

**SURFACE TRANSPORTATION IMPLICATIONS OF  
NAFTA**

Y 4. C 73/7: S. HRC. 103-157

Surface Transportation Implications...

**HEARING**  
OF THE  
**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION**  
**UNITED STATES SENATE**  
**ONE HUNDRED THIRD CONGRESS**

**FIRST SESSION**

**MAY 4, 1993**

Printed for the use of the Committee on Commerce, Science, and Transportation



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# **SURFACE TRANSPORTATION IMPLICATIONS OF NAFTA**

**TUESDAY, MAY 4, 1993**

**U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.***

The committee met, pursuant to notice, at 9:30 a.m. in room SR-253, Russell Senate Office Building, J. James Exon, presiding.

Staff members assigned to this hearing: Sheryl W. Washington, senior professional staff member, and Donald M. Itzkoff, staff counsel; and Kevin M. Dempsey, minority staff counsel, and Gerri Lynn Hall, minority senior professional staff member.

## **OPENING STATEMENT OF SENATOR EXON**

Senator EXON. This morning, the Senate Commerce Committee will hold a hearing on the surface transportation implications of the North American Free Trade Agreement, commonly called NAFTA. This oversight follows the 1988 hearing the Surface Transportation Subcommittee held on the U.S.-Canadian Free Trade Agreement. Some issues raised at that time continue to warrant our consideration as we now focus on NAFTA.

Transportation is the nerve center of all commerce. The expected increased flow of commodities across the United States, Canada, and the Mexican borders, if NAFTA goes into effect, will have a dramatic effect on transportation assets and workers of the United States as well as the shipping patterns of commodities between the United States, Canada, and Mexico. It is critically important, then, to evaluate in great detail the transportation implications of this agreement, whether direct or indirect, as well as the extent to which NAFTA will benefit or potentially harm the United States and its citizens.

The trucking, rail, and intercity bus industries, each within the jurisdiction of the Surface Transportation Subcommittee, have separate and distinct concerns about NAFTA.

Some of the concerns we hope to hear more about today, include: first, how the gradual phaseout of the restrictions on truck and bus operations between Mexico and the United States will affect the economy; second, whether the continued restrictions on U.S. investment and Mexican domestic and international trucking companies are fair; third, if the establishment of compatible land transport technical and safety standards, and the harmonization of driver certification safety standards, and truck size and weight, will be beneficial to safety and commerce; fourth, whether specific transportation-related concerns of the U.S. agriculture producers are

fairly addressed in NAFTA; fifth, how NAFTA generally affects the competitiveness of surface transportation providers and workers in the United States; and sixth, the adequacy of safety enforcement efforts along the border States, both in terms of manpower and resources.

The United States is unparalleled in the quality of its innovation, the dedication of its workers, and the ability to continue to improve American products and services through healthy competition. Too often our trading partners restrict entry of competitive U.S. products and services, or provide subsidies which give their industries and their agricultural producers an unfair advantage over our free market system.

A good trade agreement should promote fair trade and not just free trade, and certainly I think that is something that we should look at. We should foster discussion on this. Free trade does not guarantee fair trade, as we have seen in a whole series of previous considerations.

I have not taken a final position on my vote on NAFTA. I want to give the President an opportunity to negotiate the best side agreements that are possible. Obviously, it seems to me that there are going to have to be some side agreements to alleviate the concern of this Senator, and in discussions that I have had with many of my colleagues, I believe that unless side agreements are possible and are worked out, I would suggest that NAFTA may have a very, very tough time sliding through the Congress.

I do, however, want to take this opportunity to register my concerns and investigate whether NAFTA will provide advantages for Canada and Mexico at the expense of the U.S. transportation workers and companies, and whether NAFTA will hasten the trend to U.S. manufacturing industries relocating and in some cases a headlong rush of possible relocations south of the border.

Mr. Chairman, your comments, please.

#### OPENING STATEMENT OF SENATOR HOLLINGS

The CHAIRMAN. This morning the Committee on Commerce, Science, and Transportation will hear testimony on the surface transportation implications of the North American Free Trade Agreement—NAFTA. On Thursday, May 6, 1993, I will chair a hearing on the overall potential effect of NAFTA on the U.S. economy, labor force, and manufacturing base. These hearings are part of a continuing review by the committee of the many issues facing our Nation's global competitiveness.

As I have made clear, the downward pressure on U.S. wages and the loss of U.S. jobs will accelerate if the administration adopts George Bush's NAFTA. In my view, NAFTA will not open markets for U.S. exports—the Mexican middle class is still small, and per capita income in Mexico remains just \$2,000 a year. Instead, NAFTA is mostly about investment rights—investment rights for U.S. companies that want to send more good-paying U.S. jobs down to the maquiladora sector on top of the 500,000 jobs already exported there since 1986.

NAFTA no doubt will create a surge in transportation demand as all those jobs move south. However, the question really is: Will U.S. transportation workers, and truck, rail, and bus carriers pros-

per under this trade agreement, or will Mexican and Canadian transportation providers reap all of the benefits? As the committee will hear this morning, significant issues about the surface transportation implications of NAFTA remain to be explored. What are the consequences of the planned gradual phaseout under NAFTA of mutual restrictions on truck and bus operations between Mexico and the U.S.? Is the proposed easing of cross-border investment restrictions beneficial to the interests of U.S. workers and carriers? What are the transportation-related concerns under NAFTA of U.S. agricultural shippers? Will the harmonization of compatible land-transport technical and safety standards open the door someday, for example, to longer and heavier trucks in the United States? All these questions merit the committee's careful scrutiny at this hearing.

I thank all the witnesses for appearing before the committee this morning, and I look forward to their testimony on these issues of great importance to our Nation's economy and the future of our U.S. transportation industry and workers.

Thank you, Mr. Chairman.

Senator EXON. Thank you, Mr. Chairman.

I hope that the testimony from Mr. Levine of DOT, the transportation industry leaders and labor executives, and the National Association of Wheat Growers will be helpful in formulating my views, as well as the others in Congress. I am particularly happy to have here today my good friend Ronald Maas of the Nebraska Wheat Board, who will shed some light on these important issues as far as agriculture is concerned.

I will reserve the right for other of my colleagues who we expect to join us here this morning to file opening statements to be placed in the appropriate point in the record. We will begin our testimony this morning with Mr. Arnold Levine, the Director of the Office of International Transportation and Trade, Department of Transportation, Washington, D.C.

Mr. Levine, if you would come forward, we would be very pleased to hear your testimony. Any written statement you have, without objection, will be made a part of the record, and we would like to ask that you summarize for us at this time. Then we will undoubtedly ask some questions. Mr. Levine.

**STATEMENT OF ARNOLD LEVINE, DIRECTOR, OFFICE OF INTERNATIONAL TRANSPORTATION AND TRADE, DEPARTMENT OF TRANSPORTATION**

Mr. LEVINE. Thank you, Senator, and good morning. My name is Arnold Levine, and I am the Director of the Office of International Transportation and Trade at the Department of Transportation, working in the Office of the Secretary.

I am pleased to be here today to discuss the surface transportation provisions of the North American Free Trade Agreement and its implications for the U.S. motor carrier industry.

Secretary Peña sends his regards to the committee and his regrets that he cannot be here this morning.

Senator EXON. May I interrupt for just a moment, Mr. Levine? I certainly want to register at this point—I was reminded of that in your statement with regard to the Secretary.

I do believe that the Secretary has grabbed a hold of the Department of Transportation. I believe he has been very effective, and from everything that I can understand the relationship between the Secretary, his assistants, and the dedicated workers we have generally called bureaucrats at the Department of Transportation, it seems to be going very, very well, and I like his approach. That is very tenacious, and I hope you are going to enjoy working with and for him.

Excuse the interruption. I just wanted to put that in.

Mr. LEVINE. That is quite all right, Senator. I have worked very closely with the Secretary since his arrival at the Department on a number of issues, and I would echo your comments.

The Secretary also is very keenly interested in our relations with Mexico and desires very much to improve transport relations with our neighbor to the South.

