2008, the top five commodities imported by value from Mexico in trucks were electrical machinery, equipment, and parts (38%); computers, industrial machinery, and parts (16%); motor vehicles and parts (8%); measuring and testing instruments (5%); and furniture and lamps (4%).⁴² By weight, the top five commodities imported from Mexico in trucks were edible vegetables (12%); electrical machinery, equipment, and parts (11%); computers, industrial machinery, and parts (10%); edible fruit and nuts (7%); and motor vehicles and parts (7%).

Nearly all carriers of cross border freight by truck, as well as nearly all major Mexican long-haul carriers, are “truckload” (TL) carriers. TL carriers haul larger shipments, averaging over 20,000 pounds, that are moved most economically in one truck directly from the origin to the destination. “Less-than-truckload” (LTL) carriers specialize in smaller shipments (an average is 1,000 pounds) that can be hauled most economically by consolidating them with other shipments to the same destination city and using warehouses to consolidate/deconsolidate shipments. Trucking firms in the United States are generally either TL or LTL carriers, and most of the members of the Teamsters Union are drivers for national LTL carriers while regional LTL and TL drivers are predominantly non-union. Some see LTL as a market niche that U.S. carriers could develop in Mexico.

⁴² DOT, BTS, North American Transborder Freight Data.

Cross-Border Commercial Trucking: The Trade Flow Process

The speed and impact of NAFTA implementation will be greatly influenced by the institutional and procedural environment experienced and/or created by shippers and trucking firms involved in cross-border freight shipments. The roughly 10 million truck crossings (northbound and southbound crossings combined) occurring annually at POEs along the Mexico-U.S. border undergo documentation procedures and inspections which can vary greatly but typically include the steps outlined in the following four subsections.⁴³

Mexico-U.S. Crossings

Traditional cross-border shipping by truck from the interior of Mexico to the interior of the United States can involve over 20 separate steps. These steps are described in some detail because one of the envisioned benefits of NAFTA implementation is that it will encourage the streamlining of cross border truck movements. In simplified form, the movement of truck cargo for import into the United States is as follows.

- The Mexican carrier picks up the shipment, prepares the bill of lading, and hauls the shipment to the border region.
- At POEs where allowed, U.S. customs brokers may maintain small offices, where they may prepare U.S. entry documents and file them electronically. The entry must be accompanied by evidence that sufficient bond is posted with U.S. customs to cover any potential duties, taxes, or penalties.
- A Mexican broker prepares Mexican export “pedimentos” (a paper form similar to U.S. export declarations) after inspecting the vehicle’s cargo.
- A Mexican “validator” files the pedimento electronically into the Mexican Customs Broker Association database and a validated pedimento is created to release the shipment to Mexican customs.
- Mexican export duties are paid.
- A drayage vehicle (a short-haul truck used to shuttle truck trailers back and forth across the border) picks up the load and hauls it to the Mexican customs facility.
- At the Mexican customs facility the export pedimentos are checked against the electronic forms and then about 2% of the trucks are pulled aside for closer inspection by Mexican customs agents.
- The truck crosses the border, paying bridge tolls if required, and enters the U.S. customs primary inspection station.
- At the primary inspection station the U.S. customs inspector determines citizenship of the driver and any passengers and then questions the driver for declarations of any agricultural goods, narcotics, merchandise or currency in excess of \$10,000. Once the agent verifies the paperwork and computer

⁴³ A detailed account of the steps of cross-border trade flows by truck can be found in the *Binational Border Transportation and Programming Study, Task 3.1: Description of Commercial Motor Vehicle Trade Flow Process—Final Report, May 8, 1996*. Washington, U.S. Department of Transportation and Secretaria de Comunicaciones y Transportes. 1998. [CD ROM]

information, the vehicle is either sent on to the final U.S. customs checkpoint or is selected for secondary inspection (all hazardous materials loads are inspected and most agricultural, food product, pharmaceutical and medical equipment shipments are sent to the agricultural inspection docks, where the Department of Agriculture inspectors and the Food and Drug Administration inspectors inspect the goods). It is at the primary inspection station or in the queue that K9 units patrol around the vehicles and if the dog reacts to a truck the vehicle will be sent to secondary inspection. Agents also send vehicles to secondary inspection if they see anything suspicious about the vehicle, driver, or paperwork.

- After completing primary or secondary inspection as required, the truck proceeds to the U.S. customs final check point where all the paperwork is submitted and the truck leaves the compound.
- Safety inspection at POEs that have permanent safety inspection facilities usually take place outside the final check point.
- A drayage company delivers the shipment to a U.S. broker, carrier or freight forwarder's facility.
- A U.S. driver picks up the load for delivery to the interior.

U.S.-Mexico Crossings

Traditional cross-border truck shipping from the interior of the United States to the interior of Mexico may also involve many separate processing steps, truck movements, and inspections. A simplified sequence of steps that are supposed to take place for the movement of cargo by truck for import into Mexico is as follows.

- The U.S. exporter prepares bill of lading and certificate of origin for load.
- The U.S. carrier picks up the shipment and hauls it to the carrier's terminal, broker or freight forwarder's facility. In some cases the forwarder is by-passed and the exporter deals directly with a Mexican customs broker.
- The U.S. freight forwarder/broker fills out the Shipper's Export Declaration and verifies the load. (The U.S. broker is liable for the accuracy of the form.)
- The Mexican customs broker fills out the Mexican Import Pedimentos, facilitates the payment of duties, and verifies the load. (The Mexican broker is legally responsible and liable for the contents of shipments across the border.) The broker makes sure that the required prepayment of Mexican duties, taxes or fees has been made at the banking module. The Pedimentos are submitted electronically to Mexican customs.
- Generally the Mexican broker then arranges for a Mexican "drayage" company to provide a truck or truck tractor to haul the shipment across the border. Maquiladoras, however, may use their own trucks.
- At U.S. customs, export loads requiring inspection (most often firearms, computers, specialized electronic equipment and hazardous materials) are inspected and registered with U.S. customs.
- Load is hauled across the border.

- At Mexican customs, paperwork is checked against the electronically filed version. For trucks whose paperwork is in order, 90% of trucks go to final checkpoint and 10% are subjected to random selection for inspection.
- At the final check point, all the paperwork is collected and the truck may leave the import compound.
- The shipment is taken to either the Mexican broker's facility or to a truck corral where the drayage tractor is disconnected and the trailer is stored until a long-haul carrier's tractor arrives to transport the shipment to the Mexican interior.

The Maquiladora Exception

A maquiladora or maquila is a manufacturing plant, located in Mexico (usually near the U.S. border) under foreign ownership, that typically has a sister plant on the U.S. side of the border supplying parts to be assembled at the Mexican plant, that are then shipped back to the U.S. Shipments to and from maquiladora facilities benefit from systems established by both U.S. and Mexican customs to speed the processing of maquiladora shipments. These changes eliminate both the U.S. and Mexican broker processing time. In effect, most maquiladora cargo is pre-cleared for crossing. Some maquiladora trucks, however, are selected for inspection. As mentioned earlier, maquiladoras may also use their own trucks and thereby eliminate any delays waiting for drayage operator pick up. Basically this means that unless they are selected for regulatory inspection or are caught in traffic congestion, most trucks operating in the maquiladora trade may cross the border with virtually no delay.⁴⁴

Hazardous Materials and Agricultural Trade

The movement of hazardous materials (hazmat) is governed by stricter regulation and as per section 6901 of P.L. 110-28, Mexican truckers carrying hazmat are not permitted in the demonstration project. Advance notice is required by both U.S. and Mexican customs prior to moving hazardous material over the border. The authenticity of the licenses of all drivers whose trucks carry hazardous materials must be checked. Under NAFTA, any by-products from the use of hazardous materials must be returned to the country of origin for proper disposal. This rule has increased the movement of hazardous wastes across the border.

Agricultural trade has some characteristics of traditional trade, but may be pre-cleared as in the maquiladora trade.⁴⁵ It is also subject to special inspection requirements. For example, inspection for pest infestation varies depending on whether the agricultural product is considered high or low risk. Low risk products are often pre-cleared and only one load in twenty may be randomly inspected. High pest-risk loads may all be inspected and receive pest control treatment.

⁴⁴ *Ibid.*, p. 4-6.

⁴⁵ Traditional trade is defined in the *Binational Study* as non-maquiladora, non-agricultural, or non-hazardous materials trade.

The Border's Distinctive Institutions: Drayage and Mexican Customs Brokers

The predominant use of drayage for cross border hauling of freight and the role of the Mexican customs broker are distinctive institutional characteristics of the Mexico-U.S. border.

Drayage: Deadheads and Bobtails

With the major exception of trucks serving the maquiladora trade, truck cargo crosses the Mexican border under a "drayage" system. Under this system truck cargo is delivered to the border where a drayage company provides a truck that picks up the load on one side of the border, crosses the border, and drops it off to be picked up by a long haul domestic carrier in the destination country. The predominance of this characteristic of the Mexico-U.S. border of commercial cross border traffic leads to an unusually large percentage of "deadhead and bobtail" crossings. A deadhead crossing is any truck crossing with an empty trailer and a bobtail crossing is a truck tractor crossing without a trailer. Over a third of the truck trailers that enter the United States from Mexico are empty compared to about 15% from Canada.⁴⁶ This peculiarity of the Mexican border traffic has two important results that are significant to any discussion of post-NAFTA implementation scenarios: first, drayage is a big business for the Mexican trucking firms in the border region; and second, deadheader and bobtail crossings are a major component of the traffic congestion that impedes the cross border flow of freight.

Despite the arguments that fully implementing NAFTA and thereby allowing Mexican and U.S. trucks to pick up and drop off international loads anywhere in each other's territory will lead to a major reduction in the use of drayage services across the Mexico-U.S. border, there are reasons to expect that the drayage system will not contract quickly or as much as some have argued. Although, on its face, drayage would seem to be inefficient and costly, given extensive processing, inspection, and traffic delays, drayage actually makes more economic sense to some motor carriers than having their equipment held up for a day or more awaiting crossing. Reportedly, drayage adds roughly \$100 to each cross border shipment.⁴⁷ Although the overall aggregate cost that the drayage system adds to cross border trade is staggering, for many carriers \$100 is much less than a carrier would lose if it has a truck and driver idle for a day or more awaiting clearance (even efficient traditional shippers can expect paperwork delays of 4 to 5 hours). Second, not only is drayage big business for Mexican carriers based in the border region, but it is also a major formative factor in the border region economy of warehouses, truck corrals, and related service industries. Local interests may support the status quo for fear that the demise of drayage would lead to job losses in the Mexican border towns and, in some U.S. border towns, from fear of being by-passed.⁴⁸ Third, drayage companies often have operating agreements with Mexican customs brokers (who often have a financial interest). Some argue that this provides a strong incentive for the brokers to keep the processing times long enough to keep drayed freight competitive with single vehicle cross border trucking. Although, most observers expect NAFTA

⁴⁶ U.S. Customs data; some believe that these data undercount the number of Canadian border empty crossings. However, even using other sources, the Mexican rate is twice the Canadian rate.

⁴⁷ Giernanski, James R. A Fresh Look at NAFTA: What's Really Happened? *Logistics Management and Distribution Reports*, vol. 9, Sept. 1, 2002, 43pp.

⁴⁸ Yardley, Jim. Truck-Choked Border City Fears Being Bypassed. *New York Times*, Mar. 15, 2001, pp. A1, A20.

implementation would probably reduce the number of deadhead and bobtail crossings over time, few expect that they will fall to the level experienced on the Canadian border.

Descriptions of the drayage system are often oversimplified. A truck dedicated to drayage can cross the border roughly two to four times each day or up to 1,000 times a year. Trucks used for drayage may also be used for domestic carriage. Following NAFTA implementation, these trucks may continue to provide drayage services. It is also likely that more of these trucks will operate more deeply, either legally or illegally, in the border states. Some believe, however, that in the post-implementation environment, the risk of getting caught will be much higher than before.

Mexican Customs Brokers

The degree of control that the Mexican customs broker has on the cross border movement of cargo could have major implications for the scope and speed of impact of the implementation of NAFTA's trucking provisions. Customs brokers are businesses or individuals that assist in preparing the required documentation for the cross border movement of goods. Mexican customs brokers are active on both sides of the border, processing the paperwork and verifying the shipped goods for both U.S. exports to Mexico and Mexican exports to the United States. Whereas in the United States a broker or freight forwarder is only liable for the accuracy of the form, in Mexico the broker is liable for the accuracy of the paperwork and the content of the shipment. Because of this, Mexican brokers generally actually take a look at the cargo. This, along with the paperwork process, adds a significant amount of processing time to cross border shipments. The *Binational Border Planning and Programming Study* found that for frequent southbound shippers the preparation of paperwork by the Mexican broker took 4 to 5 hours and for infrequent shippers up to three days. Northbound into the United States, the Mexican broker processing time was 4 to 5 hours. If anything is wrong with the paperwork used to compile the Mexican pedimentos, it takes longer. The study found that the minimum total crossing time southbound was just over 8 hours and northbound was just over six hours.⁴⁹ Thus, under the best of conditions (i.e. minimum Mexican broker processing time, no traffic delays, no narcotics inspection or customs secondary inspections, etc.), the Mexican broker's role was responsible for nearly half the crossing time southbound and nearly two-thirds northbound. Mexican broker processing time could therefore be sufficient to deter some carriers from engaging in cross border carriage of cargo.

As mentioned earlier, Mexican brokers are often affiliated with drayage companies and most observers believe that they will resist changes that could reduce the attractiveness of cross border drayage. Some believe that the confluence of interest between these two institutions is so powerful that drayage will dominate the movement of cargo across the border for the next 15 to 20 years.⁵⁰ This is a powerful alliance for the status quo. Many feel that potential U.S. entrants into cross border trucking will not be able to bypass the customs brokers, which in effect will make them opt for an alternative to direct competition with Mexican carriers. Many of the brokerage firms are family-run firms that have been in the business for generations. Both the brokers and the Mexican carriers have significant clout through their professional organizations and have heavily lobbied the Mexican government against opening up the border to U.S. trucks.

⁴⁹ Binational Study. Task 3.1. p. 3-6.

⁵⁰ Whitten, Daniel L. "Mexican Freight Handlers Warily Eye U.S. Competition: Carriers, Brokers Seek to Protect Paperwork-Preparation fee, Long-Time Ties to Shippers," *Transport Topics*, June 3, 2002, p. 13.

Traffic Congestion

Traffic congestion is not uncommon at commercial border crossings and can be caused by a wide variety of processing and inspection activities that occur in POEs as well as traditional causes of traffic congestion such as infrastructure limitations, excess traffic volume, and vehicle breakdowns. Different POEs have differing levels of congestion and differing reasons for its occurrence. Most POE congestion occurs during certain peak periods, usually mid afternoon. Post-September 11 security concerns, have at times increased delays for northbound traffic.⁵¹ Once economic growth picks up and traffic volumes increase, the cost of traffic delays to long-haul trucking firms could make them less willing to commit their equipment to crossing the border and make it likely that drayage will retain a significant share of cross border haulage. A case can be made, however, that for some operators, the location of the next available load will have more influence on the use of drayage than border delays or avoiding the fee.

Mexican Trucks Illegally Operating Beyond the Border Zone

Some Mexican carriers are operating illegally beyond the commercial zone. The DOT Office of the Inspector General (IG) reported that, based on FMCSA safety inspection data, Mexican trucks in significant numbers were already operating beyond the border zone. The IG expressed that he was not concerned about

the trucks, the long-haul trucks that tell the truth that they're going to be long-haul, and have a sticker displayed on their windshield. I'm more concerned about the trucks that come across, that are, by law, confined to the commercial zones, who just drive on. And I think it's important that the state police ... have the authority to say, 'you're stopping in your tracks' and that's going to cause economic pain and that will be a hindrance to that type of behavior.⁵²

The IEP found that 20 zone carriers had been inspected in 12 non-zone states from September 2007 through September 2008.⁵³

The Outlook for Commercial Trucking Under NAFTA

Most observers agree that the full impact of NAFTA implementation will take time to manifest itself. There is considerable agreement on the probable short-term impact as well as a general expectation that the resulting changes in cross-border commercial trucking will be gradual. In the

⁵¹ Karaim, Reed. "On Both Sides Now, the Costly Consequences of Vigilance," *Washington Post*, March 10, 2002, p. B3. See also GAO, *NAFTA: Coordinated Operational Plan Needed to Ensure Mexican Trucks' Compliance With U.S. Standards*. GAO-02-238, Dec. 2001. p. 8.

