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Issues@TheLatinoCoalition

Mexican Trucking Safety Regulations

U.S. Senate Action Legitimizes Discrimination Against Mexicans

The Board of Directors of The Latino Coalition (TLC) and the Hispanic Business Roundtable (HBR) today strongly condemned the action by the U.S. Senate to impose tougher safety conditions for allowing Mexican trucks greater access to U.S. roads beginning in January.

A survey released this week by TLC and the Hispanic Business Roundtable showed that the number one issue affecting U.S. Hispanics is discrimination. The survey also showed that 75% of Hispanic adults favor expanding the North American Free Trade Agreement (NAFTA).

“How could Hispanics not feel discriminated when they see the Senate legitimizing discrimination on the basis of national origin,” said HBR President Mario Rodriguez. “It is shameful that in the beginning of the 21st Century, U.S. Senators would openly support a discriminatory policy like this one. History will not treat this action kindly, and neither will Hispanic voters next year.”

The following is the text of an open letter published as an ad in The Washington Post on August 2 and sent to every Member of Congress:

Open Letter for Members of Congress

Dear Members of Congress:

On behalf of the 1.5 million Hispanic-owned businesses in the U.S., their employees and families, we urge you to oppose U.S. Senate Transportation Appropriations Committee provisions to impose tougher safety conditions for allowing Mexican trucks greater access to U.S. roads beginning in January.”

Imposing tougher standards for Mexico, over those imposed on Canada, is a slap in the face to the concept of equal treatment under the law. You are simply discriminating against a group of people, for no other reason than because they are Mexicans. And as Hispanic-Americans, we take that as a personal offense.

We support uniform standards. Most of the families that reside in the areas where these trucks will travel are of Hispanic origin. Safety should be our main concern. But in the name of safety and bogus environmental rhetoric, we cannot legitimize discrimination. If you set uniform standards for U.S., Canadian and Mexican trucks, we will aggressively support you. But don't expect us to stand still if you decide to legitimize discrimination.

Stopping Mexican trucks is bad policy. The US economy will suffer negative consequences in industrial production, employment and trade. And it's bad politics. It sends the wrong message to immigrants and

Hispanic Americans. This is unfair, unnecessary, and un-American. We strongly urge all Members of Congress to oppose this provision.

It would be shameful that in the beginning of the 21st Century, the U.S. Congress would support a discriminatory policy like this one. History would not treat this action kindly, and neither would Hispanic voters next year.

Sincerely,

Mario Rodriguez Dorene Dominguez
President Chairman
Hispanic Business Roundtable The Latino Coalition

Basic Facts on NAFTA Cross-Border Trucking

- Safety on America's highways must be the top priority in opening the border to Mexican-domiciled motor carriers.
- We must be committed to ensuring that all motor carriers seeking to operate in the United States – whether they are based in the United States, Mexico, or Canada – will be subject to the same rigorous safety standards.
- Banning Mexican-domiciled motor carriers that meet our rigorous safety standards discriminates against Mexico and violates our obligations under the North American Free Trade Agreement (NAFTA).
- The Latino Coalition strongly supports fulfilling our NAFTA obligations and treating our NAFTA partners fairly. We oppose any legislative actions that keep the U.S.-Mexico border closed -- either explicitly or implicitly.
- Discrimination against Mexico and failure to meet our NAFTA obligations could result in retaliation by Mexico, including restriction of our ability to operate U.S. motor-carriers in Mexico.
- Legislation proposed by the Senate Transportation Appropriations Committee could keep the border closed indefinitely.
- The Senate provision keeps the border closed until 22 separate conditions have been met. Many of these conditions are unworkable, impractical, prohibitively expensive and not directly related to safety. All of the conditions, taken together, could ban all Mexico-domiciled carriers from this country indefinitely.
- The Latino Coalition supports a strong safety enforcement regime similar to the very successful California inspection program for Mexican long-haul carriers.
- We must support the President's request for funding for additional resources at the U.S. Mexico border. Such a program would ensure our rigorous safety requirements are met without discriminating against Mexican carriers.
- NAFTA has been part of the American economic success story of the 1990's and is an important part of America's economic future.
- Since NAFTA took effect, employment has risen in all three NAFTA countries. In the U.S., employment grew by 11%, generating 13 million new jobs. Real U.S. industrial production increased by 43 percent.
- In 2000, U.S. jobs supported by merchandise exports to our NAFTA partners totaled an estimated 2.9 million jobs, up over 900,000 since before NAFTA started.
- Mexico and Canada alone accounted for 47% of total U.S. export growth over the period NAFTA has been in place.
- The tariff rate cuts from the Canada FTA and NAFTA when applied to 1999 U.S. imports, were similar to a \$210 tax cut for an average household of four.
- Mexican carriers meeting our safety requirements must be granted the same high standards of fairness and protection that we offer U.S. and Canadian carriers.