Canada, Mexico, and the United States signed the NAFTA agreement on December 17, 1992. The major accomplishment of this negotiation from our point of view was our ability to reach an agreement to phase out mutual restrictions on truck and bus operations between Mexico and the United States.

The NAFTA creates a 10-year timetable for the removal of operating and investment barriers to the provision of international cargo and passenger motor carrier services. It also establishes a work program for making land transport, technical, and safety standards for motor carrier and rail operations more compatible.

In addition, the NAFTA ensures that U.S. railroads and intermodal companies will be able to continue to take advantage of gains made through informal agreements with Mexico to market services, operate unit trains, construct and own terminals, and finance rail infrastructure. The NAFTA also creates the opportunity for U.S. and Canadian companies to invest in and operate Mexican port facilities. Finally, the agreement eliminates cross border restrictions for provision of specialty air services among the United States, Canada, and Mexico.

We believe that the changes the NAFTA will bring about in this sector will be good for both U.S. carriers and their North American customers. It will create new opportunities for U.S. industry and promote intermodalism across the continent.

It is our expectation that the bottom line for transportation will be increased productivity, dynamic investment potential, a strengthened international competitive posture vis-a-vis Europe and the Far East, and increased job opportunities.

No provision of the NAFTA exempts Mexican or Canadian vehicles or drivers from U.S. safety standards. Indeed, the agreement specifically states that each country retains the right to adopt and enforce standards for the protection of life, health, consumers, and the environment that may be more stringent than standards in effect in the other countries. The United States made it clear from the beginning of the NAFTA negotiations that foreign commercial vehicles must comply with all applicable safety standards when they are in this country, and that the standards will be strictly enforced.

We are relying on a cooperative effort that includes the States and Mexican enforcement personnel to assure that this happens.

Mexican officials are being trained in the United States to provide vehicle roadside inspections using the North American Uniform Driver Vehicle Inspection Program.

In adopting these procedures, Mexican officials will enforce them with respect to Mexican and U.S. motor carriers operating south of the border. As we do with many Federal motor carrier standards, we will rely on our States to a great extent to assure that foreign-based vehicles comply with safety and operational standards when in the United States.

These efforts are supported by Federal funds through the Motor Carrier Safety Assistance Program. We recognize that as the Mexican vehicles enter the United States in greater numbers and range over a wider area beginning in the end of 1995, State enforcement resources to assure compliance with the U.S. regulations may be affected. The Federal Highway Administration will begin this year to examine the overall effectiveness of enforcement in the border States with a view toward evaluating potential problems that may develop as the NAFTA is implemented and identifying and implementing solutions. With Mexico as an active and committed participant and with continued aggressive State and Federal cooperation to enforce safety regulations, we are confident that the NAFTA and the associated standards harmonization efforts will have a positive effect on highway safety in North America.

Let me speak for a moment about bringing standards into a more compatible posture. The NAFTA includes a commitment from all three countries to work toward compatible safety standards. In this way, the NAFTA encourages what I will call "upward harmonization" of the safety standards that will be enforced in Mexico, Canada, and the United States.

In addition to improving safety, we all recognize that developing a North American safety standard will enhance carriers' productivity and efficiency as well.

While the focus of this harmonization effort is on Federal standards, State officials have been and will continue to be involved. State officials are working closely with the Federal Highway Administration and its Mexican counterpart to address many enforcement issues relating to driver licensing and roadside inspection standards. We are confident that this cooperative effort will identify any potential problems and propose solutions to them before the cross-border markets begin to open in 1995.

The NAFTA also anticipates and the Department welcomes industry involvement in making the three countries' standards more compatible. We are considering a number of measures to assure substantial industry input to the process within the limits of existing U.S. procedures for advisory committee participation in the regulatory process.

Over the long term, consistent, compatible safety standards in the three countries will facilitate enforcement, reduce the enforcement burden on the border States, and ensure full equipment compatibility. They will improve operational efficiency, reduce shipper cost, and create new opportunities for equipment manufacturers, and will give enforcement officials and the traveling public greater confidence that trucks operating on U.S. highways will be safe regardless of the driver's or vehicle's country of origin.

Let me address just briefly the question of size and weight as it has been an issue that has been key in many people's minds. Size and weight requirements are included in the work plan for standards harmonization set forth in the NAFTA. Although the agreement includes a commitment from the United States, Mexico, and Canada to work toward compatible technical and safety standards, it does not require the United States to change its size and weight limits or, indeed, any of its regulations applicable to motor carrier operations.

The Department is fully aware that any future changes in our size and weight standards that might result from this process must be fully consistent with U.S. law. As part of the trilateral discussions on these standards, the Department will work closely with all potentially affected parties and with Congress to assess the technical feasibility and other implications of the various options.

Let me assure you, Senator, that the Department does not intend to use the NAFTA harmonization process as a back-door means of altering current U.S. size and weight limits. Let me stress if I may, because Secretary Peña joins me in wanting to make as forceful a statement as we can on that. That is, we will not use the NAFTA negotiations, the NAFTA harmonization process, as a back-door means of introducing or altering current U.S. size and weight limits.

As to the overall effects of NAFTA on U.S. motor carriers, we believe it represents an enormous opportunity for U.S. motor carriers to expand into a market that up to now has been completely closed to it. In our view, the U.S. industry is well-positioned to take advantage of this opportunity. U.S. trucking companies, with more than a decade of experience in sharpening their competitive prowess in the largely deregulated U.S. market, are flexible, efficient, productive, and able to offer a variety of service options which satisfy a wide range of shipper needs.

The Department appreciates the concerns raised by U.S. trucking labor about possible job dislocations growing out of the changes the NAFTA will bring about. We believe, however, that on balance, incentives for U.S. motor carriers to relocate to Mexico are weak.

First, available evidence on comparative labor costs indicates that the wage differential between U.S. and Mexican drivers is less than has been alleged in some quarters. The trucking industry in Mexico generally pays better than many other industries because of its need for skilled labor.

The best information we have suggests that, while Mexican wage rates do appear to be lower than rates paid to many U.S. drivers, Mexican wages are more comparable to U.S. wages near the border, and for the transport of international cargo in particular. Data gathered by the U.S. Embassy last year in an informal survey indicate that Mexican drivers carrying cargoes cross-border earn between \$35 and \$80 a day, representing in some cases only about 20 percent less than their U.S. counterparts.

Further, U.S. trucking companies enjoy a considerable price advantage in the purchase of trucks and spare parts. Trucks, tires, and spare parts are much more expensive in Mexico because of heavy import controls, and financing for vehicles in Mexico can be quite difficult to arrange.

Finally, U.S. trucking companies and their U.S. citizen employees excel in providing reasonably priced, high-quality service, and most surveys of shippers who rely on truck transportation indicate that overall carrier choice depends not just on rates but equally, if not more importantly, on customer service, our carriers' strength.

The many analyses that have been done of the NAFTA present a wide range of estimated effects on the U.S. economy. Most clearly agree, however, that trade between our two countries will increase. This burgeoning trade will spur demand for trucking services on both sides of the border, thereby benefiting the U.S. and Mexican carriers and drivers as well.

That concludes my prepared testimony. Recognizing the importance of the issues I have touched on today and the interest of the Congress, the Department will continue to communicate with this committee and keep it informed regarding our NAFTA-related activities. I will be pleased to answer any questions you may have at this time.

[The prepared statement of Mr. Levine follows:]

#### PREPARED STATEMENT OF ARNOLD LEVINE

Good morning. It is my pleasure to be here today to discuss the surface transportation provisions of the North American Free Trade Agreement and its implications for the U.S. motor carrier industry.

#### OVERVIEW OF NAFTA TRANSPORTATION PROVISIONS

Canada, Mexico, and the United States signed the North American Free Trade Agreement, more commonly known as the NAFTA, on December 17, 1992. We are pleased with the outcome for the transportation sector because we believe that we achieved our basic negotiating objectives. The major accomplishment of this negotiation was an agreement to phase-out mutual restrictions on truck and bus operations between Mexico and the United States. Canada has no restriction against U.S. and Mexican truckers, but its operators have been barred from Mexico.