⁵² U.S. Senate. Joint Hearing of the Surface Transportation and Merchant Marine Subcommittee of the Senate Commerce, Science, and Transportation Committee and the Transportation Subcommittee of the Senate Appropriations Committee. Hearing held June 27, 2002. As reported by the Federal News Service, Inc. The distance of the limit of the border zone varies depending on the size of the municipality involved and can extend substantially farther into the United States than the often quoted 3 to 20 miles. See 49 U.S.C. Sec. 372.241. This variability of border zone limits could be an enforcement issue after implementation.

⁵³ IEP report, p. 54.

longer term, stake holders interested in the opening of the Mexican-U.S. border to long haul trucking are less willing to make predictions about the impact of implementation and are more tentative, many preferring to take a wait and see attitude before committing to a change in business practices.

The Short Term: Expectations and Limitations

Once it happens, nearly all observers expect that the opening of the Mexico-U.S. border will begin with a whimper rather than a bang.⁵⁴ Few expect a major surge of either Mexican long-haul trucking into the United States or U.S. long-haul trucks into Mexico during the first couple of years of implementation. Because of the safety concerns about Mexican trucks, most of the discussions have focused on the likelihood that Mexican trucks would begin operating deep into the United States. Much less has been written or said about the likelihood of U.S. domiciled trucking firms operating in Mexico, however.

The Short Term Prospects for Mexican Long-Haul Trucking in the United States

There are a number of reasons that few Mexican carriers are expected to operate beyond the commercial zone in the short term, if the border were to be reopened for long-haul deliveries. Mexican trucking firms will face a number of competitive disadvantages when carrying international cargo into the U.S. interior.⁵⁵ These disadvantages include:

- Beyond the commercial zone, few Mexican-domiciled carriers have developed business relationships that could provide them with the return loads needed to make operating deep in the United States profitable;
- Border delays push up costs and discourage Mexican long-haul carriers from committing their vehicles to international trade with the United States. Reportedly northbound delays at the border have increased significantly since the September 11 attacks;⁵⁶
- Initially, the cost of insurance for Mexican carriers operating to the U.S. interior will be set at the highest U.S. insurance risk level until the Mexican firms have a track record for operating safely beyond the commercial zone. As time passes the rates would likely be adjusted to reflect experience;
- The English language requirement will limit the number of federally licensed Mexican truck drivers that can operate legally in the United States;

⁵⁴ Delgado, Claudia Patricia. Prozzi, Jolandá. Harrison, Robert. *Opening the Southern Border to Mexican Trucks Will Have a Negative Impact on the US Transportation System—Where Is the Evidence?* Austin, TX, University of Texas at Austin. 18 p. See also Whitten, *Mexican Freight Haulers Warily Eye U.S. Competition*, p. 13.

⁵⁵ For the best description of difficulties faced by Mexican carriers see, General Accounting Office. *North American Free Trade Agreement: Coordinated Operational Plan Needed to Ensure Mexican trucks' Compliance With U.S. Standards*. Report no. GAO-02-238, December 2001. pp. 2-3, 7-12.

⁵⁶ Ibid. GAO reported that “Mexican and private sector officials stated that delays in crossing the border have increased since the terrorist attacks of September 11, 2001.”

- Mexican carriers have less access to financial resources and pay much higher interest rates than U.S.-based companies. In addition, new trucks cost more in Mexico than in the United States;⁵⁷
- One unusual possibility is that some Mexican carriers are concerned that some of their drivers may be tempted to abandon their trucks deep inside the United States and seek work in the United States.
- The presence of a more active safety and regulatory enforcement effort in the post-implementation environment will discourage some long-haul Mexican motor carriers from entering the United States.

Mexican carriers, on the other hand, do have some advantages that could eventually give them a competitive edge in certain U.S. markets. These advantages include:

- Lower labor costs—although there is disagreement on the size of the wage advantage, it is probable that federally licensed Mexican drivers' wages are less than half that of U.S. drivers and may be as low as one-third of U.S. drivers' wages;⁵⁸
- Mexican carriers, and in particular Mexican drivers, currently dominate cross border trade within the border zone. Some trucking companies in Mexico that provide drayage service also handle domestic carriage. These firms could test the market by hauling cargo to border cities close enough to the border for a day trip;
- Mexican carriers, in press reports, have complained that in Mexico excess trucking capacity has forced down rates for domestic carriage, this could make haulage beyond the commercial zone attractive to some Mexican firms. A decline in drayage could, for example, have the effect of freeing up even more Mexican capacity.
- Mexican drivers know the border region well and some have knowledge of the U.S. road system beyond the commercial zones;⁵⁹
- Some of the disadvantages faced by Mexican trucking firms (i.e., insurance, state registration fees, lack of back-hauls) will become less constraining as these firms establish an operating history or possibly lease their services to U.S. firms and/or establish interline partnerships.

⁵⁷ Whitten, p. 13

⁵⁸ See U.S. Bureau of Labor Statistics. *2007 National Occupational Employment and Wage Estimates: 53-3032 Truck Drivers, Heavy and Tractor-Trailer*. At <http://www.bls.gov/oes/2007/may/oes533032.htm>. The median wage is estimated at \$17.41 per hour for a tractor trailer driver in the U.S. Benton, James C. "Transportation Bill Set to Clear as Bush Wins Key Provision Opening U.S. to Mexican Trucks," *CQ Weekly*, Dec. 1, 2001, p. 2846. Quotes Michael Belzer of Wayne State University's estimate that Mexican drivers earn two thirds less than U.S. drivers. An Associated Press Article, "New Policy Troubles U.S., Mexican Truckers," Nov. 29, 2002, estimates that U.S. truckers on average earn 32 cents per mile and their Mexican counterparts earn about half that amount. Delgado, Perozzi, Harrison's survey of Mexican trucking firms found that long-haul drivers incomes varied greatly—from \$800 to \$1600 per month.

⁵⁹ U.S. Department of Transportation. Office of the Inspector General. *Audit Report: Mexico-Domiciled Motor Carriers*. Report no. TR-2000-013. Washington, DOT, 1999. 25p.

The Short Term Prospects for U.S. Long-Haul Trucking in Mexico

The likelihood of significant numbers of U.S. trucking firms directly providing long-haul international trucking services deep into Mexico is very low. As of this writing, the Mexican government has not begun accepting applications from U.S. trucking companies for operating authority in Mexico. Once the Mexican government accepts and processes applications for operating authority, some U.S. firms will apply, but the number is expected to be small. The 10 U.S. trucking firms contacted by CRS all stated that they had no plans to use their U.S.-based trucks or U.S.-based drivers to haul international cargo into the Mexican interior soon. U.S. firms have, however, been investing in Mexican trucking firms that specialize in international cargo and many observers expect U.S. firms to expand their business in the Mexican market through Mexican subsidiaries or partners.

U.S. firms cite a variety of reasons for not being interested in using their own drivers and equipment to provide long-haul trucking services to the Mexican interior. Once a U.S. truck and driver cross the border they are at a labor cost disadvantage relative to Mexican firms. U.S. equipment is built for U.S. road conditions and could probably only operate on the best Mexican roads (many of which have significant tolls) without risking damage. Most U.S. drivers, especially those not based beyond the border region, do not speak Spanish. U.S. firms do not want to risk having their equipment and drivers delayed by paperwork and inspection activities or by the congestion that occurs as part of the cross border flow of goods. U.S. carriers also believe that Mexico is a dangerous place to operate and hesitate to place their drivers, equipment, and cargo at risk.⁶⁰ In addition, even if the Mexican government begins accepting applications from U.S. carriers for operating authority in Mexico, there is a great deal of uncertainty as to how soon NAFTA implementation will take place in a meaningful way on the Mexican side of the border.

The Short Term Outlook

Gradualism will probably be the predominant characteristic for at least the first couple of years of NAFTA implementation. It could be 2005 before Mexico agrees to terms for the on-site inspections of Mexican carriers required under U.S. law. Once this occurs, Mexican firms that are certified to operate beyond the commercial zone will likely begin testing the waters for deliveries to destinations close enough to the border that allow them to have at least a prospect of breaking even without having a prearranged back-haul. Where back-hauls can be arranged, Mexican carriers will operate farther into the United States, but most observers expect the vast majority of truck loads will be to destinations in the border states. As long as there are significant delays at the border, however, the majority of truck freight crossing the border into the United States will continue to be brought in by drayage operators. Despite this short term gradualism, the limited activity is important because it will be a time of testing of different business patterns or models. One feature of this period may be the evolution of cooperative agreements between Mexican and

⁶⁰ Cargo theft and especially fear of hijacking and the related endangerment of their drivers and potential loss of equipment were mentioned by U.S. trucking firms as a major reason for not operating in Mexico. A 1999 U.S. Department of State report, *Trucking Services:[Mexico]*, by Javier Flores at <http://www.tradeport.org/ts/countries/mexico/isa/isar0029.html>, stated that the "lack of security on Mexican highways is, by far, the largest problem affecting this industry. The soaring cost of insurance is the result ... as a result, transportation companies and their customers lose business opportunities." The report also discusses other difficulties faced by U.S. trucking service providers who are interested in operating in Mexico.

U.S. haulers, which could have a major impact in the long-term outlook for international trucking in the United States and Mexico.⁶¹

The Long Term: Business Structure and Competition

In the long run, the outlook for international trucking across the border is less a function of regulation than of business practices and the economics of international trucking. Within this context there are a number of factors that will influence the shape and scope of NAFTA implementation. Most discussions of the likelihood or extent of Mexican or U.S. trucks entering the long-haul trucking market within each other's borders focus on the difficulties that would be faced by a Mexican trucking firm going it alone in the U.S. market or a U.S. firm going it alone in the Mexican market. Only a few companies on either side of the border are expected to provide direct trucking services deep into the other country, but many are expected to operate cross-border through a subsidiary or parent corporation or in cooperation with an affiliate business on the other side of the border. Virtually all observers agree that Mexican drivers will continue to dominate the cross-border carriage of cargo by truck for some time.⁶² The one area, however, where Mexican trucking companies fear direct competition with U.S.-based companies is for the trucking serving the maquiladora trade concentrated near the border. There continues to be disagreement on how common it will be for Mexican drivers to operate deep within the United States in the long term. It is important to remember that the main factor in the growth of truck crossings has been the growth in trade, which determines the amount of freight that must be moved across the border.⁶³ Consequently, it is doubtful that eventual implementation of the trucking provisions of NAFTA, by itself, will lead to a major increase of the amount of freight shipped. It will, however, have an impact on how and by whom the freight is moved across the border.

The Cross-Border Business Paradigm

Despite having been banned for many years from delivering cargo in each other's countries beyond the border zones, U.S. and Mexican trucking firms have offered "seamless delivery" throughout each other's territory to their customers through working arrangements with counterparts across the border.⁶⁴ These arrangements are commonly referred to as partnerships, but are generally interlining or interchange agreements. Interline agreements provide for joint line transborder shipments by transloading freight at the border between U.S. and Mexican trucking firms. Interchange agreement generally has the U.S. firm also providing the loaded trailer for delivery to the final destination.

⁶¹ See Delgado, et al.

⁶² Some U.S. firms, headquartered in the border region, with their lower than the U.S. average driver wages and Spanish speaking workforce, may try to send their drivers and trucks into Mexico, but are not expected to gain much of a market share. It is likely that, once the Mexican government begins accepting applications, some U.S. firms will apply for operating authority simply for the flexibility of being able to send some of their drivers and trucks into Mexico if required.

⁶³ See Appendix I in, General Accounting Office. *U.S.-Mexico Border: Better Planning, Coordination Needed to Handle Growing Commercial Traffic*. Report no. GAO/NSIAD. Washington, GAO, 2000, pp. 42-43.

⁶⁴ Office of International Affairs, American Trucking Association. *South of the Border: U.S. Trucking in Mexico*. Washington, 1992. pp. 17-19.

Prior to NAFTA, U.S. firms could not invest in Mexican trucking firms and Mexican firms were not allowed to hold a controlling interest in U.S. trucking firms. NAFTA phased in the allowable ownership for U.S. investors in Mexican trucking companies: 49% ownership after December 17, 1995, 51% ownership on January 1, 2001, and 100% ownership on January 1, 2004.⁶⁵ Major U.S. trucking firms doing business in Mexico began investing in Mexican trucking firms beginning in the mid-1990s, often in effect creating subsidiary firms in Mexico. The investment link is significant in that the profits of the U.S. parent firm are affected by the profits of its Mexican subsidiary. U.S. investment in Mexican motor carriers is limited to firms that carry international loads only. This significantly limits the number of existing Mexican carriers that are subject to controlling interest investment by U.S. investors. With 100% ownership now allowed it should be even easier for U.S. firms to set up new Mexican subsidiaries dedicated to cross-border trucking. Mexican investors were to be allowed to invest up to 100% in U.S. trucking firms providing international freight services beginning December 18, 1995; however, it wasn't until June 2001 that U.S.-domiciled Mexican-owned firms were allowed to obtain operating authority to provide truck services for the transport of international cargo between points in the United States.⁶⁶

Within the context of NAFTA implementation, cross-border investment is expected to alter the cross-border trucking business paradigm for some companies and allow U.S. firms to take advantage of their Mexican subsidiary or affiliate partner's labor cost advantage and knowledge of the Mexican market. At the same time the new paradigm will help their Mexican subsidiaries or partners navigate the complexity of operating beyond the border zones in the United States. In short, the strengthened business paradigm will reduce some of the non-labor disadvantages faced by Mexican firms operating in the United States. Mexican firms that are subsidiaries of large U.S. trucking firms may be able to benefit from their parent firm's ability to assist them with navigating U.S. state registration fee requirements, acquiring insurance at reasonable rates, getting loans at reasonable rates, and arranging for back-haul loads for return trips. The U.S. firm benefits from the potential cost savings that the subsidiary provides for its international trucking business. Over time, however, the wages of Mexican drivers would be expected to rise relative to U.S. truck drivers.

Celadon Group, Inc., which claims to be the leading truckload carrier to and from Mexico, has briefly outlined its post-implementation plans, in its September 2002 10K filing:

The opening of the border... will for the first time, permit Mexican drivers to move loads without restrictions between Mexico and points in the United States. We have extensive experience with the management of drivers in Mexico, through our ownership of Jaguar, our Mexico City-based subsidiary. We expect to take advantage of the border opening by utilizing lower cost drivers on shipments to and from Mexico.⁶⁷

If and when the NAFTA trucking provisions take effect, Celadon's business model may succeed in giving it a cost advantage and its competitors will have to adjust. Such an adjustment, however, might put a downward pressure on the wages of U.S. drivers vis-à-vis their Mexican counterparts.

⁶⁵ North American Free Trade Agreement. Annex I, Schedule of Mexico. In U.S. Congress. *North American Free Trade Agreement, Texts of Agreement, Implementing Bill, Statement of Administrative Action, and Required Supporting Statements*. U.S. House of Representatives Document 103-159, vol. 1, p. 1590.

⁶⁶ Bush, George W. *Memorandum for the Secretary of Transportation: Determination Under the Interstate Commerce Commission Termination Act of 1995*. Washington, White House. June 2001.

⁶⁷ Celadon Group, Inc. *Form 10-K, Annual Report Pursuant to Section 13 or 15 (d) of Securities Exchange Act of 1934*. Washington, U.S. Security and Exchange Commission. (September 2002) p. 3.

As mentioned earlier, an area where Mexican companies have expressed concern over possible direct competition with U.S. carriers is in the provision of trucking services to the maquiladoras. The location of their factories near the border and the expedited processing of maquiladora freight at the border might attract U.S. competition, especially from companies headquartered near the border.