Questions & Answers on the "Mexican Trucks" Issue

- **What must the United States do to comply with the NAFTA panel ruling on trucks?** The United States is obligated to consider applications from Mexican carriers on a case-by-case basis. The United States has every right to require that Mexican trucks and drivers abide by U.S.

safety standards, and that the United States may take reasonable steps to enforce such standards. Moreover, due to differences in safety regimes, the United States may impose different inspection requirements on Mexican firms than on U.S. and Canadian firms, so long as such differences are no greater than needed to address legitimate safety concerns.

- **Is the amendment passed by the House consistent with our NAFTA obligations?** The amendment sponsored by Martin Sabo (D-MN) would impose a total prohibition on considering applications from Mexican motor carriers. This would be a clear violation of our NAFTA obligations.
- **Is the Senate Appropriations Committee bill provision consistent with the NAFTA?** The Senate provision represents an improvement on the House language; however, for the following reasons, the provision in its current form could keep the U.S.-Mexico border closed indefinitely. First, the provision forbids DOT to begin processing any Mexican applications until DOT complies with twenty-two (22) separate requirements. Under the NAFTA, however, we may not simply bar Mexican carriers, but must allow them the opportunity to show that they can meet our safety standards. Second, although we are entitled to impose different inspection requirements on Mexican trucks to compensate for Mexico's less rigorous safety regime, any differences must be no greater than needed to address legitimate safety issues. We are concerned that some of the inspection requirements in the Senate provision may be more burdensome than necessary, and in fact may be unadministrable by DOT. Moreover, the cumulative effect of all of the different requirements may result in a disproportionate and discriminatory burden on Mexican carriers.
- **Even the Administration's proposal would keep the border closed for 11 months after the panel ruling. What is wrong with taking an additional 1 to 2 years to ensure that DOT is totally prepared to open the border?** Under the NAFTA, the United States was obligated to begin allowing access to Mexican carriers by December 1995 - more than 5 years ago. Nonetheless, the Administration will not allow access until it completes certain steps needed to ensure highway safety – such as the adoption of revised application and inspection procedures – and Mexico understands this. But the Senate bill includes requirements that are not necessary preconditions for the safe operation of Mexican trucks on U.S. highways. For example, DOT could not begin examining Mexican applications under its current standards prior to completing several complex new rulemakings.
- **What happens if the United States does not comply with NAFTA?** If the United States and Mexico cannot reach an agreement on an appropriate means for compliance, Mexico (the “prevailing party” under the NAFTA in this instance) has the option of retaliating by suspending trade concessions (i.e. raising tariffs or other restrictions on U.S. goods or services).
- **What is the retaliation process?** Under the NAFTA, the prevailing party is entitled to suspend trade concessions on an amount of trade equivalent to the amount affected by the NAFTA-inconsistent measure. The prevailing party initially selects the level of retaliation. The defending party can challenge that level, but the retaliation remains in effect during the challenge.

Mexico has stated publicly that it might restrict imports of U.S. high fructose corn syrup if the United States does not fulfill its NAFTA obligations. As a general matter, a prevailing party can be expected to select highly sensitive products or services for retaliation.

- **Can the U.S. challenge Mexico retaliation?** Yes. We can request that a new dispute settlement panel determine whether Mexico must lift its retaliation on the basis that the United States has complied with its obligations, or whether the level of any retaliation by Mexico is “manifestly excessive.” However, Mexico can keep any retaliation in place while the matter is considered.
- **Must the U.S. comply with the NAFTA Panel report by January 1, 2002?** The NAFTA does not provide a compliance timeline. It allows the country being denied benefits to take compensation after thirty days, which Mexico is now permitted to do. The Administration presented an implementation plan to Mexico in March that included a substantial enhancement of our safety and inspection efforts, and committed to implementing this plan by the end of this year. While the government of Mexico would prefer a much shorter timeline, Mexico understands that the Administration is proceeding in good faith and is not seeking compensation at this time.

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