The NAFTA creates a timetable for the removal of barriers to the provision of motor carrier services among the NAFTA countries for carriage of international cargo and of passengers. It also establishes a work program for making land transport technical and safety standards for motor carrier and rail operations more compatible. In addition, the NAFTA ensures that U.S. railroads and intermodal companies will be able to continue to take advantage of gains made through informal agreements with Mexico to market services, operate unit trains, construct and own terminals, and finance rail infrastructure. The NAFTA also opens up full investment and operating rights to U.S. and Canadian companies in Mexican port facilities. Finally, the agreement eliminates cross-border restrictions for provision of specialty air services among the United States, Canada, and Mexico.

The elimination of barriers to international truck and bus operations, as well as the locking in of access to Mexico for U.S. railroads and opening of Mexico's port facilities to foreign investment, were among the key goals of the NAFTA. Accomplishment of these goals ensures that the increased cargo to be generated by the agreement, as well as the cargo already moving in large volumes, will be carried efficiently and productively. We believe that the changes that will take place in this sector will be good for both U.S. carriers and their North American customers. It will create new opportunities for U.S. industry and promote intermodalism across the continent. It is our expectation that the bottom line for transportation will be increased productivity, dynamic investment potential, a strengthened international competitive posture vis-a-vis Europe and Asia, and increased job opportunities. It is also worth noting that there will be positive environmental effects from the decrease in the number of trucks required to wait for clearance in cues or holding areas. Fewer idling trucks should result in decreased exhaust emissions.

#### PHASE-IN OF MOTOR CARRIER OPERATING ACCESS

The schedule of liberalization for trucking provides that the United States and Mexico will allow access to each other's border states for the delivery and backhaul of cargo as the first step beginning in the third year after the agreement is signed—

that is, by December 1995. In the sixth year after entry into force of the NAFTA—2000, assuming entry into force in January 1994—all restrictions on cross-border trucking will be lifted.

For buses, liberalized cross-border access involves two steps. For charter and tour buses, all cross-border restrictions are lifted in January 1994 when the agreement goes into effect. However, ongoing negotiations on a separate memorandum of understanding regarding charter and tour bus services may result in an agreement to accelerate entry. In 1997, three years after entry into force, Mexico and the United States will lift all restrictions on granting authority to carry passengers from one country to another over regular routes in scheduled operations.

#### PHASE-IN OF INVESTMENT LIBERALIZATION

The schedule for liberalization of investment restrictions—that is, the laws allowing companies of the NAFTA countries to set up subsidiaries in each other's jurisdictions—differs in each country, primarily because Mexico has specific investment laws it must modify.

In December 1995, the third year after signature, Mexico will allow Canadian and U.S. investment of up to 49 percent in carriers established in Mexico to transport international cargo and in bus companies. In 2001, the seventh year after entry into force of the agreement, investment of up to 51 percent will be permitted. In 2004, ten years after entry into force, Mexico will permit 100 percent foreign investment in truck and bus companies. Mexico will not lift restrictions on foreign investment in enterprises providing truck service for the carriage of domestic cargo.

On the U.S. side, in December 1995, the third year after signature of the NAFTA, Mexican carriers will be permitted to establish Mexican-owned or -controlled subsidiaries in the United States to transport international cargo from one point in the United States to another point. We do not lift operating or investment restrictions on carriage of domestic cargo. For bus companies, the moratorium on Mexican-owned or -controlled subsidiaries being established in the United States will be lifted in 2001, the seventh year after entry into force of the NAFTA.

Because the investment liberalization schedules are different in the United States and Mexico, there has been some concern that U.S. carriers will be disadvantaged. It is important to remember that Mexico's current investment restrictions are far more severe than those in the United States. Mexico now prohibits any foreign investment in motor carriers; the United States permits Mexican citizens to own a non-controlling interest in U.S.-based carriers. Because the existing investment inequities are so substantial, it was difficult to design parallel liberalization schedules.

The opportunity for U.S. companies to enter into joint ventures with Mexican companies by the third year after implementation of the NAFTA is important and useful. Joint ventures are used worldwide to establish new markets. Moreover, the relatively weak financial structure of the Mexican trucking industry makes it unlikely that many carriers will have the -capital or market knowledge to expand quickly into the United States.

#### SUPPLEMENTAL AGREEMENTS

As you know, the United States, Canada, and Mexico are currently negotiating three supplemental agreements concerning issues related to the environment, labor, and import surges. Transportation issues per se are not being considered in these parallel agreements. DOT will participate in the interagency process associated with these negotiations to remain fully informed as to their scope and content.

#### STANDARDS ENFORCEMENT

No provision of the NAFTA exempts Mexican or Canadian vehicles or drivers from U.S. safety standards. Indeed, the agreement specifically states that each country retains the right to adopt and enforce standards for the protection of life, health, consumers, and the environment that may be more stringent than standards in effect in the other countries.

The United States made it clear from the beginning of the NAFTA negotiations that foreign commercial vehicles must comply with all applicable safety standards when they are in this country and that these standards will be strictly enforced. We are relying on a cooperative effort that includes the states and Mexican enforcement personnel to assure that this happens. It is important to remember that there are far fewer trucks in Mexico than in the United States and that not all of these will be coming to the United States. We do not expect that enforcement resource needs will fall inordinately on any border state.

Mexico has joined with most U.S. states and Canadian provinces as a member of the Commercial Vehicle Safety Alliance. The Alliance is an organization of state and provincial officials that works to assure that compliance and enforcement procedures, particularly roadside inspection procedures, are consistent from jurisdiction to jurisdiction.

Under the auspices of the Alliance and with support from the Department, Mexican officials are being trained to perform vehicle roadside inspections using the North American Uniform Driver Vehicle Inspection Program. These procedures are currently being used by Alliance member jurisdictions to ensure uniform inspections. These are the procedures that will be used to inspect Mexican vehicles while they are in the United States. In adopting these same procedures, Mexican officials will enforce them with respect to Mexican and U.S. motor carriers operating south of the border.

As we do with many federal motor carrier standards, we will rely on our states to a great extent to assure that foreign-based vehicles comply with safety and operational standards when in the United States. These efforts are supported by federal funds through the Motor Carrier Safety Assistance Program. In FY 1992, this program provided \$57.2 million to participating jurisdictions for roadside inspections and carrier reviews; \$6.27 million, or more than 10 percent, went to the four states that border on Mexico.

We recognize that, as Mexican vehicles enter the United States in greater numbers and range over a wider area beginning at the end of 1995, state enforcement activities to assure compliance with the U.S. regulations may be affected. The Federal Highway Administration will begin this year to examine the overall effectiveness of enforcement among the border states. We will look at state enforcement procedures, the number and types of violations detected, the amount of commercial vehicle traffic originating from Mexico, the anticipated effect of NAFTA implementation on the level of traffic, and potential problems this may pose for enforcement officials. Our aim will be to ensure effective enforcement as NAFTA is implemented.

With Mexico an active and committed participant in the Alliance and with continued aggressive state and federal cooperation to enforce safety regulations, we are confident that the NAFTA and the associated standards harmonization efforts will have a positive effect on highway safety throughout North America.

#### STANDARDS HARMONIZATION

The NAFTA includes a commitment from all three countries to work toward compatible safety standards. The NAFTA text establishes a work plan for harmonization of commercial driver and vehicle safety standards, which are operational standards, by 2000. The agreement also establishes an Automotive Standards Council that will address vehicle engine emissions and fuel content standards, which are manufacturing standards. In this way, the NAFTA encourages upward harmonization of the safety standards that will be enforced in Mexico, Canada, and the United States.

In negotiating the work plan for attempting to reach compatibility on safety standards among the three countries, the overriding U.S. objective was to evaluate technically the regulatory regimes of each NAFTA country and to encourage adoption of regulations that yield the highest safety standards. While NAFTA does not explicitly require the development of a single set of standards applicable to all North American motor carrier operations, it was clear to the U.S. negotiators that the other two countries shared the guiding principle of adopting comparable standards with enhanced safety. It must be emphasized that at no time has any party sought to establish these standards on the basis of the lowest common denominator. In addition to improving safety, we all recognize that developing a North American safety standard will enhance carriers' productivity and efficiency.