An alternate business plan, reportedly raised by some Mexican carriers as a possibility, would be to lease their equipment and drivers to U.S. firms, who it is hoped could then deal with insurance and regulatory requirements, and provide knowledge of the market on the U.S. side of the border. Another business plan being considered by some Mexican firms that would require less dependence on a U.S. partner would focus on long haul delivery direct to the warehouse districts in or near the border zones on the U.S. side and to direct long-haul delivery back into Mexico, thus eliminating the drayage hauler. Over time, these carriers might gradually expand service to border state inland ports such as San Antonio, Texas.

The Low Cost Producer: Time and Distance Is Money

Two of the basic precepts of making money in trucking are minimizing the time that trucks and drivers are idle and reducing the miles that empty trailers are hauled or tractors are driven without a load. For an independent Mexican carrier operating in the United States, its significant cost advantage is limited to its lower driver costs. Its main disadvantages are the aforementioned probable lack of a back-haul, higher insurance rates, increased inspection costs, higher state registration fees, and more expensive financing of its equipment. Over the long run, the effect of these disadvantages will probably be reduced but will not go away entirely. Mexican firms that are closely affiliated with, or are subsidiaries of, major U.S. firms will probably get help from their U.S. partner or parent firm to assist them in reducing their non-labor costs. In either case, the key to profitability may be that the labor cost differential is enough to overcome the cost of being delayed at the border and/or returning without a back-haul.

The Wage Differential

Estimates of the wage differential vary substantially for a federally licensed Mexican truck driver engaged in international carriage of cargo to the United States versus the cost of a U.S. driver, but they generally range from one third to one half the cost of the U.S. driver.⁶⁸ Using the 2007 Bureau of Labor Statistics figure for the median hourly truck driver wage of \$17.41, roughly three times the U.S. minimum wage, and the estimates that Mexican drivers would cost one third to one half of a U.S. driver, the cost savings for using a Mexican driver for long-haul carriage into the U.S. would range from \$7.63 to \$10.17 per hour.⁶⁹ Estimates of the differential on an

⁶⁸ See U.S. Bureau of Labor Statistics. *2007 National Occupational Employment and Wage Estimates: 53-3032 Truck Drivers, Heavy and Tractor-Trailer*. Internet address <http://www.bls.gov/oes/2007/may/oes533032.htm>. Schulz, John. *A Race to the Bottom*. Traffic World, Mar. 4, 2002, p. 22. Quotes Owner-Operator Independent Drivers Association (OOIDA) estimates that Mexican drivers earn 13 cents per mile versus U.S. truckload drivers earning 31 cents to 40 cents. Benton, James C. *Transportation Bill Set to Clear as Bush Wins Key Provision Opening U.S. to Mexican Trucks*. CQ Weekly, Dec. 1, 2001, p. 2846. Quotes Michael Belzer of Wayne State University estimate that Mexican drivers earn two thirds less than U.S. drivers. An Associated Press Article, *New Policy Troubles U.S., Mexican Truckers*, Nov. 29, 2002, estimates that U.S. truckers on average earn 32cents per mile and their Mexican counterparts earn about half that amount.

⁶⁹ Some believe Mexican trucking firms would be under pressure to pay their drivers well for fear that some of their drivers might abandon their equipment deep in the United States and seek better paying work in the United States.

earnings-per-mile basis pegged Mexican driver earnings in one case at 13 cents per mile versus 31 to 40 cents for a U.S. driver and in another case 16 cents per mile versus 32 cents per mile. With overall truck operating expenses reportedly ranging from \$1.10 to \$1.70 per mile, the majority of the labor cost advantage is quickly lost on any job without a revenue earning back-haul.⁷⁰ The labor cost benefit would probably be lost within the first third of a return run to the border without a back-haul load.⁷¹ Most observers believe that the border states will be the main zone of competition, with only the Mexican companies with connections for back-haul loads operating beyond the border states with any regularity.

Cabotage: Legal and Illegal

One way Mexican trucking firms could avoid hauling an empty trailer all the way back to Mexico would be to use the tractor to pick up and make a domestic U.S. delivery on the way back to Mexico. In the language of the trucking industry, such domestic movements are referred to as cabotage. NAFTA does not allow Mexican trucks to engage in domestic trucking in the United States or vice versa. U.S. customs has made an exception for Canadian vehicles, which may also be allowed for Mexican carriers.⁷² The exception is for a domestic movement of merchandise that is “incidental” (defined as in the “general direction of an export move or as part of the return movement [of trucks] to their base country”).

Cabotage is a contentious side issue in NAFTA implementation regarding Mexico. Opponents of implementation see the “incidental” exception as an enormous loophole on the prohibition against foreign carriers competing against U.S. truckers in the domestic market. The “incidental” exception is part of a much larger concern. Trucking unions and truck owner-operators are concerned that once Mexican trucks are commonly operating deep within the United States, Mexican carriers will be tempted to routinely engage in illegal cabotage in general and, in doing so, will take jobs away from U.S. drivers and businesses.⁷³ The installment of GPS devices on demonstration project participants was, in part, meant to address this concern. Another concern is that Mexican trucking firms will lease their trucks and drivers to U.S. partners or parent companies who might arrange for a work visa for the leased driver and then provide both international trucking services as well as cabotage within the United States.⁷⁴

⁷⁰ Case, Brendan M. “Mexican Rigs Get Go-Ahead; Bush Gives OK to Open Up U.S. Roads.” *Dallas Morning News*, Nov. 28, 2002, p. 1D.

⁷¹ Getting information on costs can be difficult due to the proprietary nature of business information. However, using the cost-per-mile estimate of \$1.10 to \$1.70, and the estimate that federally licenced Mexican drivers earn one third to one half what U.S. truckload drivers earn can provide a rough estimate that the labor cost savings are lost in the first third of a deadhead return. Near the border this does not mean a great deal, but the farther into the United States a Mexican truck travels, the more important a back-haul or cabotage load becomes to the profitability of the operation.

⁷² See 19 CFR 123.14.

⁷³ The Department of Transportation Inspector General reported in 1999 that some Mexican trucks were operating beyond the border zones and to a lesser extent beyond the border states, see *Mexico-Domiciled Motor Carriers [Operating Beyond the Border Zone]* Washington, Office of the Inspector General. Nov. 4, 1999. Report no. TR2000-013.

⁷⁴ The Motor Carrier Safety Improvement Act of 1999 (P.L. 106-159) prohibited the use of leases as a means of having Mexican trucks operate beyond the border zones, until implementation of NAFTA’s land transportation provisions.

The Distinctive Institutions

As mentioned earlier, there is a common view that the Mexican customs brokers and drayage companies will do what they can to maintain the status quo. There are reasons to believe, however, that resistance is overstated. To begin with, it is not only the drayage operators that have developed working relationships with the Mexican customs brokers over the years but also the long-haul companies that will be providing single-truck service to the U.S. side of the border. A second reason is that in the long run, Mexican brokers' profits are determined by the amount of freight they process. This will eventually provide them with an incentive to work with the long-haul carriers and also to streamline and automate their procedures. Although it is likely that the share of cargo hauled by the drayage operators will decline over the next ten years, it is unlikely that drayage will decline to the 15% share drayed across the Canadian border. The quality of trucks used for drayage reportedly is improving, in part, because of the increased safety and environmental scrutiny they will face at the border.⁷⁵ As the drayage share declines, some of these operators may change their business strategy and seek more business in local haulage in Mexico and some will also probably try operating beyond the border zones in the United States.

This is not to say that these institutions will not resist change but just that estimates that nothing will change for ten to fifteen years can probably be viewed as overly conservative. Should the two countries' economies grow more rapidly, the resulting increase in trade will probably provide plenty of business for both long haul and for drayage operators. The irony for the drayage companies is that the threat to their dominance of cross-border trucking is going to come from Mexican long-haul carriers, not from U.S. trucks.⁷⁶ Also, regular shippers have a model for expedited cross border trucking in the processing of the trucks used in the maquiladora trade. Mexican trucking companies that begin to regularly serve the warehouse districts and nearby cities in the border states will be especially attracted to the maquiladora model.

Caveat

Cross-border carriage of goods is a complicated activity with many elements that could change the outlook discussed above. Anything that significantly adds time to the paperwork process on either side of the border or to the duration and frequency of inspection of cargo could significantly delay the impact of NAFTA implementation. Heightened concerns about security, drug smuggling, safety, pollution, illegal immigration and terrorism, could lead to more intensive inspection of goods and driver documentation. This could increase border crossing delays and perhaps reduce the Mexican labor cost advantage and limit the impact of implementation.

Congressional Issues

The Obama Administration has stated that it intends to introduce a revamped demonstration program and thus an issue for Congress will be reviewing that new plan. The DOT IG and the IEP

⁷⁵ U.S. Department of Transportation. Office of the Inspector General. *Interim Report on Status of Implementing the North American Free Trade Agreement's Cross-Border Trucking Provisions*. Report no. MH-2001-059. Found that out-of-service rates for Mexican trucks has been declining and that the condition of Mexican trucks correlate with the level of inspection at the border.

⁷⁶ The point where these companies interline or interchange with their Mexican partners may move deeper into the U.S. border states.

going beyond the commercial zones. The case can be made, however, that the combination of increased enforcement (the FMCSA alone has 252 personnel assigned to the Mexican border and state police and safety inspectors will also be on the look-out for Mexican trucks operating beyond their authority) and penalties (placing a Mexican truck, far from the border, out of service is a very expensive proposition for a Mexican carrier; in addition, fines can be imposed) should reduce this kind of cheating.⁸⁰ However, it will be worth watching the numbers of Mexican-domiciled trucks that are caught operating beyond their authority.

The leasing of Mexican trucks and drivers by U.S. firms may become a major implementation issue. The ban on using leases to circumvent the prohibition on Mexican trucks from operating beyond the border zones ends with NAFTA implementation. Leasing may become an important element in the post-implementation business environment. If a U.S. firm also arranges for work visas for leased Mexican drivers, it could make them available for more cabotage loads and could have Mexican drivers competing more often against U.S. drivers in the United States. Should this happen, Congress may want to revisit the leasing issue.

Author Contact Information

John Frittelli
Specialist in Transportation Policy
jfrittelli@crs.loc.gov, 7-7033

2010 MAR -8 PM 4: 39
CRM/ISS/REGISTRATION UNIT

⁸⁰ FMCSA officials.

The U.S.-Mexico Cross-Border Trucking Demonstration Program

Myths vs. Reality

Fundamental misconceptions surround the U.S.-Mexico Cross-Border Trucking Demonstration Program. As a result, opponents are often poorly informed and misled about the program's superb safety record as well as about the legality of Mexico's response to the U.S. Congress' termination of the program. The following examination sheds light on half a dozen of these myths and the realities that provide a better understanding of the program.

MYTH: The Bush Administration rushed to establish the original demonstration program.

REALITY: The North American Free Trade Agreement (NAFTA) called for cross-border trucking to be phased in beginning in 1995. After 12 years of U.S. delay, the Bush Administration chose to begin living up to the U.S. commitment to NAFTA and launched the cross-border trucking demonstration program in September 2007.

MYTH: Mexican trucking companies that participated in the Cross-Border Trucking Program did not meet U.S. safety standards and threatened the safety of the U.S. public. Mexican trucks, driver licensing and safety rules did not meet U.S. legal requirements.

REALITY: U.S. safety standards were fully enforced under the program. Only companies satisfying all U.S. standards were allowed to participate. U.S. Department of Transportation officials conducted on-site safety inspections of Mexican trucks in Mexico before they entered the U.S., and checked maintenance, insurance and other standards to make sure that they complied with U.S. requirements. U.S. DOT officials also performed on-site inspection of Mexican drivers to ensure that they met the same safety standards as U.S. truckers. All Mexican drivers are registered in an electronic database, shared with U.S. authorities, which contains biometric, personal and medical information.

Mexican trucks have met all of the safety standards required by the original trade agreement as well as 22 additional safety requirements created by Congress in 2002. These 22 requirements are more onerous than safety requirements imposed on U.S. participants in the demonstration program (see Page XX). Additional provisions were introduced in 2007 and, once again, all were met.

During the demonstration program's 18 months of operation, 26 Mexican carriers (with 103 trucks) and 10 U.S. carriers (with 61 trucks) crossed the border more than 45,000 times without any significant incident or accident. Moreover, according to reports of both the U.S. DOT's Inspector General and an independent evaluation panel, Mexico's participating carriers have a safety record far better than that of all other carriers operating in the U.S (see Page XX).

MYTH: The tariffs applied by the Mexican government in reaction to the termination of the demonstration program are illegal. There is no legal basis for their implementation.

REALITY: The tariffs are a legal, measured response to termination of the trucking program. In accordance with NAFTA, Mexican trucks should have been allowed access to U.S. border states in 1995, and by 2000, should have had nationwide access. Mexico's decision to apply tariffs is in full compliance with a final report issued by a five-member NAFTA dispute resolution panel in 2001, chaired by a Briton and including two U.S. members, which unanimously found the U.S. to be in violation of its NAFTA trucking commitments. Thus there has been nothing illegal about Mexico's actions, and no violation of treaties or agreements.

Mexico could have suspended U.S. trade benefits 30 days after the publication of the 2001 report if a mutually satisfactory solution was not found. Instead, as it has done over the last 14 years, Mexico withheld such action and sought a constructive solution to continued U.S non-compliance with its treaty obligations.

The cancellation of the trucking demonstration program left the Mexican government with no choice but to impose countermeasures after years of restraint and goodwill.

MYTH: The 89 products targeted for tariffs by the Mexican government were illegally selected.

REALITY: The products were selected in full compliance with NAFTA provisions, which state that if a complaining party considers it impracticable or ineffective to suspend benefits in the same sector or sectors under dispute, it may suspend benefits in other sectors. It is precisely because of the importance of cross-border trucking services (which carry approximately 70% of all bilateral trade) to North America's competitiveness that Mexico is allowing continued access to U.S. carriers under the now-defunct demonstration program.

MYTH: Mexico has no legal basis to set trade sanctions on the United States that impose greater costs than the supposed costs on the Mexican economy.

REALITY: The amount of trade sanctions imposed by Mexico represents the lost income of Mexican carriers for the lack of U.S. compliance with its NAFTA cross-border trucking commitments. Mexico has taken a conservative and reasonable approach, increasing import tariffs on U.S. goods for an amount equivalent to the lost income of Mexican carriers.

MYTH: Even if Mexican carriers meet all U.S. safety requirements, the low wages of Mexican drivers will still drive U.S. trucking companies out of business.

REALITY: When all other arguments fail, trucking opponents turn to the argument of allegedly unfair competition from lower wages of Mexican drivers and call for a renegotiation of NAFTA. Their opposition has never been about the safety of American roads or drivers; it was and continues to be about protectionism, pure and simple.

In 2007, U.S. exports to Mexico reached \$140 billion, making it the second most important destination abroad for U.S. goods. Today, Mexico is ranked among the top five export destinations for 33 U.S. states. NAFTA has benefited Mexican and U.S. consumers and producers.

By blocking access to Mexican trucks, a serious blow is being inflicted upon U.S. businesses at a time when competitiveness is most crucially needed. The Mexican government will continue to work actively and responsibly during the coming weeks and months with the U.S. to find a solution that will allow safe Mexican trucks onto U.S. roads under NAFTA rules.

U.S.-MEXICO CROSS-BORDER TRUCKING

A Chronology

A. 1980's

PRE-1982: Any Mexican motor carrier could apply – on equal terms with U.S. carriers – to operate in the United States.

1982: After U.S. carriers demanded reciprocal access into Mexico and Canada, Congress voted to halt U.S. authority for foreign carriers until reciprocity was provided. Mexican truckers with existing U.S. service were grandfathered in (hundreds of Mexican carriers currently are authorized to travel throughout the United States), and limited “commercial zones” were created on each side of the border.

B. 1990's

DECEMBER 1992: The NAFTA was signed. In Annex I, the United States and Mexico agreed to allow each others' trucks access to border states by December 18, 1995 and to fully implement NAFTA's crossborder trucking provisions in all states by January 1, 2000. Mexican carriers were not authorized to pick up U.S. goods for U.S. delivery.