Harmonization of motor carrier safety standards between the United States and Canada and the United States and Mexico is an ongoing process that predates the NAFTA negotiations. The United States and Canada have worked through the U.S.-Canada Motor Carrier Consultative Mechanism, established in 1982. The United States and Mexico have cooperated through the U.S.-Mexico Transportation Working Group, established in 1989.

We have already achieved some success. The United States has mutual recognition agreements on commercial driver's licenses with both Mexico and Canada. These agreements were signed only after a detailed review of the standards of both those countries to ensure that their requirements were equivalent to ours. In the case of Mexico, a systematic, comprehensive process culminated in the modification of the Mexican standard (to include, for example, a skills test) and the retesting of drivers for a totally new license. The U.S.-Mexico Memorandum of Understanding

on mutual recognition of commercial driver's licenses is an excellent example of "upward harmonization." We are currently working to develop an electronic means to exchange information on driver violations and actions taken against licensees to enhance our current "hard copy" method of exchanging this information.

The U.S.-Mexico Transportation Working Group, with Canadian participation already occurring on an as-needed basis, will evolve into the Land Transportation Subcommittee established in the NAFTA standards Chapter. The mandate of both the Working Group and the NAFTA is to attempt to make the domestic federal safety regimes of all three countries as compatible as possible. The focus is thus on federal standards. However, state officials have been and will be involved in this effort. Through the American Association of Motor Vehicle Administrators, an organization of state officials, and the Alliance, for example, state officials are working closely with the Federal Highway Administration and its Mexican counterpart to address many enforcement issues relating to driver licensing and roadside inspection standards. We are confident that this cooperative will identify any potential problems and propose solutions to them before the cross-border markets begin to open in 1995.

State involvement in implementing the NAFTA and completing to the extent possible the work begun under the Working Group is critical to its success. The Working Group is currently considering procedures for ensuring broad and continuing state involvement in its activities. The Working Group intends to keep all states informed of its activities and results of its meetings.

The NAFTA does provide for industry involvement in the harmonization process. We are considering a number of measures to assure substantial industry input within the limitations of existing U.S. procedures for advisory committee participation in the regulatory process. For example, we plan to establish and make public the major areas to be considered by the Land Transportation Standards Subcommittee, and to ask for industry input and suggested agenda items well in advance of meetings. It is likely that we will use the National Motor Carrier Advisory Committee, an advisory group to the Federal Highway Administration, as one conduit for assuring substantive industry participation in the process. In addition, we may establish technical review panels to assure that we have the benefit of the most up-to-date technical assessments and options.

Over the long term, consistent, compatible safety standards in the three countries will facilitate enforcement, reduce the enforcement burden on the border states, and ensure full equipment compatibility. They will improve operational efficiency, reduce shipper costs, and create new opportunities for equipment manufacturers while giving enforcement officials and the traveling public greater confidence that trucks operating on U.S. highways will be safe regardless of the driver's or vehicle's country of origin.

#### TRUCK SIZE AND WEIGHT

Truck size and weight requirements are included in the work plan for standards harmonization set forth in the NAFTA. Although the agreement includes a commitment from the United States, Mexico, and Canada to work toward compatible technical and safety standards, it does not require the United States to change its size and weight limits, or indeed any of its regulations applicable to motor carrier operations. The Department is fully aware that any future changes in our size and weight standards that might result from this process must be consistent with U.S. law. Current U.S. requirements governing truck size and weight are statutory and can only be changed by amending the relevant statutes. As part of the trilateral discussions on these standards the Department will work closely with all potentially affected parties and with the Congress to assess the technical feasibility and implications of the various options. To date, we have only been exchanging information on technical requirements in the respective countries. The Department does not intend to use the NAFTA harmonization process as a "backdoor" method of altering current size and weight limits.

#### OVERALL EFFECTS OF NAFTA ON U.S. MOTOR CARRIERS

The NAFTA represents an enormous opportunity for U.S. motor carriers to expand into a market that, up to now, has been completely closed. In our view, the U.S. industry is well-positioned to take advantage of this opportunity. U.S. trucking companies, with more than a decade of experience in sharpening their competitive prowess in the largely deregulated U.S. market, are flexible, efficient, productive, able to offer a variety of service options and to satisfy a wide range of shipper needs. U.S. motor carriers are the most competitive trucking companies in the world and have both a rate and service advantage over their Mexican counterparts.

The Department appreciates the concerns raised by U.S. trucking labor about possible job dislocations. We believe, however, that, on balance, incentives for U.S. motor carriers to relocate to Mexico are weak.

Labor's concerns have focused exclusively on differences in wages. In the United States, labor costs account for 50 percent of total operating expenses for for-hire carriers. Available evidence on comparative labor costs indicates that the wage differential between U.S. and Mexican drivers is less than has been alleged in some quarters. The trucking industry in Mexico generally pays better than many other industries because of the need for skilled labor. Due to a series of Mexican government regulations and the U.S.-Mexico agreement on standards and licenses, only drivers licensed by the federal government in Mexico are permitted to drive commercial vehicles across the border and on U.S. highways. A Mexican driver who can qualify for a federal license is a valuable asset for a Mexican cross-border trucking firm and consequently is paid top wages, often in U.S. currency.

Direct, meaningful comparisons on wage rates are difficult because in both countries there are several ways a driver can be paid. Despite these difficulties, the best available information suggests that, while Mexican wage rates do appear to be lower than rates paid to many U.S. drivers, Mexican wages are much more comparable to U.S. wages near the border and for the transport of international cargo. The oft-cited figure of \$7 a day is clearly misleading, since it represents a Mexican minimum wage that few drivers are actually paid. Data gathered by the U.S. Embassy in an informal survey indicates that Mexican drivers carrying cargoes cross-border earn between \$35 and \$80 a day—representing, in some cases, only about 20 percent less than their U.S. counterparts.

Further, U.S. trucking companies enjoy a considerable price advantage in the purchase of trucks and spare parts. Trucks are much more expensive in Mexico because of heavy import controls—a rig that costs \$62,000 in the United States costs \$80,000 in Mexico. In addition, financing for vehicles can be difficult to arrange in Mexico. Banks require at least 85 percent of the cost be paid in cash; interest rates on the remainder are quite high. Moreover, tires cost 25 to 42 percent less in the United States, and spare parts are 38 percent cheaper. These costs may gradually decline with NAFTA tariff reductions, but it will take time.

Truck rates are very high in Mexico and the service offered is not on the level of that provided by U.S. trucking companies. Most surveys of shippers who rely on truck transportation indicate that, overall, carrier choice depends more on customer service factors than rate factors. For example, total transit time, reliability of on-time pick-up and delivery, response in emergency situations, ability to handle expedited shipments, and carrier financial stability are all deemed more important than rates.

NAFTA has been the most analyzed trade agreement in U.S. history. The strong consensus of many studies has been that NAFTA will increase employment, gross domestic product and real wages in the U.S., Canada and Mexico. Trade between the United States and Mexico will continue to increase. This burgeoning trade will spur demand for trucking services on both sides of the border, thereby benefiting U.S. and Mexican carriers and drivers.

That concludes my prepared testimony. Recognizing the importance of the issues I have touched on today and the interest of the Congress, the Department will continue to communicate with the committee and keep it informed regarding our NAFTA-related activities. I would be pleased to answer any questions you may have.

Senator EXON. Mr. Director, thank you very much. I am very pleased now to call upon the Senator from New Hampshire, the former Governor of the great State of New Hampshire.

And I would say to you, Governor, that I am pleased that you have chosen the Commerce Committee, and particularly have been assigned to the Surface Transportation Subcommittee, because I have found over the years that those of us who had the opportunity to serve our States as Governors are familiar with many of the issues that come up on this particular subcommittee. Here, we deal directly with rules, regulations, and redtape affecting transportation industries of our individual States. As former Governors, we know that transportation is a very key consideration in seeking more investment by people outside of our States into our States.

So, therefore, I want to take this opportunity to welcome you to this subcommittee and recognize you now for any statement or questions you might have.