DECEMBER 18, 1995: On the very day that the cross-border trucking provision was to be implemented, the Administration, alleging safety reasons, suddenly announced that the Department of Transportation (DOT) would not process any Mexican motor carrier applications. Thus began a long political and legal campaign, orchestrated chiefly by the Teamsters union, to kill the cross-border trucking provision.

SEPTEMBER 22, 1998: the Government of Mexico requested an arbitration panel review of the NAFTA trucking provisions^[SAH1] dispute under Chapter 20 of the Agreement.

C. 2001-2004

FEBRUARY 2001: After years of fruitless discussions, a five-member NAFTA dispute-settlement panel – chaired by a Briton and including two U.S. members – ruled unanimously that the blanket exclusion of Mexican trucking firms violated U.S. obligations under the NAFTA and that Mexico was entitled to retaliate against U.S. goods.

JUNE 5, 2001: President Bush lifted the moratorium on Mexican investment in U.S.-domiciled carriers with a memorandum to the Secretary of Transportation.

DECEMBER 18, 2001: In the fiscal 2002 Transportation Appropriations Act, Section 350 required DOT to implement 22 requirements to verify the safety and financial status of Mexican carriers.

2002: DOT published rules complying with all Section 350 mandates. However, a legal challenge to DOT's rules by organized labor and others, claiming that an environmental study was required first, again blocked Mexican carriers from traveling beyond the 25-mile commercial zone.

JUNE 2004: The Supreme Court unanimously held that the DOT rules were consistent with federal laws and standards, meaning that an environmental study was not required.

D. 2007-2009

FEBRUARY 23, 2007: The U.S. and Mexico announced a modest demonstration project to begin fulfilling U.S. obligations under the NAFTA's cross-border trucking provisions.

MAY 15, 2007: The Iraq Supplemental Appropriations bill conditions the implementation of the cross-border trucking provision on a reciprocal program to demonstrate the safety of participating carriers.

JUNE 8, 2007: DOT announced more *Federal Register* details about the test program and sought further comments. DOT said it had met its obligations under the spending law's mandate that the trial program comply with Section 350 of the 2002 Transportation Appropriations Act and Section 36901 of the Iraq Supplemental Appropriations.

AUGUST 31, 2007: The 9th Circuit Court of Appeals denied a request by the Teamsters union, the Sierra Club and others for an emergency stay to block DOT implementation of the trucking demonstration program. The Owner-Operator Independent Drivers Association later filed another emergency stay request in the U.S. Appellate Court in D.C. That request was also denied.

SEPTEMBER 6, 2007: DOT's Inspector General submitted his report to Congress, required before the demonstration program could begin.

SEPTEMBER 9, 2007: The demonstration program's first trucks from Mexico rolled across the border to deliver goods to New York state and South Carolina, while the first U.S. truck in the test delivered goods several days later more than 250 miles into Mexico.

DECEMBER 26, 2007: The President signed the fiscal 2008 transportation funding bill, which included a provision denying funds for DOT to "establish" a trucking demonstration program but not to continue an existing one.

JULY 10, 2008: The Senate Appropriations Committee voted, 20-9, to include (in the Transportation Housing and Urban Development funding bill) an amendment to kill the cross-border program.

AUGUST 4, 2008: The U.S. and Mexico announced that they would extend the existing test program for two years. The extension was intended to encourage added participation.

OCTOBER 31, 2008: An Independent Review Panel established under the demonstration program found that Mexican carriers participating in the program had better safety records than U.S.-domiciled carriers.

FEBRUARY 2009: DOT Inspector General's report states Mexican carriers have a better safety record than U.S. carriers.

MARCH 10, 2009: Congress passed the FY 2009 Omnibus Spending Bill, which contained language that blocked all funding for the U.S. cross-border demonstration program.

CURRENT STATUS: Mexico increased import duties on 89 US products, whose total export value in 2008 was \$2.4 billion.

U.S.-MEXICO CROSS-BORDER TRUCKING DEMONSTRATION PROGRAM

Fact Sheet

The North American Free Trade Agreement (NAFTA) called for cross-border trucking to be phased in starting in 1995. In September 2007, after 12 years of delay, the United States began living up to the promise it made in the NAFTA by launching the U.S.-Mexico cross-border trucking demonstration program.

The program allowed a modest number of Mexican trucks to travel beyond the 25-mile border "commercial zone" to which they have been restricted, while offering reciprocal access to U.S. trucks in Mexico. Unfortunately, the U.S. Congress included a provision in the fiscal 2009 omnibus appropriations bill terminating the program in March 2009.

STREAMLINING THE SYSTEM

The demonstration program was intended to start streamlining the antiquated trucking system that carries 70% of the \$370 billion of U.S.-Mexico trade. At present, multiple trucks and drivers are required for each truckload of Mexican cargo. When a Mexican long-haul truck nears the United States, its cargo generally must be transferred to older, smaller "drayage" vehicles that shuttle goods to the border, idle in long lines waiting to be processed, and then travel within the 25-mile commercial zone. Their cargoes are then transferred again to a single U.S. long-haul truck for delivery to their final destination.

NO SAFETY PROBLEMS

During the 18 months of its operation, the demonstration program showed that Mexican trucks and drivers operated safely on U.S. highways. Twenty-six Mexican carriers (with 103 trucks) and 10 U.S. carriers (with 61 trucks) crossed the border more than 45,000 times without a significant incident.

This commendable record should come as no surprise:

- **U.S. officials and independent panels repeatedly have affirmed that Mexican trucks are as safe or safer than U.S. vehicles:**
 - In February 2009, the U.S. DOT Inspector General reported that Mexican carriers in the demonstration program had a better safety record than U.S. carriers.
 - In October 2008, an Independent Review Panel established under the demonstration program similarly found that Mexican carriers in the program had better safety records than U.S.-domiciled carriers.
 - The Federal Motor Carrier Safety Administration's (FMCSA) comprehensive pre-approval criteria included verifying drivers' Commercial Driver's License and Mexican Licencia Federal, checking compliance with hours-of-service rules, and verifying presence of a drug- and alcohol-testing protocol. The demonstration program's GPS system provided the data necessary to verify hours-of-service.
- **The number of Mexican carriers that participated in the demonstration program is a mere fraction of the Mexican truckers already authorized to travel**

throughout the United States. Mexican-domiciled carriers that are majority U.S.-owned have long been permitted to travel anywhere in the United States – and have had no notable safety problems. At present, hundreds of these Mexican trucking firms are authorized to drive U.S. highways.

- **U.S. inspectors conducted on-site safety audits, in Mexico, of Mexican trucks participating in the program.** These inspections ensured that those trucks and drivers met the same safety, insurance, licensing, maintenance, drug and alcohol testing and other standards that apply to U.S. trucks and truckers, and in some cases the standards exceed those required of U.S. trucks or those from Canada, our other NAFTA partner. Only those satisfying all U.S.-specified standards have been allowed in the demonstration program. Each Mexican truck has then undergone an additional safety check every time it crosses the border.

GREATER U.S. SECURITY

The trucking demonstration program also improved U.S. security. This was because of (a) the initial on-site safety audits in Mexico, (2) the additional safety checks each time the trucks crossed into the United States, and (3) the fact that replacing many short-haul vehicles with fewer long-haul trucks reduced the number of drivers and vehicles that had to be cleared at the border.

INCREASED COMPETITIVENESS

The current truck transportation system not only bloats producer and consumer prices. It also fails to fulfill the benefits (particularly lower transportation costs) that stem from U.S.-Mexico proximity – a key NAFTA advantage. Doing so now clearly would boost U.S. and North American productivity and competitiveness against economic rivals.

LESS BORDER POLLUTION

Finally, the demonstration program promised to reduce emission of pollutants in border regions. Large numbers of older, short-haul vehicles, whether idling or driving, contribute more heavily to air pollution problems in border areas than do the more modern (and fewer) long-haul vehicles in the demonstration program.

U.S. PARTICIPANTS IN THE DEMONSTRATION PROGRAM REPRESENTED GEOGRAPHICALLY DIVERSE STATES

U.S. carriers participating in the crossborder demonstration program represented states from the Northeast to the West Coast, including Pennsylvania, Ohio, Oklahoma, Illinois, Texas and California. These carriers and their Mexican counterparts delivered a wide variety of products, from tomatoes, grapes and wines, to cement, electronic components and plastic resins -- to and from 12 states in Mexico and 22 U.S. states.

**FOLLOW-UP AUDIT ON THE
IMPLEMENTATION OF THE NORTH
AMERICAN FREE TRADE AGREEMENT'S
CROSS-BORDER TRUCKING PROVISIONS**

Federal Motor Carrier Safety Administration

Report Number: MH-2009-068

Date Issued: August 17, 2009

2010 MAR -8 PM 4: 43
CRH/ISS/REGISTRATION UNIT



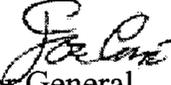
Memorandum

United States Department of
Transportation

Office of the Secretary
of Transportation
Office of Inspector General

Subject: **ACTION:** Report on Follow-Up Audit of
Implementation of the North American Free Trade
Agreement's Cross-Border Trucking Provisions
Federal Motor Carrier Safety Administration
Report Number MH-2009-068

Date: August 17, 2009

From: Joseph W. Comé 
Assistant Inspector General
for Surface and Maritime Program Audits

Reply to
Attn. of: JA-40

To: Acting Deputy Administrator, Federal Motor Carrier Safety Administration

This report presents the results of our audit of the North American Free Trade Agreement's (NAFTA) cross-border trucking provisions. Transportation appropriations legislation since fiscal year (FY) 2002¹ requires the Office of Inspector General (OIG) to annually review the Federal Motor Carrier Safety Administration's (FMCSA) compliance with eight safety criteria set forth in section 350(c) of the FY 2002 Act. The eight safety criteria relate to potential Mexico-domiciled motor carrier operations beyond the commercial zones.²

The Omnibus Appropriations Act of 2009 (Omnibus Act)³ extended OIG's requirement to review the eight safety criteria and ended the Department's ongoing NAFTA Cross-Border Trucking Demonstration Project (Demonstration Project), which allowed up to 100 Mexican motor carriers to operate in the United States beyond commercial zones. Exhibit A details the eight safety criteria and our audit requirements.

¹ FY 2002 Department of Transportation and Related Agencies Appropriations Act (the FY 2002 Act), Pub. L. No. 107-87 (2001).

² Commercial zones at the United States-Mexico border (the southern border) generally extend from 3 to 25 miles north of United States border municipalities (or 75 miles within the State of Arizona).

³ Pub. L. No. 111-8 (2009).

BACKGROUND

Our last report on NAFTA cross-border trucking provisions, issued in August 2007,⁴ concluded that FMCSA had sufficient staff, facilities, equipment, and procedures in place to meet the section 350 criteria. We made four recommendations to FMCSA, two of which centered on improving implementation of criteria six and seven, as shown in table 1. Exhibit B provides more detailed information on the status of the eight criteria and details FMCSA's actions taken.

Table 1. FMCSA's Actions to Implement Section 350(c) Criteria

Section 350(c) Criteria	FMCSA's Actions as of August 2007
(1) Hiring and training border inspectors.	<i>Met the criteria—On-board staff is near authorized strength and has been trained.</i>
(2) Training inspectors conducting on-site reviews as safety specialists.	<i>Met the criteria—Training was completed.</i>
(3) Not transferring inspectors to fill positions.	<i>Met the criteria—No transfers were identified.</i>
(4) Implementing an hours of service policy.	<i>Met the criteria—Policy has been implemented.</i>
(5) Having a sufficiently accurate, accessible, and integrated information infrastructure and adequate telecommunications links.	<i>Met the criteria—In place and being used.</i>
(6) Having adequate capacity at southern border to conduct meaningful inspections.	<i>Substantially met the criteria. The capacity to perform truck, bus, and driver inspections are in place, but FMCSA needed to include bus inspections during peak hours, such as holiday periods, at Laredo, Texas.</i>
(7) Having sufficient databases to allow safety monitoring of Mexican carriers and drivers.	<i>Substantially met the criteria. Databases are in place, but FMCSA needed to improve the consistency of Mexican traffic conviction reporting to the Mexican Conviction Database (formerly the 52nd State System).</i>
(8) Having measures to effectively enforce and monitor Mexican carrier licensing.	<i>Met the criteria—Enforcement rules were implemented and states have adopted out of service criteria.</i>
Source: OIG	

For this audit, our objective was to assess FMCSA's ongoing compliance with the section 350(c) safety criteria since our August 2007 report. We also assessed FMCSA's implementation of two OIG recommendations made in August 2007 that pertain to issues not related to section 350(c). We recommended that FMCSA (1) implement a policy on using vehicle model year data to indicate Mexican vehicle compliance with Federal Motor Vehicle Safety Standards (FMVSS) and record vehicle identification numbers as part of a safety inspection and (2) establish an action plan, in coordination with other Department offices, to address concerns regarding Mexico's drug and alcohol testing of Mexican

⁴ OIG Report Number MH-2007-062, "Follow-Up Audit of the Implementation of the North American Free Trade Agreement's (NAFTA) Cross-Border Trucking Provisions," August 6, 2007. OIG reports can be found on our website: www.oig.dot.gov.

commercial drivers. Exhibit C provides the results of our review of these two issues and two additional pertinent issues that we identified in our series of reports⁵ on the NAFTA Demonstration Project.

We conducted this performance audit from June 2008 through June 2009, in accordance with Generally Accepted Government Auditing Standards as prescribed by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Exhibit D details our audit scope and methodology.

RESULTS IN BRIEF

Since we began reporting on section 350(c) criteria in June 2002, FMCSA has continually taken actions to address our recommendations for improvements in the border safety program. For example, most recently, FMCSA (1) implemented improved data quality control measures and action plans to correct inconsistencies in state reporting of Mexican traffic conviction data; (2) issued peak hour bus inspection procedures to its border staff in Laredo, Texas; and (3) conducted a study of bus facilities and staffing at southern border crossings.⁶ Despite these positive actions, further efforts are still needed to improve the consistency of information reported to the Mexican Conviction Database (MCDB) and to improve the capacity to perform safe and efficient bus inspections at border crossings.

First, states continue to inconsistently report traffic convictions incurred by holders of Mexican driver's licenses to the MCDB. For example, New Mexico's reporting of first quarter traffic convictions for calendar year (CY) 2008 was delayed until the second quarter of that year. Also, Missouri reported traffic convictions of Mexican drivers in non-commercial vehicles, while other states did not. Moreover, current traffic conviction reporting requirements and monitoring procedures make it difficult to account for the possibility that Mexican Federal commercial driver's license (CDL) holders operating in the United States could also legally hold another Mexican-issued driver's license. Inconsistent reporting or monitoring problems make the system vulnerable to incomplete information or delays. As a result, any conviction information that is not reported or delayed

⁵ In response to section 6901 of the United States Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, OIG issued initial, interim, and final reports on this project.

⁶ According to FMCSA, a study was completed in October 2008, but has not been approved for release.

could result in Mexican Federal CDL holders continuing to drive in the United States after incurring a disqualifying traffic offense.⁷

Second, performing safe and efficient bus inspections at border crossings continues to be a challenge for FMCSA. Buses are less likely to be subject to inspections at the southern border, especially at non-commercial crossings that are not staffed by inspectors or at crossings for which inspections do not occur during evenings and weekends. Further, at two non-commercial crossings, the bus inspection space provided by Customs and Border Protection (CBP) was unsafe due to the proximity to moving traffic, which may deter inspectors from performing certain inspections. These constraints lessen the impact border inspections have as a deterrent to unsafe buses entering the United States.

We are making a series of recommendations to FMCSA to address inconsistent MCDB reporting and to make improvements in its Bus Inspection Plans.

PROBLEMS WITH MCDB DATA CONSISTENCY AND BUS INSPECTION CAPACITY REMAIN

FMCSA continues to meet the eight section 350(c) safety criteria, as reported in our August 2007 report, and has taken actions in response to two recommendations in that report. Specifically, FMCSA concurred with OIG's recommendations for:

- having sufficient databases to allow safety monitoring of Mexican carriers and drivers. FMCSA agreed to (1) ensure state action plans addressing reporting problems are completed, (2) obtain monthly data reports and notify states of inconsistencies found, and (3) provide guidance on tracking inconsistencies to FMCSA Division Administrators.
- having adequate capacity at southern border to conduct meaningful bus inspections. FMCSA agreed to (1) modify the Bus Inspection Plan for Laredo, Texas, to ensure coverage during periods of peak traffic, including holidays; (2) work with CBP to determine the effectiveness of the plan; and (3) study bus activities and operations at southern border crossings.

Although FMCSA took actions in response to our August 2007 recommendations, we identified additional improvements to address problems that remain for the safety criteria related to consistent data reporting in the MCDB and having adequate bus inspection capacity.

⁷ Holders of CDLs in the United States, by law, must be disqualified for specific traffic offenses committed while operating a commercial motor vehicle or for specified offenses committed while driving a non-commercial vehicle, such as a passenger car or a rental car.

Inconsistent State MCDB Reporting of Traffic Convictions Remain

Our current work re-examined the data inconsistencies noted in our August 2007 report. Our assessment of the MCDB found that: (1) states continue to inconsistently report traffic convictions incurred by holders of Mexican driver's licenses to the MCDB; (2) FMCSA's quality control plan, intended to address inconsistencies with the MCDB, did not include all procedural elements; and (3) vulnerabilities existed regarding the treatment of different categories of traffic convictions and types of Mexican-issued licenses

States Continue To Inconsistently Report Traffic Convictions Incurred by Holders of Mexican Driver's Licenses

Our analysis of MCDB data from January to September 2008 showed some improvement in state reporting of data on Mexican traffic convictions incurred in the United States, when compared to CY 2007 reporting. However, we concluded that inconsistencies in state reporting continue to exist. Specifically:

- New Mexico's CY 2008 first quarter convictions were not reported until the second quarter of CY 2008. According to FMCSA, new state staff was not aware of the MCDB reporting requirements.
- Arizona reported only 66 convictions for most of CY 2008 (from January to September 2008) in comparison to the 229 convictions reported in CY 2007. FMCSA asserted that Arizona reported all convictions and attributed Arizona's low CY 2008 reporting to court non-compliance, reduction in CDL-related state law enforcement activities due to budget cuts, and reductions in commercial driving due to the economic downturn.

Any conviction information that is delayed or not reported, including information on convictions incurred while driving a non-commercial vehicle, could result in Mexican Federal CDL holders continuing to drive in the United States after incurring a disqualifying traffic offense. We should note that we did not identify specific examples where inconsistent reporting of convictions allowed a Mexican Federal CDL holder to drive in the United States after incurring a disqualifying traffic offense. However, by eliminating the existing inconsistencies in state reporting, FMCSA would have greater assurance that Mexican commercial drivers are qualified to drive in the United States.

The MCDB Quality Control Plan Did Not Include All Procedural Elements

Since our August 2007 report, FMCSA developed state action plans to help states correct reporting inconsistencies and has worked with states to complete the plans. Additionally, in January 2008, FMCSA instituted a quality control plan for the

MCDB, in which quarterly reports of state MCDB data are generated and provided to FMCSA Division Administrators for review and action.

Although FMCSA implemented its quality control plan for the MCDB and provided states with a download of state-recorded MCDB data for review, we found that FMCSA's actions regarding the quality control plan differed from what FMCSA proposed in its response to our August 2007 report. Specifically, FMCSA did not implement a proposed procedure to provide monthly reports to its Division Administrators identifying data inconsistencies. Instead, FMCSA implemented a procedure to provide state quarterly-recorded MCDB data. If a state did not have quarterly data, even though a history of convictions reported existed, no report was generated.

Additionally, we found that the quality control plan procedures were transmitted informally, that is, via an email from FMCSA to regional offices with broad instructions to "...follow-up with your states and verify that the information is correct." The quality control plan also did not contain a proposed follow-up procedure mechanism or guidance on how to track state data corrections.

The MCDB Was Vulnerable to Incomplete Information

According to FMCSA, the MCDB is not required, but was put in use until Mexico's Licencia Federal Information System (LIFIS) was fully developed and operational to track Mexican Federal CDL holders. FMCSA contracted with TML Information Services, Inc., (TML) to maintain the MCDB and uses the driver's license conviction data, under rules established by FMCSA, to disqualify any Mexican Federal CDL holder, as warranted, from operating in the United States.⁸ FMCSA has asked states to report the following categories of convictions to the MCDB.

- Traffic convictions of Mexican Federal CDL holders operating commercial and non-commercial vehicles and
- Traffic convictions in a commercial vehicle when the driver used a Mexican personal or Mexican state-issued CDL.

Our current work found that states were not consistently reporting the categories of traffic convictions that FMCSA requested. For example, New Mexico had not reported non-commercial vehicle traffic convictions in CY 2007 or for most of CY 2008. Conversely, other southern border states reported such convictions. Furthermore, although not a definitive indication of reporting inconsistencies since states may not have traffic convictions to report, 25 non-southern border states did

⁸ Serious and disqualifying offenses include driving under the influence of alcohol or drugs and serious traffic offenses include multiple excess speeding violations or reckless driving.

not report a Mexican traffic conviction for CY 2007 and most of CY 2008. In contrast, the remaining 21 non-southern border states reported at least one Mexican traffic conviction. Even Hawaii, a non-continental state, reported 21 convictions—the second largest number of Mexican traffic convictions for a non-southern border state in CY 2008.

We also found that states are reporting a third category of traffic convictions, Mexican personal or Mexican state-issued CDL traffic convictions in a non-commercial vehicle, to the MCDB. According to FMCSA, states are encouraged to report these convictions at the states' discretion. For example, Missouri officials informed us that 428 non-commercial vehicle convictions reported in CYs 2007 also include Mexican personal driver's license convictions while operating their personal vehicle. However, all of the states are not reporting such information. Table 2 on the next page shows the number of MCDB Mexican driver's license convictions by vehicle type for CYs 2007 and 2008.

One reason for these inconsistencies in state reporting stems from the fact that current Federal laws and regulations for the CDL program do not require states to report convictions of Mexican Federal CDL holders to the MCDB. However, the lack of consistent conviction data increases the possibility that Mexican Federal CDL holders that should have been disqualified could continue to drive in the United States. Similarly, a related vulnerability has to do with the current monitoring procedures that make it difficult to account for the possibility that Mexican Federal CDL holders operating in the United States could also legally hold another Mexican-issued driver's license. Because of this vulnerability, FMCSA could not readily identify traffic convictions needed to disqualify Mexican Federal CDL holders. Consequently, these Mexican drivers could incur convictions under other driver's licenses that may not be reported to the MCDB.

Furthermore, even if states report the convictions, FMCSA may not readily match them to a Mexican Federal CDL holder because the matching is carried out manually. As a result, the manual process is likely more susceptible to errors when different types of licensing data are present, and matching convictions to the CDL holders could become delayed if the number of non-Federal CDL convictions reported were to increase. In contrast, United States CDL holders can have only one license that covers the operation of both commercial and non-commercial vehicles throughout the United States, making it more likely to detect a traffic conviction.

Table 2. MCDB Mexican Driver's License Convictions by Vehicle Type (CYs 2007 and 2008)

MCDB Mexican Driver's License Convictions Reported by State	Commercial Vehicle		Non-Commercial Vehicle	
	CY 2007	CY 2008 (January-September)	CY 2007	CY 2008 (January-September)
Southern Border States:				
– Texas	2,254	1,931	339	606
– California	51	278	21	99
– New Mexico	120	200	0	0
– Arizona	94	39	135	27
Non-Southern Border States:				
• Non-southern border states with a large number of convictions in a year:				
– Missouri	5	1	428	313
– Hawaii	0	0	0	21
• Remaining non-southern border states with a small number of convictions in a year:*				
– 8 states reported both vehicle types	17	11	9	19
– 7 states reported commercial only	8	18	0	0
– 4 states reported non-commercial only	0	0	1	4
– 25 states reported no convictions	0	0	0	0
Total Convictions Reported:	2,549	2,478	933	1,089
Source: OIG analysis of FMCSA's Mexican Conviction Database data.				
*The remaining 44 non-border states accounted for 1.2 percent of all convictions reported in the period; 87 of the 7,049 convictions in both years for all vehicle types.				

Inadequate Bus Inspection Capacity Exists at Some Southern Border Crossings

Under section 350(c) criteria, FMCSA must have adequate capacity at southern border crossings to conduct a sufficient number of meaningful vehicle safety inspections. To meet the criteria for Mexican commercial buses operating in the United States, FMCSA developed a Bus Inspection Plan that details, on a site-specific basis, its plan to perform bus inspections at commercial and non-commercial border crossings.

Our current work found a lack of daily inspections at non-commercial border crossings. For example, we observed that bus inspection operations at four non-commercial border crossings at Calexico and San Ysidro, California, and at Laredo and McAllen-Hidalgo Bridge, Texas, did not include a daily inspection presence. We also found that FMCSA had not followed through on its promised action to add to its Bus Inspection Plan holiday and weekend bus inspection coverage at Laredo, Texas. Instead FMCSA provided the inspection coverage requirement to its staff in an email, which the staff stated it used as a basis for

carrying out its inspections. In addition to constraints on when inspections could be performed, constraints on efficient and safety inspection space also existed. In our opinion, these constraints lessen the impact that inspections can have on deterring the entry of unsafe buses into the United States.

FMCSA's Bus Inspection Plan Does Not Provide Adequate Capacity

Our review found that FMCSA needed to improve its capacity to adequately perform bus inspections. First, its Bus Inspection Plan did not include the frequency at which bus inspections should be performed at a crossing. FMCSA and CBP personnel we interviewed confirmed that the Bus Inspection Plan denotes a day and time period when inspections occur, but does not note the frequency of the inspections. Consequently, significant time may elapse between bus inspections.

Second, the Bus Inspection Plan limits inspections at some crossings to specific hours that the crossings are open, designating a day and time, usually a weekday, when inspections may occur. According to an FMCSA inspector, the Bus Inspection Plan excluded evening inspections at some crossings due to the lack of appropriate lighting. Furthermore, the Bus Inspection Plan does not include alternative solutions such as portable lighting.

Although our review did not identify specific instances of unsafe bus crossings, we found evidence that the frequency of bus inspections, and thus the deterrent value, may decrease if the border is open to additional long-haul operations. At California and Texas border crossings, FMCSA personnel stated that after the Demonstration Project started, they no longer routinely performed bus inspections as frequently as in the past because inspectors had been diverted to inspect Demonstration Project trucks.

Our comparative analysis of inspection data for the year before the Demonstration Project began to the first year of the project corroborated FMCSA's statements. We found that FMCSA bus inspections decreased by over 32 percent (6,505 inspections), which corresponds with the increase in Demonstration Project truck inspections that occurred (7,394 inspections). We also noted decreases in inspections at most crossings. At El Paso, Texas, with a large volume of bus crossings, bus inspections decreased by about 80 percent—the largest decrease of all locations—from 5,143 inspections performed in the year before the Demonstration Project to 1,021 inspections during the first year of the project.

Finally, the shift in FMCSA border staff to meet the requirements for truck inspections under the Demonstration Project call into question whether FMCSA's border staff could meet the bus inspection demands that may occur if the border were to open to a large number of Mexican long-haul trucks and buses. During its first year, the Demonstration Project had less than 30 Mexican carriers and

118 trucks participating; but future demands, such as the need for FMCSA to meet the section 350(a) prerequisite⁹ to inspect 50 percent of the driver's licenses of all Mexican truck and bus drivers crossing the border, may create a far greater demand as staff is required to inspect more vehicles than the number that participated in the Demonstration Project.

Space Is Inadequate To Perform Efficient and Safe Bus Inspections

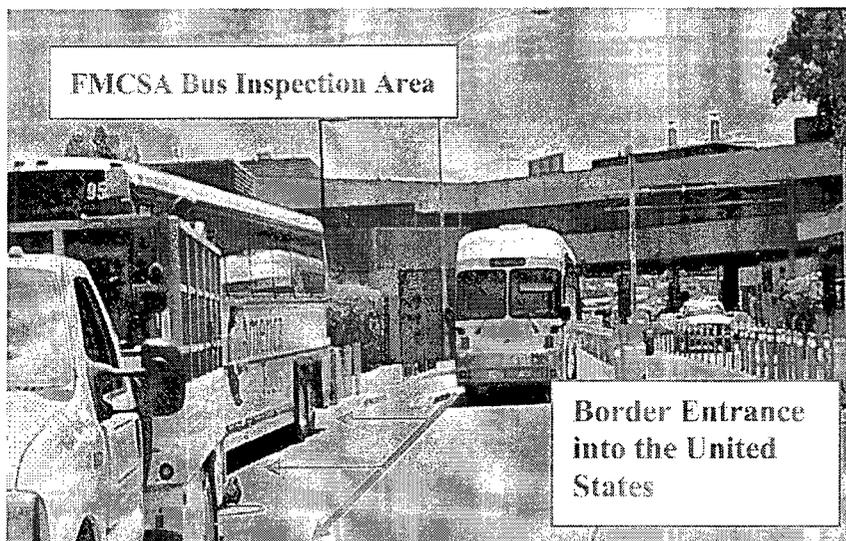
FMCSA did not have permanent facilities to perform bus inspections at any of the five locations we visited, through which pass over 80 percent of bus crossings at the southern border. For the San Ysidro, Laredo, and McAllen-Hidalgo crossings, the space CBP provided FMCSA for bus inspections were located on the roadway shoulder immediately after the CBP primary inspection booth. The inspection space for Calexico was located on a small access way to the CBP inspection booth and the Otay Mesa space was located on a circular roadway at the public entrance to the CBP immigration building.

The space CBP provided to perform inspections at four of the five crossings may limit the number of inspections FMCSA realistically can perform. According to FMCSA officials at the Calexico, Otay Mesa, and San Ysidro crossings, inspectors do not have adequate space to set up the full set of four ramps needed to efficiently inspect the underside of a bus. Instead, inspectors can set up only two of the four ramps needed to inspect a bus from bumper to bumper and must maneuver the bus to make use of the two ramps, which requires additional time. According to FMCSA officials at the McAllen-Hidalgo crossing, CBP does not allow ramp inspections because it may disrupt traffic. Further, FMCSA officials at the Calexico and Otay Mesa crossings informed us of instances where bus inspections were not performed to accommodate CBP's use of the space.

Additionally, the close proximity of inspection space to moving traffic may deter inspectors from performing certain types of bus inspections. At two locations, Laredo and San Ysidro, we observed FMCSA officials performing inspections on the shoulder of the road within inches of moving passenger buses—without a separation barrier. Further, an FMCSA official at one crossing stated that level 1 inspections, which include an inspection of the underside of the bus, are not always performed because it is “too dangerous” to inspect the underside of the bus so close to oncoming traffic. Figure 1 illustrates our observation of an FMCSA bus inspection area to oncoming bus traffic and portable inspection ramps at the San Ysidro, California, border crossing.

⁹ Section 350(a) of the FY 2002 Act, and subsequent appropriations, contain a number of preconditions FMCSA must meet before it can review or process Mexican motor carrier applications to operate as a long-haul carrier beyond the municipal and commercial zones at the southern border. This includes requiring on-site safety examinations of motor carriers in Mexico, in some instances.

Figure 1. FMCSA Bus Inspection Area San Ysidro, California



Source: OIG

At the border crossings in Laredo and Hidalgo, Texas, we found near identical inspection safety conditions and noted a potential bus passenger safety issue. At these crossings, bus passenger waiting areas are situated within inches of moving buses and there are no separation barriers from moving traffic.

CONCLUSION

FMCSA has continually taken actions to address our recommendations for improvements in the border safety program. While FMCSA's actions are noteworthy, additional focus to promote comprehensive traffic conviction data and adequacy of bus inspections will further advance the safety goals of the program. FMCSA should consider this information as it moves forward, as directed by the President, in working with the United States Trade Representative, the Department of State, leaders in Congress and Mexican officials to propose legislation creating a new cross-border trucking project that will meet the concerns of Congress and AFTA commitments.