#### OPENING STATEMENT OF SENATOR GREGG

Senator GREGG. Thank you, Senator, and it is a pleasure to be on this subcommittee. It is a critical one. One which obviously, as you mentioned, as Governors we have a lot of experience in these issues and have a real sense of their primacy in the whole economic fabric of our States.

I just want to congratulate the Department on their efforts in supporting the NAFTA proposal. NAFTA makes a lot of sense to me. I think it is going to create a lot of jobs especially in New England. It is a long ride to Mexico from New Hampshire, I have to admit to that, in a truck especially.

But my hope is that I will see jobs created, and I would be interested in the Department's assessment as to what the opportunities are here for American, not necessarily New Hampshire, but American transportation industries to expand into a market that has been closed for so many years to them.

Mr. LEVINE. Senator, we do not have any specific numbers, but the markets that will be opened to U.S. businesses as a result of NAFTA include the truck service market in Mexico. We are confident that our carriers and U.S. labor will have every opportunity to compete fairly with their Mexican counterparts and that they will, based on their performance in the United States and the views of shippers who have used their services, compete quite well.

So, as trade expands, as it will under the NAFTA, we are confident that we are looking at a growing pie and not a shrinking pie, or even a constant size pie, and that U.S. businesses will get a fair cut from that.

There are also opportunities presented for U.S. equipment manufacturers as a result of the NAFTA, which will generally bring down tariffs over the course of its implementation. So, there again there will be opportunities for U.S. businesses.

Senator GREGG. So, you see it as a job creation opportunity?

Mr. LEVINE. Absolutely.

Senator GREGG. Thank you. Thank you, Mr. Chairman.

Senator EXON. Senator, thank you very much. Mr. Director, I listened very carefully to your opening statement and I would just like to get it clarified a little bit further as to the approach to this trade agreement that you and the Department of Commerce are taking. Although this is not a decision for you to make directly, your feeling and the Department's feelings are going to be the keys to whether or not the understandings of the agreement and the possible changes in the agreement can be made if needed to be passed.

Let me ask the first question in this manner. If you were sitting on this side of the table rather than on that side of the table, would you be in favor of approving the NAFTA agreement as originally negotiated? How would you vote, up or down, on the NAFTA agreement as it currently stands?

Mr. LEVINE. Two thumbs up, Senator.

Senator EXON. I beg your pardon?

Mr. LEVINE. Two thumbs up on that question.

Senator EXON. You sound like a U.S. Senator. [Laughter.]

Mr. LEVINE. The Clinton administration is working very hard on the side agreements relating to labor, the environment, and import surges, and has heard the message loud and clear that those are very important aspects of this agreement that need to be wrapped up. Ambassador Kantor can speak more directly to the status of those.

Clearly, we view the NAFTA agreement as a positive one. Looking at it from our own rather narrow interest in the Department of Transportation, we think it will greatly improve the efficiency of cross-border transport, something that we have been working on for over a decade, and in which I have personally been involved for over a decade. I am convinced that the land transport provisions represent a very positive step in creating an equitable, safe, and efficient operating environment for cross-border transport.

Senator EXON. Well, I am going to press you a little further on this, because I think this is what many of us are judging this on today. I would say without equivocation that the NAFTA agreement as it stands as of today would not receive my vote when this matter comes up for a vote in the Senate, and that is why I am trying to focus attention on the fact.

I guess you are working very actively and promoting some side agreements, but while you think those would be helpful and probably should be passed, they are not as important as the overall advantage to the three countries as you see it for even approving the agreement as it stands now, if that were the only option.

Mr. LEVINE. I am going to duck that question, Senator, in that it involves issues much broader than those which we are addressing at the Department in our particular field. That is an important question, however. The administration is committed to negotiating those three side agreements as an integral part of presenting a NAFTA agreement to the Congress. So, I would not want to split those off and suggest that any one is more important than the other. They are a part of a package.

Senator EXON. I will not try any further, Mr. Director, you see where I am coming from. I would just give you my free advice, for whatever it is worth, that unless some additional agreements, side agreements, second-thought agreements, call them what you will, are incorporated in that treaty the administration, in addition to Mr. Leon Panetta, should understand that this may be in some difficulty up here.

Explain then a little bit, if you can. Certainly this is such a far-reaching agreement that no one expects every "i" will be dotted and every "t" crossed on everything that everybody has some concerns about to one degree or another.

I suspect that even if the administration is successful, as we hope it will be, on these side agreements—and as I understand it they are side agreements but they would be written into the agreement, it would be fully effective for all the three nations involved and the people that live therein.

How far do we go down in detail? Another way to put the question is that something as broad based as this with so many different angles to it from the perspective of so many different people

and interest groups, that we are always going to have—even if the agreement passes with some of the side agreements—there are going to be some disgruntled folks down the road someplace since their particular objection or addition to language of the treaty is not part of the treaty itself but will have to be “worked out” as we go through this in the years to come.

Is that a fair appraisal of how these side agreements worked? They cannot possibly cover all of the details, but some of those things are going to have to be worked out in hopefully a cooperative fashion between the three countries involved. Is that correct?

Mr. LEVINE. That is absolutely correct. In the first instance, it is the nature of any negotiation that nobody is going to be completely satisfied with the outcome. With respect to the side agreements, they will create a mechanism whereby the three countries can cooperate to resolve problems that arise in the areas covered by those agreements. And it will require some goodwill and probably some future tough negotiating to make sure that the agreement is implemented in a way that is fair for all parties.

Senator EXON. Well, that is important to recognize to begin with, because if we go into this agreement with the side agreements that I think are necessary, then we are going to be pretty hard put if after the agreement is signed, sealed, and delivered that we find something—you or I or somebody else finds something in there and we are hardly in the position to back out of the agreement at that time.

So, if I understand how these agreements work, that if the Mexicans, for example, were too hardlined over their position and not wishing to compromise on some technical point that cannot be covered specifically in the law, that if they would take that kind of a position that they would be restrained somewhat by the idea that there are going to be other things that we or the Canadians might object to somewhere down the line. It's like you can stand as fast as you want but if you are going to be effective you are going to have to leave yourself some maneuvering room for discourse and compromise. And if any country digs in too hard on one particular part of the section it would very much impair any concession that they, the Mexicans, might want on an issue somewhere down the line.

So, in these kinds of negotiations there is that part of give and take that hopefully brings about and will bring about some degree of balance. Is that a fair way of stating it?

Mr. LEVINE. Senator Exon, you have just described the international negotiating process, and agreement implementation and international relations process quite well.

Senator EXON. Have you found that that is the attitude of the Mexicans as they go forth in the process? How receptive have the Mexicans been to the concept of the side agreements that the President referenced during his campaign and has enunciated even more clearly since he has assumed office? Are they being difficult on this? Are they being reasonable but not totally cooperative? Or are they easy sitting ducks?

Mr. LEVINE. Senator, I am not an expert on those side agreements and have not participated in the negotiations, so it is impossible for me to offer a judgment on that particular aspect of our re-

lations with Mexico. They are ongoing, they are a high priority with this administration, and I am sure that the administration has no intent to sit and talk among itself in a room. We are negotiating those agreements with our Canadian and Mexican colleagues.

Senator EXON. Well, but you have been very intimately involved, have you not, with side agreements or additional agreements, call them what you will, that will hopefully be entered into in the area of expertise that you have had a lot of background experience in. You have been involved in those things; have you not?

Mr. LEVINE. In the land transport provisions of the agreement; yes, sir.

Senator EXON. The question I would like to ask you is, How have you found the Mexicans in trying to walk in our shoes on some of these issues? Have they been forthcoming or has it been difficult at this stage?

Mr. LEVINE. Well, the text of the NAFTA agreement is basically negotiated, so I can speak to the history of those discussions and the shape of the NAFTA. And, in that regard, I would categorize our Mexican colleagues as being forthright and tough negotiators on the economic issues.

As you can see, we have agreed to a rather lengthy phaseout. It reflects in large measure, the degree to which Mexico believed it was able to move in that direction.