2010 MAR -8 PM 4:43

CRM/ISS/REGISTRATION

RECOMMENDATIONS

We recommend that the FMCSA Acting Deputy Administrator:

1. Improve the monitoring of Mexican Federal CDL holders operating in the United States by:
 - a. Developing and implementing a timely report that identifies state data inconsistencies in the MCDB, and assigning in the MCDB data quality control plan the responsibilities to address and follow up on data inconsistencies.
 - b. Assessing whether legislative, regulatory, or MCDB system changes are needed to ensure the consistent reporting and matching of different categories of traffic convictions, including convictions in non-commercial vehicles and convictions occurring under various types of Mexican-issued licenses.
 - c. Developing an action plan for implementing identified changes in the monitoring process, based on assessment results.
2. Improve the capacity to perform bus inspections at United States-Mexico border bus crossings by:
 - a. Adding to its Southern Border Bus Inspection Plan the frequency of required bus inspections at non-commercial crossings and inspections during any hour the border crossing is opened, to include evening and weekend hours. Include in the plan actions to eliminate obstacles to achieving inspection coverage during all open periods.
 - b. Working with the Customs and Border Protection Service, and other agencies as appropriate, to assess the safety and efficiency of bus inspection locations and space at all non-commercial border crossings at the southern border.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

We provided FMCSA with our draft report on June 25, 2009, and received its response on August 11, 2009. FMCSA concurred with all five of the recommendations and provided appropriate planned actions and target completion dates. FMCSA also provided clarifying comments on its ability to conduct driver's license inspections, its use of safety performance data to screen Mexican motor carriers and drivers, and actions it took to address prior OIG

recommendations. We have incorporated the comments as appropriate. FMCSA's response is included in its entirety in the appendix to this report.

ACTIONS REQUIRED

We consider FMCSA's planned actions and target dates responsive pending their completion. We appreciate the courtesies and cooperation of FMCSA representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-5630 or Kerry R. Barras, the Program Director, at (817) 978-3318.

#

EXHIBIT A. SECTION 350 REQUIREMENTS

With the signing of the North American Free Trade Agreement in December 1992, the United States and Mexico consented to cross-border trucking throughout both countries by January 1, 2000. However, in December 1995, the Secretary of Transportation indefinitely delayed implementation of NAFTA cross-border provisions, citing safety reasons. Section 350 of the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 2002 and subsequent appropriation legislation prohibit FMCSA from using Federal funds to review or process Mexico-domiciled motor carrier applications to operate beyond the United States commercial zones until certain preconditions and safety requirements are met. The full text of section 350(c) provisions, including the requirement for an annual review by our office, is summarized below.

The Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 2002, Section 350(c) and (d)

Section 350(c). No vehicles owned or leased by a Mexican motor carrier may be permitted to operate beyond United States municipalities and commercial zones under conditional or permanent operating authority granted by the Federal Motor Carrier Safety Administration until—

(1) the Department of Transportation Inspector General conducts a comprehensive review of border operations within 180 days of enactment to verify that—

(A) all new inspector positions funded under this Act have been filled and the inspectors have been fully trained;

(B) each inspector conducting on-site safety compliance reviews in Mexico consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, is fully trained as a safety specialist;

(C) the requirement of subparagraph (a)(2) has not been met by transferring experienced inspectors from other parts of the United States to the United States-Mexico border, undermining the level of inspection coverage and safety elsewhere in the United States;

(D) the Federal Motor Carrier Safety Administration has implemented a policy to ensure compliance with hours-of-service rules under part 395 of title 49, Code of Federal Regulations, by Mexican motor carriers seeking authority to operate beyond United

States municipalities and commercial zones on the United States-Mexico border;

(E) the information infrastructure of the Mexican government is sufficiently accurate, accessible, and integrated with that of United States enforcement authorities to allow United States authorities to verify the status and validity of licenses, vehicle registrations, operating authority and insurance of Mexican motor carriers while operating in the United States, and that adequate telecommunications links exist at all United States-Mexico border crossings used by Mexican motor carrier commercial vehicles, and in all mobile enforcement units operating adjacent to the border, to ensure that licenses, vehicle registrations, operating authority and insurance information can be easily and quickly verified at border crossings or by mobile enforcement units;

(F) there is adequate capacity at each United States-Mexico border crossing used by Mexican motor carrier commercial vehicles to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out of service as a result of said inspections;

(G) there is an accessible database containing sufficiently comprehensive data to allow safety monitoring of all Mexican motor carriers that apply for authority to operate commercial vehicles beyond United States municipalities and commercial zones on the United States-Mexico border and the drivers of those vehicles; and

(H) measures are in place to enable United States law enforcement authorities to ensure the effective enforcement and monitoring of license revocation and licensing procedures of Mexican motor carriers.

(2) The Secretary of Transportation certifies in writing in a manner addressing the Inspector General's findings in paragraphs (c)(1)(A) through (c)(1)(H) of this section that the opening of the border does not pose an unacceptable safety risk to the American public.

Section 350(d). The Department of Transportation Inspector General shall conduct another review using the criteria in (c)(1)(A) through (c)(1)(H) consistent with paragraph (c) of this section, 180 days after the first review is completed, and at least annually thereafter.

EXHIBIT B. STATUS OF SECTION 350(C) CRITERIA AND INSPECTIONS AND OUT-OF-SERVICE RATES

This exhibit provides the status and results of our review of each section 350(c) criteria and our examination of yearly inspection and out-of-service rates.

Status of Section 350(c) Criteria

Staffing, Training, and Transfer Restrictions of Inspectors. FMCSA reported that 243 of 274, or nearly 90 percent, FMCSA enforcement personnel positions authorized at the United States-Mexico border were filled as of October 2008, and hiring efforts are ongoing.¹⁰ This represents a slight decrease from the 93 percent of filled positions reported in our August 2007 report. However, in our opinion, the decrease is still within an acceptable range to substantially meet section 350(c)(1)(A) staffing criteria based on the 274 authorized positions and continuing FMCSA recruitment efforts. In addition to the FMCSA enforcement personnel currently working at the southern border, 345 federally subsidized state inspectors are at United States-Mexico border crossings. Table 3 below shows a breakout of the FMCSA personnel and locations along the southern border.

Table 3. Location of FMCSA Personnel at the United States-Mexico Border

Enforcement Staff Position	Number of Staff in				Total
	Arizona	California	New Mexico	Texas	
Inspector	24	12	7	89	132
Auditor	6	6	0	26	38
Investigator	4	13	0	26	43
Supervisor	5	5	1	12	23
Support	1	2	0	4	7
Current Total	40	38	8	157	243
Last Reported*	44	44	7	159	254

Source: OIG analysis of October 2008 FMCSA Border Staff Roster.
*Last reported in our August 2007 report as of June 2006.

According to FMCSA officials, all enforcement personnel at the United States-Mexico border crossings, both Federal and state, have the proper training to meet

¹⁰ Section 350 referred to "inspectors," but FMCSA categorized the positions as inspectors, auditors, and investigators responsible for providing a full range of safety enforcement functions. These enforcement actions include performing driver and vehicle safety inspections, safety audits, and compliance reviews and investigations. FMCSA established 274 positions as the target it needed to meet section 350 criteria.

section 350(c)(1)(A) inspection training criteria. Additionally, those personnel are trained as safety specialists to conduct on-site reviews of Mexican motor carriers to meet section 350(c)(1)(B) safety specialist training criteria. Because of the limited number of new hires since our last audit, we relied on the results of our past audit work, in which we confirmed that inspectors were attending training, analyzed training class rosters, tested answer sheets, and reviewed personnel data. Further, consistent with the non-transfer criteria of section 350(c)(1)(C), our analysis found that none of the enforcement personnel hired for the United States-Mexico border crossings were experienced FMCSA personnel transferred from other parts of the United States to fill these positions.

Hours-of-Service Policy. FMCSA meets the hours-of-service policy criteria of section 350(c)(1)(D). FMCSA has issued policy guidance requiring safety auditors to verify hours-of-service compliance for Mexican motor carriers seeking authority to operate outside municipal and commercial zones. At the border crossings reviewed, we found that FMCSA conducted inspections as required in accordance with Commercial Vehicle Safety Alliance (CVSA) inspection criteria, which include reviewing drivers' hours-of-service records.

Information and Telecommunications. At the border crossings reviewed, FMCSA continues to provide an integrated information infrastructure and telecommunications links in-place and sufficiently accessible to inspectors to meet section 350(c)(1)(E). The sites had Internet access, telephone service and use of linked wireless hand-held electronic devices, such as Personal Digital Assistants. FMCSA personnel at Laredo, Texas, did however comment that the sole dial-up computer line Internet connection at the border crossing was slow, often disconnects when rain or high humidity is present, and also doubles as the locations fax line. Because of the connection issues, personnel used their cellular phones as a back-up. We plan to follow up on these issues in future reports.

Capacity to Conduct Meaningful Inspections at the Southern Border. According to FMCSA, there are 25 United States-Mexico border commercial crossings accommodating Mexican truck and bus traffic and 7 non-commercial crossings that only accommodate bus traffic. These crossings are comprised of FMCSA and state inspection sites along the southern border that are either fully staffed or contain equipped inspection facilities that can be staffed when needed.¹¹ During our audit, we reviewed 11 truck inspection crossings and 5 bus inspection crossings and found that FMCSA continues to have the capacity to conduct meaningful truck and driver inspections at the southern border, by providing staff, equipment, and inspection facilities to substantially meet section 350(c)(1)(F) criteria. However, as discussed in the findings section of this report, FMCSA

¹¹ According to FMCSA, the commercial volume at some crossings was not sufficient to merit full-time inspection coverage or dedicated inspection facilities. Inspectors are available "on-call" to provide coverage.

needs to improve on its capacity to adequately perform bus inspections at non-commercial bus crossings at the southern border.

Sufficiently Comprehensive Data for Monitoring Motor Carriers and Drivers. Three data systems were established to substantially meet section 350(c)(1)(G) criteria, which calls for an accessible database containing sufficiently comprehensive data for monitoring all Mexican motor carriers and their drivers that apply for authority to operate beyond the municipal and commercial zones on the United States-Mexico border. The first system, the FMCSA MCDB (formerly the 52nd State System), contains Mexican traffic convictions occurring in the United States as reported by the states. The second system, the Government of Mexico LIFIS contains Mexican records showing valid, disqualified, or expired Mexican motor carrier CDLs as reported by the Government of Mexico.¹² The third system, FMCSA MCMIS Mexican Monitoring sub-system is intended to identify Mexican carriers that require compliance reviews for specific violations, generate letters on corrective actions, and create a history of violations and corrective dates.

Our current work examined FMCSA's proposed actions in response to our August 2007 report and found that FMCSA continued to improve the comprehensiveness and consistency of MCDB conviction data by working with southern border states on corrective action plans for data reporting problems, and developed a process to quarterly identify and notify states of data inconsistencies. We found that FMCSA's implemented actions differed slightly from those it promised and some data inconsistencies still existed. These issues were discussed in the findings of this report.

Effective Enforcement. FMCSA has implemented actions that meet section 350(c)(1)(H) criteria to have measures in place for ensuring "effective enforcement" of Mexican motor carriers. In our August 2007 report, we reported that California was moving to adopt the FMCSA's August 2002 interim final rule on enforcing operating authority, which would require states to place Mexican motor carrier vehicles out of service for violations of specific Federal motor carrier regulations.¹³ According to FMCSA, California still has not adopted the rule, but continues to use an equivalent rule. Instead of putting a violator out of service, California can either fine the violator \$1,000 or order the violator to return the vehicle to the country of origin. In addition to assessing a fine against violators, California may also impound the vehicle and its cargo until the fine and

¹² Although FMCSA asserted that LIFIS data are now comprehensive, our ability to test the comprehensiveness of LIFIS information was limited because LIFIS is under the control of the Government of Mexico. We conducted audit work for our June 2002 report that validated the accuracy of information in LIFIS by tracing information in the system back to source documents.

¹³ The final rule was issued on August 28, 2006 (71 FR 50862).

impoundment charges are paid. FMCSA stated that it considers California's requirement that the vehicle be impounded to be compatible with its rule.

Further, following the issuance of our August 2007 report, FMCSA issued and implemented new guidance in response to the NAFTA Demonstration Project. Some of these policies, such as that regarding the English proficiency of Mexican drivers in the United States, apply to Mexican drivers outside of the Demonstration Project. We reviewed the implementation of these policies as part of our audits of the NAFTA Demonstration Project and found that FMCSA has taken proposed actions to ensure the policies were disseminated to state and local officials.

Inspections and Out-of-Service Rates

To provide an indication as to how well FMCSA is implementing criteria under the FY 2002 Act, we analyzed FMCSA and state inspection data of Mexican carriers and drivers currently operating in the United States; mainly at the United States-Mexico commercial zones on the southern border. We compared FY 2008 to prior years in (1) the number of Mexican commercial driver and vehicle inspections occurring in the United States by FMCSA and state personnel and (2) the rate (percentage) Mexican carrier vehicles and drivers are taken out of service for a safety violation, which precludes further operation of a commercial vehicle by its driver—until either a specified period elapses or a required condition is met. We also compared FY 2008 Mexican vehicle out-of-service rate to the out-of-service rate incurred by United States vehicles.

When we initially began reporting on Mexican cross-border trucking, we reported that in 1997 FMCSA had only 13 Federal inspectors at the southern border. The inspections occurring from the small number of inspectors at that time had resulted in 56 percent of Mexican inspected vehicles passing the safety inspection and 44 percent being removed from service because of safety violations.

In comparison to 1997, in FY 2008 the number of personnel inspecting Mexican vehicles and drivers is much greater and the ratio of Mexican trucks passing versus failing inspections is greater. In FY 2008, FMCSA and the states had 588 enforcement personnel at the border, including 243 Federal personnel. In addition, 78.8 percent of Mexican vehicles passed the safety inspection and 21.2 percent were removed from service because of safety violations. The 21.2 percent Mexican truck out-of-service rate is comparable to United States trucks at 21.8 percent. As shown in table 4 on the following page, there also was a slight increase in the number of inspections performed—from 215,140 in FY 2007 to 220,405 in FY 2008.

Table 4. United States, Mexico, and Central America Commercial Vehicle and Driver Inspections and Out-of-Service Rates in the United States (FY 2006 through FY 2008)

United States Inspections Performed—Carrier Domicile, Fiscal Year, and Out-of-Service Rates		Number of Inspections	Carriers Inspected	Average Inspection Per Carrier	Vehicles Placed Out of Service for Safety or Regulation Violation (Percent) ^a	Drivers Placed Out of Service for License Violation (Percent) ^b
United States	2008	2,762,525	348,410	8	21.8%	6.9%
	2007	2,655,012	337,835	8	21.7%	7.2%
	2006	2,554,280	314,486	8	22.3%	7.3%
Mexico	2008	220,405	4,335	51	21.2%	1.2%
	2007	215,140	4,520	48	21.6%	1.0%
	2006	211,106	4,617	46	20.9%	1.2%
Central America ^c	2008	878	134	7	38.4%	63.2%
	2007	775	91	9	33.6%	49.4%
	2006	491	54	9	42.7%	29.3%

Source: OIG analysis of FMCSA's Motor Carrier Management Information System data.

^a The out-of-service rate (percentage) for vehicles resulted from a CVSA North American Level I—walk-around, underside, and driver inspection; Level II—walk-around and driver inspection; and Level V—inspection only.

^b The out-of-service rate (percentage) for drivers resulted from CVSA North American Levels I and II inspections and a Level III—driver only inspection.

^c Our analysis noted United States inspections of Central American motor carriers. FMCSA's December 2008 interim final rule (73 FR 76472, December 16, 2008) established a new application process and safety monitoring system for non-North American-domiciled motor carriers, including Central American motor carriers.