On the question of safety standards, our Mexican colleagues have been very forthright. They have sent some of their top officials to Washington to see how we regulate safety, how we adopt standards, and they have been moving across all safety fronts to adapt their safety regulations so that they look much more like ours. So, in that respect they have been most cooperative.

Senator EXON. Mr. Director, let me put this question to you. Although some but not all of the inequities in the U.S. investment in trucking companies in Mexico predate NAFTA, how do you reconcile the fact that Mexico continues to have noncontrolling interests in U.S. domestic and/or international trucking companies while U.S. carriers are never, and I emphasize never, granted investment rights in Mexico's domestic trucking companies?

Mr. LEVINE. If I may just back up on that and outline what the investment provisions do and do not do. What they do not do is give either Mexican nationals or U.S. nationals a right to invest in a domestic operation. So, that remains the same throughout the life of the agreement.

There is a difference in the schedule of investment liberalization for international truck operations. Today, Mexican nationals are able to hold a noncontrolling interest in U.S. trucking companies. And U.S. trucking companies are unable to hold any interest in Mexican trucking companies.

And you are right, Senator, the future liberalization schedules are different. And all I can tell you is that at the end of the liberalization period, which does not happen until 2004 if one assumes that the agreement is put in place in 1994, U.S. companies and Mexican companies will be on the same level. But between now and then there is going to be difference in the investment liberal-

ization schedules that will close over the period. That is a fact, and I cannot explain away that fact.

It is also a fact that this was a complex negotiation, and we got everything we thought we could get in that negotiation both within the land transport discussions and within the agreement much more broadly. There remains a difference between the rate at which U.S. companies can invest in Mexican international trucking companies and the rate at which Mexican trucking companies can invest in U.S. international companies.

Senator EXON. This is one of the puzzling things to me, and if you could, without going into a great deal of detail, give us a layman's answer to what is on my mind.

I would think that Mexico, which from most economic standpoints does not have as much capital to invest as compared to the United States—I would think Mexican companies would applaud and want a minority of Americans investing in their companies, which they would control. Is there some hangup that they have in that area that I do not understand?

Mr. LEVINE. I would not try to explain the Mexican position, but would simply offer you some background on it. And that is, they come from a history of allowing absolutely no foreign investment in that industry. And for them to come to the point of permitting 49 percent minority ownership by U.S. interests 3 years into the agreement was apparently all that could be sold domestically, as a start.

So, there will be the possibility for U.S. companies to hold a minority position in Mexican trucking companies. Liberalization does not take place as fast as we would have liked, but it is movement from the status quo, a rather significant movement from the status quo.

Senator EXON. So, the only answer you can give to my question is that for whatever reason that has been a traditional position of the Mexican Government, and you would not feel comfortable about trying to explain what the rationale is behind that position.

Mr. LEVINE. Well, it is actually embedded in their laws and constitution. And we are changing it, but we are changing it rather slowly.

Senator EXON. But they do allow, do they not, and have solicited American capital and investment in some of their vacation paradise facilities in that part of the world? Have they not done that?

Mr. LEVINE. I believe they have, yes, Senator.

Senator EXON. But parts of the transportation industry are not similarly situated, at least as of now.

Mr. LEVINE. And all I would suggest is that the history of the trucking industry in Mexico perhaps goes back even further than the recent boom in tourism. There are some very heavily vested interests there. The Mexican Government went as far as they thought they could go in these negotiations, with the phaseout schedule.

Senator EXON. Thank you. I may have some further questions, Mr. Director.

I am very pleased to now recognize my friend from Montana for any opening statement or questions that he might have.

Senator BURNS. I have no questions. I just want to apologize for being late this morning, and I will just make a little statement later on. We can move on to the other witnesses, Mr. Chairman. I appreciate you holding this hearing.

I think, as with anything, when we go into negotiations and into area that this one covers, that, yes, most of us would probably promote it as being very positive, but then there are always a couple of areas that we have problems with. And, of course, the Canadian Free Trade Act up in Montana is not working all that well right now for a sector of my State, and I think we have to look at those areas of concern and air those things out before we march too far down the track, although we are coming down the track pretty hard right now.

So, I appreciate—Mr. Levine, I just want to apologize to you for not being here earlier this morning.

Senator EXON. Senator Burns, thank you very much. I just have one other question, and then I would reserve the right to ask further questions of you for the record, Mr. Levine, and also hold open the record for further questions that could be submitted to you for written response. And if you could act on those as quickly as possible so we can make our full record complete, because I believe that the record that we make here this morning will be looked at over the months that lie ahead with regard to this, as far as transportation if not other concerns that many members of the Senate have on this proposition.

So, would you agree to, as quickly as possible, answer the written questions that we submit to you?

Mr. LEVINE. Of course, Senator. We would be delighted to.

Senator EXON. Let me ask one other question now. How would you characterize oversight and safety enforcement by the Mexican Government of its transportation industries and facilities? And if you wish, you could split those into presigning of the NAFTA agreement and postsigning of that agreement.

Mr. LEVINE. Senator, I thought you were going to let me get away without asking a tough question like that.

Senator EXON. You knew that would come up; did you not?

Mr. LEVINE. I knew that was coming; yes, sir.

Let me answer that in a couple of ways. First off, we have worked with our Mexican colleagues very very closely over the past several years to develop a set of safety regulations in Mexico that are much more compatible with ours: driver's licensing standards, vehicle standards, and over-the-road inspection standards. We are moving closer and closer to having an identical set of safety standards.

As to Mexican enforcement of those standards, I am no expert on that. What I understand, from visits that our Highway Administration experts and State highway safety experts to Mexico have reported back, is that the Mexican Government is improving the enforcement and implementation of those rules daily.

That's one aspect of it. The other is that there is nothing in the NAFTA agreement—nothing today, pre-NAFTA or post-NAFTA, that changes our own domestic safety rules and regulations and enforcement. So that when a Mexican truck comes into the United States, that truck and its driver come under U.S. laws and regula-

tions; and it is our responsibility to enforce those. And we are working, again, with the States and with industry to make sure that those rules are effectively enforced once the NAFTA is put in place and once the market starts opening in 1995.

Senator EXON. Let me follow up on that with a specific question that I hope that you can enlighten us on. Let us take a hypothetical, although it might not be hypothetical. We have a very prominent bull shipper in the U.S. Senate from the State of Montana, my friend and colleague. I do not mean bull in terms of what we generally think of that in the Senate. [Laughter.]

Senator BURNS. You mean this is the kind that gets on your boots, is that what you are referring to?

Senator EXON. That is right. [Laughter.]

I thought somebody getting it on their boots and actually shipping bulls, the ones with horns. Could Senator Burns, under the agreement, load up, rent, or buy a truck and load up a bunch of his bulls up there in Montana and drive them across the United States and drive them clear down and sell them in Mexico City, and vice versa? There must be one or two people like Senator Burns in Montana, and those that live in Mexico, who might want to take some.

Mr. LEVINE. Well, Senator Burns could do the following. And, by the way, we have a number of bull shippers at the Department of Transportation as well. [Laughter.]

Senator BURNS. We are not going to go any further than that though, are we.

Mr. LEVINE. But what he could do is the following. Between now and the time the land transport provisions take hold in the NAFTA, which would be 3 years after signature, the end of 1995, he could not do what you have just suggested; he could not get his own truck and move those bulls all the way into Mexico City. He would probably take them, transfer the trailer or otherwise make a transfer on the U.S. side of the border to a Mexican company, and that company would proceed to Mexico City.

Three years after this agreement takes hold—

Senator BURNS. Is it the same coming back?

Mr. LEVINE. Coming back, yes. A Mexican company would take the cargo and move it across the U.S. border into Customs compounds or somewhere into the border commercial zones. A U.S. company would then pick it up and move it to the interior of the United States.

Between 1995 and the year 2000, he could take those bulls and transport them from the United States to any place in a Mexican border state, straight on through in his own truck, but not all the way to Mexico City.

Senator EXON. In other words, to some state adjacent to our border, southern border; is that right?

Mr. LEVINE. That is correct. And the Mexican trucking company could do the same coming north, bring the cargo into a U.S. border State and then transfer it onto a U.S. motor carrier.

Post-2000, assuming that the agreement goes into effect in 1994, you would be able to take that cargo and move it all the way through to Mexico City, and a Mexican company would be able to do the same in reverse. And, in fact, you would be able to do the

same in reverse. You would be able to pick up cargo in Mexico City with your equipment and bring it back to the United States.

That is what the service liberalization schedule would let you do.

Senator EXON. Well, thank you, that is a very specific answer and that is what I wanted. Again, that amplifies and identifies some of the concerns that we have. Now, I do not know—I know he has good bulls, but I do not know how good a shipper Senator Burns is. I do know that rumor has it—I think it is a true rumor—that one time he was bringing some of those across Nebraska up there on Highway 20 and they got loose and were wandering around out on the highway.

Senator BURNS. I did have that happen too. That is for real. That was the Nebraska roads though. [Laughter.]

Senator EXON. It was the bumpy road that threw the bulls out.

I guess that it seems to me, Mr. Levine, that Senator Burns who has many talents but does not spend most of his time driving trucks around, might be a safety hazard, as I would be, if I were to get into a truck and hauling it across the United States and clear down to Mexico, or even south of there. Which brings up the matter, I guess, and focuses in on the safety concerns.

I mean do you think it is a pretty good idea for Senator Burns or Senator Exon—do you think it would be a good idea for him to sell me some bulls and I rent a Ryder truck and decide I am going to haul them down to Mexico City? It seems to me like therein lies a rather important safety hazard that we have that may not have been addressed as well as it should have in the agreement. What do you have to say about that?

Mr. LEVINE. Well, nothing in the agreement changes the basic safety regulations and laws and enforcement practices in the United States. And if you were to choose to go into the trucking business, you would be subject to all the rules and regulations that any trucker is subject to. And I am convinced that—

Senator EXON. But he is not going into the trucking business; is he?

Mr. LEVINE. If he is carrying your bulls for hire, he is going into the trucking business.

Senator EXON. But what about his own bulls, that is what I was getting at?

Mr. LEVINE. That is private carriage, and he is still covered by over-the-road rules and regulations.

Senator BURNS. In other words, I guess what concerns me is that everybody operates equally: in other words length, width, and weight. When we start talking about—you know, long ago—well, it was not all that long ago—even in the United States there were some States that you drove around. And so I think the big question here, I think, in surface transportation as far as trucks are concerned is that both sides of the border have the same length, weight, and width restrictions.

Mr. LEVINE. We do not have the same length, weight, and width limits at the moment.

Senator BURNS. We do not have the same now.

Mr. LEVINE. I believe the width limits are identical or just about identical. The weight and length rules differ among the three countries. When a company is operating in the United States, however,

it must abide by the U.S. rules. Which, if it means breaking down a trailer and reloading it so that it meets U.S. requirements, is what has to be done.

And the same applies when U.S. companies get the right to operate into Mexico. There are length restrictions, and at this time U.S. companies would be faced with breaking down the cargo and moving it into another trailer if they were moving it in what would be an overlength trailer in Mexico.

That is an area that we are exploring in the agreement in terms of understanding better what each country's rules and regulations are, but each country retains the right to enforce all of its rules and regulations apropos the size and weight.

Senator EXON. Mr. Levine, thank you very much. I just want to say in closing, do not blame me when he turns those bulls loose down there in Mexico as he did in Nebraska. He has a track record on that.

Seriously, thank you very much for being here this morning. We will have some additional questions for the record. And with that, Mr. Levine, you are excused.

Mr. LEVINE. Thank you, Senator.

Senator EXON. On our first panel this morning, then, I would be pleased to call at this time three individuals: Mr. John Collins, senior vice president of government affairs from the American Trucking Association; Mr. Edwin L. Harper, president and chief and executive officer of the Association of American Railroads; and Mr. Fred E. Kaiser, president of Kerrville Bus Company, Inc., from Kerrville, TX, representing the United Bus Owners Association and the American Bus Association.

Gentlemen, thank you for being here this morning. We are looking forward to your testimony and we will move right ahead. Unless there is some agreement among the three of you to the contrary as to who would testify first, I would suggest we call on Mr. John Collins.

**STATEMENT OF JOHN COLLINS, SENIOR VICE PRESIDENT, GOVERNMENT AFFAIRS, AMERICAN TRUCKING ASSOCIATIONS**

Mr. COLLINS. Mr. Chairman, Mr. Burns, my name is John Collins. I am senior vice president for governmental affairs for the American Trucking Associations, which is the national trade association of the trucking industry.

Mr. Chairman, I would like to go ahead and summarize my statement in two short bullets.

Senator EXON. Let me say that your written statement and all other written statements by this group of witnesses and the one following, without objection, are incorporated and made part of the record.

Mr. COLLINS. Thank you, Mr. Chairman.

Safety has been and will continue to be the trucking industry's No. 1 priority. Nothing in the NAFTA should be allowed to reduce U.S. safety standards for foreign-owned or operated trucks or foreign drivers, or allow foreign competitors to cut costs by short-changing safety.

From the trucking industry's perspective, the NAFTA has the potential to add to our Nation's position as an economic superpower.

And that can be very good for trucking. However, we will be hard pressed to support the current agreement, because we believe it has seven inequitable provisions.

I would like to go through those.

Mr. Chairman, I would like to say none of the changes that we are proposing would require the governments to go back to square one and renegotiate the NAFTA. What we are interested in is letters of clarification and bilateral changes that we think can address the different concerns we have raised.

Senator EXON. Well, in other words, what you are saying, that is what I was trying to get back to. Changes that will be made, to a considerable extent, would be handled by side agreements of different forms, but one of the typical forms of side agreements, as I understand it, then, are an exchange of letters and signoffs by both sides. Is that what you are suggesting should be done to alleviate the concerns that you and the people that you represent have?

Mr. COLLINS. Exactly, Mr. Chairman.

Senator EXON. Thank you.

Mr. COLLINS. Our first concern is the inequity in the current trucking investment provisions. We see two inequities. The first, as your questions explored, Mr. Chairman, is that under the NAFTA, U.S. citizens can never invest in a Mexican domestic trucking company, never. But a Mexican citizen can do that today in the United States.

The second inequity that we see is while U.S. citizens can own 100 percent of an international carrier located in Mexico in 10 years, Mexican carriers have that opportunity in the United States in only 3 years.

Our recommendation, Mr. Chairman, is that the investment provision should be reciprocal, in terms of timeframe and opportunities. We can go a long way to solving those problems by having a letter of clarification that defines an international carrier in Mexico to allow it to have some domestic operations.

Our second issue is to ensure that there is competition for small package delivery. The Mexican Government recently proposed new regulations that would reserve a monopoly on the handling of small packages for the Mexican postal service. These restrictions appear to us to be in direct contradiction to the spirit of NAFTA. Our recommendation is that the proposed Mexican regulation should not be adopted. If necessary, the right of private, small package carriers to operate should be spelled out.

Our third issue is to create harmonization for the use of 53-foot trailers. Forty-five of the 48 contiguous U.S. States and one-half of the Canadian provinces allow 53-foot trailers to operate on their highways today. Mexico does not allow 53-foot trailers to operate.

This prohibition effectively creates a nontariff barrier to trade, and we believe would shut out many U.S. fleets from the cross-border freight market. Our recommendation is that Mexican regulations should be revised to allow 53-foot trailers on designated highways: the high-level highways that can safely accommodate them.

Our fourth issue is weight harmonization. Truck weight standards currently vary greatly in North America. The U.S. weight limits are the lowest, and they place U.S. manufacturers at a competitive disadvantage in the international marketplace. Our rec-

ommendation is that the NAFTA Land Transport Standards Subcommittee should work to harmonize truck weight in North America to ensure that no country is put at a competitive disadvantage.

Mr. Chairman and Mr. Burns, I would like to clarify one thing that is also in our written statement.

Senator EXON. Yes.

Mr. COLLINS. The ATA has not and will not use the NAFTA negotiations to advance the use of longer combination vehicles. You remember in the ISTE A negotiations that that was a very contentious issue, and we have written to the U.S. Trade Representative to say that we do not propose to encumber NAFTA negotiations with the LCV issue. We see the ISTE A process as the way to resolve that issue.