2010 MAR -8 PM 4: 39
CRM/ISS/REGISTRATION UNIT

EXHIBIT C. OTHER ISSUES

This exhibit provides results of our review of the two issues we made recommendations for in our August 2007 report not specific to section 350(c). The exhibit also provides information on two issues we identified in our September 2007 report¹⁴ on the NAFTA Demonstration Project, which are pertinent to Mexican long-haul operations in the United States.

Review of August 2007 Report Issues Not Specific to Section 350(c)

In our August 2007 report we recommended that FMCSA implement a policy on the use of vehicle model year to indicate Mexican vehicle compliance with FMVSS and record vehicle identification numbers as part of a safety inspection. Our current review found that the policy is still needed. Additionally, we reported that FMCSA should establish an action plan, in coordination with other Department of Transportation offices, to address concerns regarding drug and alcohol testing of all Mexican commercial drivers. FMCSA completed its proposed actions and audited several Mexican specimen collection facilities, but should continue to monitor Mexico's efforts in this area.

FMCSA Policy Guidance Is Still Needed To Implement the Use of Vehicle Identification Numbers in Vehicle Safety Inspections

In March 2002, FMCSA issued a proposed rule that would require each Mexican commercial motor vehicle operating in interstate commerce in the United States to display a certification label asserting that the vehicle complied with FMVSS, as applicable, when it was built. FMCSA then withdrew this proposed rule in August 2005, after determining that it could ensure Mexico motor carriers' compliance with the standards while operating in the United States by enforcing the already established Federal Motor Carrier Safety Regulations and other policies, because many of the safety regulations are cross-referenced to the FMVSS.

Along with the withdrawal of the proposed rule, FMCSA issued policy guidance entitled "*Enforcement of Motor Carriers' Self-Certification of Compliance with the Motor Vehicle Safety Standard*" in August 2005, to FMCSA and state inspectors stating that enforcement officials "should defer to" the vehicle identification number, which identifies the vehicle's model year, to determine whether a vehicle without a certification label complies with applicable

¹⁴ OIG Report Number MH-2007-065, "*Issues Pertaining to the Proposed NAFTA Cross-Border Trucking Demonstration Project*," September 6, 2007.

manufacturing standards.¹⁵ The August 2005 memorandum also stated that further guidance would be forthcoming to implement the policy. Our August 2007 report recommended that FMCSA issue implementation guidance as stated in the policy. In September 2007, FMCSA issued guidance on the use of software for checking vehicle identification numbers. FMCSA also proposed inspection system software to prompt inspectors to enter the vehicle identification number for vehicles inspected.

Our review found that FMCSA had revised its inspection software as promised and it was in use during FMCSA inspections. However, the September 2007 guidance stated that it was in use for the Demonstration Project. Since the policy is not applicable to all potential Mexican long-haul vehicles, our recommendation to issue the implementation guidance from our August 2007 report remains open. Furthermore, we plan to review FMCSA's use of the revised system prompt in future reports.

FMCSA Should Continue Monitoring Mexico's Commercial Driver Drug and Alcohol Testing Program

Our August 2007 report noted that a significant issue with Mexico's specimen collection remains, because it was not clear whether the controls in place ensure valid specimens are collected in Mexico before being sent to a certified laboratory.¹⁶ In response, FMCSA agreed to establish an action plan, in coordination with the United States Department of Transportation's Office of Drug and Alcohol Policy Compliance, to ensure Mexico's drug and alcohol collection issues are adequately addressed. Additionally, FMCSA stated that it would conduct audits of drug and alcohol collection facilities in Mexico and determine whether they meet United States standards. Our review found that FMCSA completed its promised actions. FMCSA has stated that it will continue to monitor this area and coordinate with the Office of Drug and Alcohol Policy Compliance. We plan to follow up on this area in future reports.

Demonstration Project Issues Not Specific to Section 350(c)

Our September 2007 initial audit of the Demonstration Project identified two areas that FMCSA should consider since they are relevant to Mexican long-haul operations in the United States. First, our report identified three instances where FMCSA varied slightly from requirements in section 350(a) of the FY 2002 Act.

¹⁵ The FMCSA guidance stated that if FMCSA or state inspectors can determine Mexican-domiciled motor carriers are operating vehicles that are not in compliance with FMVSS, FMCSA may use this information to deny, suspend, or revoke a carrier's operating authority for making a false certification or issue appropriate penalties. In its August 2005 withdrawal of the proposed rule, FMCSA determined that most trucks produced in Mexico beginning in model year 1996 have met applicable manufacturing standards.

¹⁶ In a 1998 memorandum of understanding between the Department and its Mexican counterpart, the Mexican authorities agreed to follow collection procedures equivalent to those used by the Department.

Second, the report discussed information safety inspectors could use to make a safety assessment of Mexican carriers, such as vehicle inspections and accident reports, were not available during pre-authorization safety audit.

*Differences Noted in FMCSA's Implementation of Three FY 2002 Act
Section 350(a) Prerequisites*

Our September 2007 initial audit of the Demonstration Project identified 34 specific FY 2002 Act section 350(a) prerequisites for FMCSA to meet before it could process applications from Mexican carriers to operate beyond commercial zones. Of the 34 section 350(a) pre-requisites identified, FMCSA implemented policies or interim final rules that differ slightly from the language for 3 of the Section 350(a) provisions. FMCSA took quick action to account for these differences for the NAFTA Demonstration Project; but now that the demonstration project has been concluded, the differences are still relevant if the border were opened to Mexican long-haul operations. Our work noted the following differences.

- Section 350(a)(1)(B)(vi) requires a pre-authorization safety audit inspection of Mexican vehicles without an inspection decal, the FMCSA interim final rule limits such inspections to “available vehicles.” For the Demonstration Project, FMCSA reviewed all Mexican carrier vehicles that were proposed to participate in the project.
- FMCSA policy implementing the section 350(a)(3) requirement to electronically verify the status and validity of each Mexican commercial vehicle driver’s license crossing the border specifies license checks for only those drivers domiciled in Mexico. Strictly interpreted, the policy would not include Mexican commercial vehicle drivers who are domiciled outside of Mexico. For the Demonstration Project, FMCSA stated that it would inspect every project driver at the border, and would place out of service any driver operating without a valid Mexican Federal CDL.
- The 2002 rule defining safety rules relevant to Mexican motor carriers implementing section 350(a)(1)(B)(v) has not been updated to include part 380, which establishes minimum requirements for operators of longer combination vehicles and their instructors. The rule only specifies 49 C.F.R. parts 382 through 399, as applicable. For the Demonstration Project, FMCSA added to the operating authority authorization letter for the Mexican carrier participating in the project a restriction on operating long combination vehicles in the United States, which is the subject of part 380.

FMCSA should address all differences to ensure they meet section 350(a) criteria before processing applications from Mexican carriers to operate beyond commercial zones. We plan to follow up on this area in future reports.

Unavailable Carrier Data Available During Pre-authorization Safety Audits

In our September 2007 report, we reported that during an FMCSA on-site pre-authorization safety audit of a Demonstration Project applicant, information such as carrier vehicle and driver crashes in Mexico was not available to the safety auditor. FMCSA has stated that it is working with the government of Mexico to improve the availability of the information during the pre-authorization safety audit. We plan to follow up on this area in future reports.

EXHIBIT D. OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective for this audit was to assess FMCSA's ongoing compliance with the section 350(c) safety criteria. We conducted this performance audit from June 2008 through June 2009, in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Because of our in-depth coverage of this area during previous audit work, we limited our testing of the eight section 350(c) criteria. Exhibit E lists our reports relating to NAFTA cross-border trucking. As part of our audit, we analyzed selected FMCSA data and documentation, such as border staff rosters and payroll; training reports; inspection reports and inspection data; policies and procedures; and other documentation and data. We also used results from our recent work performed in response to section 6901 of the United States Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, covering the NAFTA Cross-Border Demonstration Project, to determine whether any findings or recommendations reported in those resulting reports also applied to Mexican long-haul operations, if authority is granted.

To further test FMCSA's implementation of the provisions of the eight section 350(c) criteria and to review its actions in response to our August 2007 report recommendations, we observed operations at southern border crossings—11 truck border crossings and 5 bus border crossings (see table 5 on the following page). For most truck border crossings visited, we relied on the technical assistance of our safety specialists with extensive law enforcement and vehicle inspection experience.

At each crossing, we observed the vehicle and driver inspections procedures, operations, and inspection-related facilities and equipment. Further, we interviewed officials from FMCSA, United States Customs and Border Protection, and the states, if necessary, to determine: (1) whether the conditions reported in 2007 remained the same, (2) the current roles and procedures used to permit Mexican motor carriers' entry into the United States, (3) the working relationships between border staff of the different agencies, (4) actions taken in response to our 2007 report recommendations, and (5) inspection procedures and certifications.

Table 5. Truck and Bus Border Crossings that OIG Observed

Truck Border Crossings	Bus Border Crossings
Bridge of the Americas, El Paso, TX	Calexico, CA
Calexico East, Calexico, CA	Juarez-Lincoln Bridge, Laredo, TX
Columbia Solidarity Bridge III, Laredo, TX	McAllen-Hidalgo Bridge, Hidalgo, TX
Camargo Bridge, Rio Grande City, TX	Otay Mesa, CA
Eagle Pass, TX	San Ysidro, CA
Otay Mesa, CA	
San Luis, AZ	
Santa Teresa, NM	
Tecate, CA	
World Trade Bridge, Laredo, TX	
Ysleta-Zaragoza Bridge, El Paso, TX	

We analyzed MCDB reported data and documentation provided by FMCSA for inconsistencies and to assess FMCSA's recently implemented MCDB data quality control plan. In addition, we interviewed state officials responsible for MCDB in Arizona, California, Missouri, New Mexico, and Texas and TML Information Services, Inc. the contractor responsible for the database. We contacted these officials to determine whether actions included in state action plans were completed and data inconsistencies FMCSA found as part of the quality control plan were subsequently corrected. Furthermore, we accompanied the Department's representatives to Mexican drug and alcohol specimen collection sites, reviewed the resulting reports, and interviewed Mexican officials at these sites.

We independently obtained data from FMCSA's MCMIS data to make comparisons and assess FMCSA's continued improvement in implementing section 350(c). Our independent analysis determined the number of driver, truck, and bus inspections conducted and computed the vehicle and driver out-of-service rates for the United States, Mexico, and Central America for FYs 2006 through 2008. We compared these rates in our August 2007 report and to periods before and after the start of the Demonstration Project. We performed a limited assessment of the general and application controls for MCMIS. For the other systems we used, such as the MCDB, we selectively analyzed data to test for completeness.

EXHIBIT E. PRIOR NAFTA CROSS-BORDER AUDIT COVERAGE

The following is a list of prior reports issued on NAFTA.

- OIG Report Number MH-2009-034, "Final Report on NAFTA Cross-Border Trucking Demonstration Project," February 6, 2009.
- OIG Report Number MH-2008-040, "Interim Report on NAFTA Cross-Border Trucking Demonstration Project," March 10, 2008.
- OIG Report Number MH-2007-065, "Issues Pertaining to the Proposed NAFTA Cross-Border Trucking Demonstration Project," September 6, 2007.
- OIG Report Number MH-2007-062, "Follow-Up Audit of the Implementation of the North American Free Trade Agreement's Cross-Border Trucking Provisions," August 6, 2007.
- OIG Report Number MH-2005-032, "Follow-up Audit of the Implementation of the North American Free Trade Agreement's (NAFTA) Cross-Border Trucking Provisions," January 3, 2005.
- OIG Report Number MH-2003-041, "Follow-up Audit on the Implementation of Commercial Vehicle Safety Requirements at the United States-Mexico Border," May 16, 2003.
- OIG Report Number MH-2002-094, "Implementation of Commercial Vehicle Safety Requirements at the United States-Mexico Border," June 25, 2002.
- OIG Report Number MH-2001-096, "Motor Carrier Safety at the United States-Mexico Border," September 21, 2001.
- OIG Report Number MH-2001-059, "Status of Implementing the North American Free Trade Agreement's Cross-Border Trucking Provisions," May 8, 2001.
- OIG Report Number TR-2000-013, "Mexico-Domiciled Motor Carriers," November 4, 1999.
- OIG Report Number TR-1999-034, "Motor Carrier Safety Program for Commercial Trucks at United States Borders," December 28, 1998.

EXHIBIT F. MAJOR CONTRIBUTORS TO THIS REPORT

Name	Title
Kerry R. Barras	Program Director
David Pouliott	Program Manager
Pat Conley	Senior Auditor
Tony Saraco	Senior Auditor
Michael Masoudian	Analyst
Calvin Moore	Analyst
Anette Soto	Analyst
Scott Williams	Analyst
Harriet Lambert	Writer-Editor

APPENDIX. MANAGEMENT COMMENTS



U.S. Department
Of Transportation

**Federal Motor Carrier
Safety Administration**

Memorandum

Subject: **INFORMATION:** Response to the OIG Draft Report
"Follow-Up Audit of Implementation of the NAFTA Cross-Border Trucking Provisions" O8M3009M000

Date: AUG 11 2009

From: 
Rose A. McMurray
Acting Deputy Administrator

Reply to Attn: of MC-E

To: Joseph W. Comé
Assistant Inspector General
for Highway, Transit, Rail, and Maritime Audits

The Federal Motor Carrier Safety Administration (FMCSA) appreciates the opportunity to review the Office of Inspector General (OIG) draft report titled, "Follow-up Audit on the Implementation of the North American Free Trade Agreement's Cross-Border Trucking Provisions."

FMCSA Conducts Vigorous Enforcement Program for Mexican Vehicles and Drivers

The FMCSA maintains a vigorous oversight program for Mexican drivers. In Fiscal Year (FY) 2008, the FMCSA conducted 223,564 driver inspections on Mexican drivers. The FMCSA is confident that the 485 available Federal and State commercial motor vehicle inspectors can continue to achieve the statutorily required driver's license inspection level for Mexican drivers who operate beyond the commercial zones and the Agency will continue to ensure that the border is adequately staffed. The FMCSA has a history of staffing the border at the levels necessary to achieve its enforcement goals, and it is therefore not clear why the draft report expresses concern regarding the Agency's ability to inspect 50 percent of the drivers' licenses of Mexican truck and bus drivers crossing the border, if the border were to open to a large number of Mexican long-haul trucks and buses. For example, during the recently discontinued Demonstration Project, FMCSA staff inspected nearly 100 percent of the drivers' licenses of the Demonstration Project drivers. The FMCSA will continue to staff the border in the manner necessary to achieve enforcement goals.

The FMCSA evaluates the safety performance of Mexican drivers in a manner identical to United States (U.S.) and Canadian drivers. Disqualifying violations reported on Mexican and Canadian drivers are the same as those that are required to be reported for U.S. drivers. Violations such as

the absence of operating authority are not considered disqualifying offenses for individual driver licensing purposes, and are, therefore, not required to be posted on the driver's license record or the Mexican Convictions Data Base (MCDB). They are, however, included in the FMCSA's Motor Carrier Management Information System (MCMIS). As a result, it is inaccurate for the OIG report to maintain that violations attributable to motor carriers, such as any relating to operating a vehicle without operating authority or required shipping documents, should be included in the MCDB.

Finally, FMCSA conducted 2,094 inspections on Mexican motor carriers of passengers during FY 2008. As the ports of entry along the United States-Mexico border were not originally designed to accomplish motor coach/bus inspections, FMCSA will continue to work with the U.S. Customs and Border Protection (CBP) and the General Services Administration (GSA) to address issues related to gaining additional space at the ports of entry for effective bus inspections and safe operations.

Safety Performance Data Demonstrates Progress

The safety performance data gathered by FMCSA during the Pre-Authorization Safety Audits conducted during the recently discontinued Demonstration Project proved effective in screening out unsafe motor carriers. As mentioned in the Demonstration Project's independent evaluation panel in its October 2008 report, the Mexican motor carriers that participated in the project had a driver out-of-service rate of 0.5 percent and a vehicle out-of-service rate of 7.2 percent during the first year of the project. As a comparison, the panel noted that U.S. motor carriers had driver and vehicle out-of-service rates of 7.2 percent and 22.6 percent respectively during FY 2007.

The FMCSA recognizes the necessity for complete, timely, accurate and consistent data reporting. For this reason, on December 11, 2008, FMCSA entered into a Memorandum of Understanding with Mexico's *Dirección General del Autotransporte Federal*, which will, in part, provide for the exchange of safety related data and expertise for the improvement of both countries' motor carrier information systems. The FMCSA will continue to work with the *Dirección General del Autotransporte Federal* on the implementation of motor carrier safety data exchange.

The other data system referenced in the OIG draft report, the MCDB, is not statutorily required and the States are not required to report convictions of Mexican Federal commercial driver's license (CDL) holders to the MCDB. As a result, while the data provides potentially useful information to program managers, trends in the MCDB are not necessarily indicative of the quality or uniformity of enforcement actions. Therefore, FMCSA cautions against drawing conclusions relating to enforcement on the border based on trends in this data. In light of existing limitations with the MCDB data, FMCSA has ongoing efforts to enhance data quality for the MCDB. While FMCSA's quality control plan has already improved reporting of traffic convictions by the States' to the MCDB, FMCSA is pursuing further improvements to evaluate traffic conviction reporting trends and data reporting inconsistencies.

Actions Completed on Prior OIG Recommendations

The FMCSA completed action on previous OIG recommendations that have contributed to improved safety at the border. Specifically, FMCSA implemented new policies and procedures at the beginning of the recently discontinued Demonstrations Project that addressed issues from the OIG's September 2007 report, regarding Level 1 inspections of Mexican commercial motor vehicles, electronic verification of all licenses presented when Mexican drivers cross the border,

Appendix. Management Comments

and minimum requirements for operators of longer combination vehicles. These policies and procedures will carry forward to future oversight programs developed to implement the cross-border provisions of the North American Free Trade Agreement and satisfy the implementation criteria found in Section 350(a) of the FY 2002 Appropriations Act.

RECOMMENDATIONS AND RESPONSES

RECOMMENDATION 1a: Improve the monitoring of Mexican Federal CDL holders operating in the United States by developing and implementing a timely report that identifies state data inconsistencies in the MCDB, and assigning in the MCDB data quality control plan the responsibilities to address and follow up on data inconsistencies.

RESPONSE: *CONCUR. The FMCSA will revise its MCDB Data Quality Control Plan to address the inconsistency of conviction reporting by the States, and to establish responsibilities for addressing noted data issues. The FMCSA anticipates completion of this task by December 2009. To validate the effort of the States, and further identify improvements in each State's program, FMCSA is incorporating a review of the States' driver conviction reporting protocol into the CDL compliance reviews being conducted by FMCSA. The FMCSA anticipates completion of this task by September 2010.*

RECOMMENDATION 1b: Improve the monitoring of Mexican Federal CDL holders operating in the United States by assessing whether legislative, regulatory, or MCDB system changes are needed to ensure the consistent reporting and matching of different categories of traffic convictions, including convictions in non-commercial vehicles and convictions occurring under various types of Mexican-issued licenses.

RESPONSE: *CONCUR. The FMCSA's Office of Enforcement and Compliance will issue a report to the FMCSA Administrator outlining any changes required to ensure the consistent reporting and matching of traffic convictions occurring on Mexican driver's licenses. The FMCSA anticipates completion of this task by December 2009. The FMCSA will evaluate and determine the programming changes needed to address matching requirements and anticipates completion of this task by September 2010.*

RECOMMENDATION 1c: Improve the monitoring of Mexican Federal CDL holders operating in the United States by developing an action plan for implementing identified changes in the monitoring process, based on assessment results.

RESPONSE: *CONCUR. The FMCSA will develop an action plan for implementing identified changes in the monitoring process based on the assessment results. The FMCSA anticipates completion of this task by December 2009.*

RECOMMENDATION 2a: Improve the capacity to perform bus inspections at United States-Mexico border bus crossings by adding to its Southern Border Bus Inspection Plan the frequency of required bus inspections at non-commercial crossings and inspections during any hour the border crossing is opened, to include evening and weekend hours. Include in the plan actions to eliminate obstacles to achieving inspection coverage during all open periods.

RESPONSE: *CONCUR. The FMCSA will revise its Southern Border Inspection Plan to include the frequency of required bus inspections at non-commercial crossings, inspections during any hour the border crossing is open, and actions to eliminate obstacles to achieving inspection*

Appendix. Management Comments

coverage during all open periods. The FMCSA anticipates completion of this task by October 2009.

RECOMMENDATION 2b: Improve the capacity to perform bus inspections at United States-Mexico border bus crossings by working with Customs and Border Protection Service, and other agencies as appropriate, to assess the safety and efficiency of bus inspection locations and space at all non-commercial border crossings at the southern border.

RESPONSE: *CONCUR. The FMCSA will work with CBP and GSA to assess the safety and efficiency of bus inspection locations and space at all non-commercial border crossings and pursue additional accommodations as appropriate. The FMCSA anticipates the assessment will be completed by September 2010. The FMCSA anticipates that any needs identified by this assessment will require additional resources. Further compliance with this recommendation may be dependent upon these resources.*

The FMCSA appreciates the OIG's efforts, which assist FMCSA in fulfilling its transportation safety goals. If you need additional information or clarification, please do not hesitate to contact me, or William Quade, Associate Administrator, Office of Enforcement and Program Delivery, 202-366-4553.

The following pages contain textual versions of the charts and figures found in this document. These pages were not in the original document but have been added here to accommodate assistive technology.

**Report on Follow-Up Audit of Implementation of the North American Free
Trade Agreement's Cross-Border Trucking Provisions
Federal Motor Carrier Safety Administration**

Section 508 Compliant Presentation

Table 1. FMCSA's Actions to Implement Section 350(c) Criteria

This table demonstrates the eight section 350(c) criteria and the actions FMCSA has taken to meet those requirements as of August 2007. Source is the OIG.

- Criteria 1- Hiring and training border inspectors. FMCSA met the criteria as on-board staff is near authorized strength and has been trained.
- Criteria 2- Training inspectors conducting on-site reviews as safety specialists. FMCSA met the criteria as training was completed.
- Criteria 3- Not transferring inspectors to fill positions. FMCSA met the criteria as no transfers were identified.
- Criteria 4- Implementing an hours of service policy. FMCSA met the criteria as policy has been implemented.
- Criteria 5- Having a sufficiently accurate, accessible, and integrated information infrastructure and adequate telecommunications links. FMCSA met the criteria.
- Criteria 6- Having adequate capacity at southern border to conduct meaningful inspections. FMCSA substantially met the criteria. The capacity to perform truck, bus, and driver inspections are in place, but FMCSA needed to include bus inspections during peak hours, such as holiday periods, at Laredo, Texas.
- Criteria 7- Having sufficient databases to allow safety monitoring of Mexican carriers and drivers. FMCSA substantially met the criteria. Databases are in place, but FMCSA needed to improve the consistency of Mexican traffic conviction reporting to the Mexican Conviction Database, formerly the 52nd State System.
- Criteria 8- Having measures to effectively enforce and monitor Mexican carrier licensing. FMCSA met the criteria as enforcement rules were implemented and states have adopted out of service criteria.

Table 2. Mexican Conviction Database Mexican Driver's License Convictions by Vehicle Type From Calendar Year 2007 Through September of 2008

This table summarizes the number of Mexican driver's license convictions as contained in the Mexican Conviction Database by vehicle type from January of 2007 through September of 2008. The source for this information is OIG's analysis of FMCSA's Mexican Conviction Database data.

The following are the results of the number of Mexican driver's license convictions for calendar year 2007 for the following southern border states: Texas, California, New Mexico, and Arizona.

Mexican Driver's License Convictions Reported by State	Commercial Vehicle	Non-Commercial Vehicle
Texas	2,254	339
California	51	21
New Mexico	120	0
Arizona	94	135

The following are the results of the number of Mexican driver's license convictions for calendar year 2007 for the non-southern border states with a large number of convictions in 2007 and or 2008.

Mexican Driver's License Convictions Reported by State	Commercial Vehicle	Non-Commercial Vehicle
Missouri	5	428
Hawaii	0	0

The following are the results of the number of Mexican driver's license convictions for calendar year 2007 for the remaining 44 non-southern border states with a small number of convictions in 2007 and or 2008. These remaining 44 non-border states accounted for 1.2 percent of all convictions reported or 87 of the 7,049 convictions reported for all vehicle types from January of 2007 through September of 2008.

Mexican Driver's License Convictions Reported by State	Commercial Vehicle	Non-Commercial Vehicle
8 states reported both vehicle types	17	9
7 states reported commercial only	8	0
4 states reported non-commercial only	0	1
25 states reported no convictions	0	0

For calendar year 2007, the total number of Mexican driver's license convictions reported by commercial vehicle and non-commercial vehicle is 2,549 and 933; respectively.

The following are the results of the number of Mexican driver's license convictions from January of 2008 through September of 2008 for the following southern border states: Texas, California, New Mexico, and Arizona.

Mexican Driver's License Convictions Reported by State	Commercial Vehicle	Non-Commercial Vehicle
Texas	1,931	606
California	278	99
New Mexico	200	0
Arizona	39	27

The following are the results of the number of Mexican driver's license convictions from January of 2008 through September of 2008 for the non-southern border states with a large number of convictions in 2007 and or 2008.

Mexican Driver's License Convictions Reported by State	Commercial Vehicle	Non-Commercial Vehicle
Missouri	1	313
Hawaii	0	21

The following are the results of the number of Mexican driver's license convictions from January of 2008 through September of 2008 for the remaining 44 non-southern border states with a small number of convictions in 2007 and or 2008.

Mexican Driver's License Convictions Reported by State	Commercial Vehicle	Non-Commercial Vehicle
8 states reported both vehicle types	11	19
7 states reported commercial only	18	0
4 states reported non-commercial only	0	4
25 states reported no convictions	0	0

From January of 2008 through September of 2008, the total number of Mexican driver's license convictions reported by commercial vehicle and non-commercial vehicle is 2,478 and 1,089; respectively.

Figure 1. FMCSA Bus Inspection Area in San Ysidro, California

This figure is a picture illustrating our observation of the close proximity of an FMCSA bus inspection area to oncoming bus traffic and portable inspection ramps at the San Ysidro, California, border crossing. Source is the OIG.

Table 3. Location of FMCSA Personnel at the United States-Mexico Border

This table demonstrates the number and location of FMCSA personnel for the following southern border states: Arizona, California, New Mexico, and Texas. The source for this information is OIG’s analysis of October 2008 FMCSA Border Staff Roster.

The following are the results of the number and location of FMCSA personnel.

Staff	AZ	CA	NM	TX	Total
Inspector	24	12	7	89	132
Auditor	6	6	0	26	38
Investigator	4	13	0	26	43
Supervisor	5	5	1	12	23
Support	1	2	0	4	7
Total	40	38	8	157	243

Note: AZ=Arizona, CA=California, NM=New Mexico, TX=Texas

The following are the results of the total number of FMCSA personnel as reported in our August 2007 report as of June 2006.

Staff	AZ	CA	NM	TX	Total
Total	44	44	7	159	254

Source: OIG analysis of October 2008 FMCSA Border Staff Roster.

Table 4. United States, Mexico, and Central America Commercial Vehicle and Driver Inspections and Out-of-Service Rates in the United States

The table demonstrates the United States inspections of motor carrier commercial vehicles and drivers as well as out-of-service rates in the United States for motor carriers domiciled in the United States, Mexico, and Central America for fiscal years 2006 through 2008. The source for this information is OIG’s analysis of FMCSA’s Motor Carrier Management Information System data. The out-of-service rate (percentage) for vehicles resulted from a CVSA North American Level I—walk-around, underside, and driver inspection; Level II—walk-around and driver inspection; and Level V—inspection only. The out-of-service rate (percentage) for drivers resulted from CVSA North American Levels I and II inspections and a Level III—driver only inspection. Our analysis noted United States inspections of Central American motor carriers. FMCSA’s December 2008 interim final rule (73 FR 76472, December 16, 2008) established a new

application process and safety monitoring system for non-North American-domiciled motor carriers, including Central American motor carriers.

Table 4, Item: 1: Inspections and Out-of-Service Rates for United States-Domiciled Motor Carriers

- In FY 2008, 2,762,525 inspections were conducted in the United States, 348,410 carriers were inspected, and the average number of inspections per carrier was 8. Also, the percentage of vehicles placed out-of-service for safety or regulation violation was 21.8 percent, and the percentage of drivers placed out-of-service for license violation was 6.9 percent.
- In FY 2007, 2,655,012 inspections were conducted in the United States, 337,835 carriers were inspected, and the average number of inspections per carrier was 8. Also, the percentage of vehicles placed out-of-service for safety or regulation violation was 21.7 percent, and the percentage of drivers placed out-of-service for license violation was 7.2 percent.
- In FY 2006, 2,554,280 inspections were conducted in the United States, 314,486 carriers were inspected, and the average number of inspections per carrier was 8. Also, the percentage of vehicles placed out-of-service for safety or regulation violation was 22.3 percent, and the percentage of drivers placed out-of-service for license violation was 7.3 percent.

Table 4, Item: 2: Inspections and Out-of-Service Rates for Mexico-Domiciled Motor Carriers

- In FY 2008, 220,405 inspections were conducted in the United States, 4,335 carriers were inspected, and the average number of inspections per carrier was 51. Also, the percentage of vehicles placed out-of-service for safety or regulation violation was 21.2 percent, and the percentage of drivers placed out-of-service for license violation was 1.2 percent.
- In FY 2007, 215,140 inspections were conducted in the United States, 4,520 carriers were inspected, and the average number of inspections per carrier was 48. Also, the percentage of vehicles placed out-of-service for safety or regulation violation was 21.6 percent, and the percentage of drivers placed out-of-service for license violation was 1.0 percent.
- In FY 2006, 211,106 inspections were conducted in the United States, 4,617 carriers were inspected, and the average number of inspections per carrier was 46. Also, the percentage of vehicles placed out-of-service for safety or regulation violation was 20.9 percent, and the percentage of drivers placed out-of-service for license violation was 1.2 percent.

2010 MAR 8 PM 4:39
COMM/ISS/REGISTRATION UNIT

Table 4, Item: 3: Inspections and Out-of-Service Rates for Central American-Domiciled Motor Carriers

- In FY 2008, 878 inspections were conducted in the United States, 134 carriers were inspected, and the average number of inspections per carrier was 7. Also, the percentage of vehicles placed out-of-service for safety or regulation violation was 38.4 percent, and the percentage of drivers placed out-of-service for license violation was 63.2 percent.
- In FY 2007, 775 inspections were conducted in the United States, 91 carriers were inspected, and the average number of inspections per carrier was 9. Also, the percentage of vehicles placed out-of-service for safety or regulation violation was 33.6 percent, and the percentage of drivers placed out-of-service for license violation was 49.4 percent.
- In FY 2006, 491 inspections were conducted in the United States, 54 carriers were inspected, and the average number of inspections per carrier was 9. Also, the percentage of vehicles placed out-of-service for safety or regulation violation was 42.7 percent, and the percentage of drivers placed out-of-service for license violation was 29.3 percent.

Table 5. Truck and Bus Border Crossings that OIG Observed

This table demonstrates the southern truck border crossings observed by the OIG. They include: Bridge of the Americas, El Paso, TX; Calexico East, Calexico, CA; Columbia Solidarity Bridge III, Laredo, TX; Camargo Bridge, Rio Grande City, TX; Eagle Pass, TX; Otay Mesa, CA; San Luis, AZ; Santa Teresa, NM; Tecate, CA; World Trade Bridge, Laredo, TX; and Ysleta-Zaragoza Bridge, El Paso, TX. This table also demonstrates the southern bus border crossings observed by the OIG. They are: Calexico, CA; Juarez-Lincoln Bridge, Laredo, TX; McAllen-Hidalgo Bridge, Hidalgo, TX; Otay Mesa, CA; and San Ysidro, CA.

Note: TX=Texas, CA=California, AZ=Arizona, NM=New Mexico.