Our fifth concern is to remove current barriers to the use of used U.S. equipment. For 15 years under NAFTA, U.S. carriers will be required to either buy Mexican equipment or purchase and import new equipment for use in operations in Mexico. We believe that there is a real opportunity to bring in used U.S. equipment, which we believe is safer than Mexican equipment, and use it for operations in Mexico.

Our recommendation is that a letter of clarification should allow for the temporary import of qualified U.S. used equipment into Mexico for limited purposes.

Our sixth issue is to enhance environmental and labor protections. We have asked the negotiators to include in the environmental side agreement assurances that clean diesel vehicles will be permitted in Mexico, and that the sale and use of clean diesel fuel will be allowed. We have also asked that the labor supplemental agreement include a program and funding to make American workers who have lost jobs as a result of NAFTA job displacement to be eligible for retraining as truckdrivers.

Our final concern deals with safety. The committee asked us to respond to the issue of harmonization of driver certification and overall standards under the NAFTA.

There is a memorandum of understanding between the United States and Mexico agreeing to accept the CDL of either country as valid in both countries. While we have no firm evidence, we have been told at this time there is not a computer system that links the Mexican state systems together and allows us to communicate directly by computer. If it is true, it is a problem that needs to be fixed. We think it can be fixed in the timeframe that exists, but it is going to take some attention by DOT.

As regards the overall harmonization of safety standards, we understand that these issues will be discussed in the standards subcommittee. We must have a seat at that table, because we have a direct interest and we can bring technical expertise to bear. In general, we believe all Mexican equipment and drivers must be subject to U.S. safety standards when they are operating in the United States.

Mr. Chairman, in conclusion, the trucking industry supports the concept of the NAFTA, and if our governments are able to make the adjustments that I have discussed, it will have our enthusiastic support. Absent this kind of agreement, U.S. motor carriers, ship-

pers, investors, and the public will fail to get the benefits that NAFTA is intended to provide. Without these crucial changes, our industry will have difficulty supporting the agreement.

Thank you.

[The prepared statement of Mr. Collins follows:]

#### PREPARED STATEMENT OF JOHN COLLINS

My name is John Collins. I am Senior Vice President of Government Affairs for the American Trucking Associations (ATA). I appreciate the opportunity to comment on the surface transportation implications of the North American Free Trade Agreement (NAFTA).

As background, ATA, the national trade association of the trucking industry, represents more than 30,000 trucking companies and suppliers of all sizes and types that belong to ATA or its 51 state affiliates and 10 specialized national affiliates. The trucking industry employs 7.6 million Americans, accounts for approximately 5 percent of gross domestic product, and plays a central role in the competitiveness of U.S. industry.

From the trucking industry's perspective, the NAFTA has the potential to add to our nation's position as an economic superpower and bring jobs, trade and economic competitiveness to our continent—if the agreement is built on a solid and equitable foundation. However, we will be hard-pressed to support an agreement as inequitable in its treatment of the U.S. trucking industry as the current NAFTA is.

We believe it is essential that refinements be made to the NAFTA trucking provisions to ensure that U.S. motor carriers receive fair and equitable treatment. Specifically, the refinements address:

- the inequity in the current trucking investment provisions;
- insuring competition for small package delivery;
- harmonization of the use of 53-foot trailers in North America;
- harmonization of truck weight standards;
- removal of barriers surrounding the use of used trucking equipment; and
- enhancement of environmental and labor protections.

Our primary concerns are of foremost importance to the economic health of our industry and will significantly impact North American trade flows. The refinements we are seeking will require changes in Mexican regulations and/or laws but most can be accomplished, without opening the agreement for renegotiation, through supplemental trilateral agreements, letters of clarification, and by adding clear definitions of terms where none currently exist.

It is also important to point out that we believe strongly that nothing in NAFTA should reduce U.S. safety requirements for foreign-owned or operated trucks or foreign drivers. A level field for safety is essential to protect the safety of the public on U.S. highways. It would also be grossly unfair to U.S. companies to allow foreign competitors to cut costs by shortchanging safety.

The following explains, in detail, each of the refinements we are seeking in the NAFTA.

#### INEQUITY IN CURRENT TRUCKING INVESTMENT PROVISIONS

The Committee asked us to comment on a number of issues including the effect of continued restrictions on U.S. investment in Mexican domestic and international trucking companies. We are very concerned with the inequity in investment provisions contained in the NAFTA:

- Today, and for more than a decade, Mexicans have been permitted to own a non-controlling interest in U.S. domestic and/or international trucking companies. Under the NAFTA, Mexicans continue to have those rights while U.S. carriers are never granted investment rights in Mexican domestic trucking companies.

- The NAFTA provisions preclude U.S. citizens from having 100 percent ownership rights in a Mexican international trucking company for ten years—while Mexican carriers have 100 percent investment rights in U.S. companies in only 3 years.

In other words, a U.S. citizen can never invest in a Mexican domestic company but a Mexican citizen can do that in the U.S. today. And while I can own 100 percent of an international carrier located in Mexico in 10 years, Mexican carriers will have that opportunity in the U.S. in 3 years. It's important to keep in mind that the majority of companies seeking to invest in Mexico are small business—"mom and pop" type operations. These are the types of businesses that will be held back from working with their counterparts in small businesses in Mexico.

Our concerns are compounded by the fact that there are very few trucking companies that can, in practical terms, have exclusively international operations without

at least some domestic component. Therefore, by limiting investment opportunities to exclusively international companies, the NAFTA creates few opportunities for U.S. carriers to establish independent operations in Mexico.

As a result, shippers exporting to Mexico will lack the reliability, assurances, and quality of service they are afforded through sophisticated systems such as cargo satellite tracking and tracing and electronic invoicing that they have long expected from U.S. carriers. These technologies are not yet readily available in Mexico and, by restricting shipper access to these innovations, the NAFTA trucking provisions stand to critically impede the crossborder trade flow. And, as important, these provisions give Mexican carriers a competitive advantage over U.S. carriers by affording opportunities sooner and more completely to Mexican carriers.

Furthermore, many argue that U.S. jobs will be lost to Mexico as a result of the NAFTA. If the trucking investment provisions remain as one-sided as they currently are and, as a result, U.S. trucking companies suffer from lost opportunities in Mexico and potentially lose business to Mexican trucking companies, jobs in our industry will most certainly be lost.

*Recommendation:* The investment provisions should be reciprocal in terms of timeframe and opportunities. The NAFTA should include a letter of clarification that defines an international carrier as a carrier that moves a majority of, rather than exclusively, international cargo. The definition would refer back to Annex 1—Mexico in Volume 2 of the NAFTA, page I-M-70 and would read as follows:

An enterprise established or to be established to provide truck services for the transportation of international cargo to include an enterprise in which a substantial amount of the cargo transported is international in character.

The Committee also asked us to comment on the implications of the gradual phaseout of mutual restrictions on truck operations between Mexico and the U.S. In terms of access, the NAFTA will allow U.S. and Mexican motor carriers access to one another's border states, for delivery of crossborder freight, 3 years after the Agreement is signed. Six years after the Agreement enters into full effect, access increases so that U.S. and Mexican carriers will be able to conduct international deliveries anywhere in North America.

While, on the surface, this seems like an equitable arrangement, it is important to remember that while U.S. carriers are currently barred from entering Mexico, Mexican carriers have access to U.S. commercial zones today and will continue to have that right until access increases even further in year 3. This is an inequity that should not be overlooked.

#### INSURE COMPETITION FOR SMALL PACKAGE DELIVERY

We also wanted to make you aware that the Office of the Secretary of Communications and Transportation in Mexico recently proposed new regulations which would reserve a monopoly on the handling of small packages, both domestic and international, for the Mexican postal service. These restrictions appear to be in direct contradiction of the spirit of the proposed NAFTA, which allows U.S. carriers to transport international freight.

*Recommendation:* The proposed Mexican regulations should not be adopted and, if necessary, the right of private small-package carriers to operate in Mexico should be spelled out.

#### CREATE HARMONIZATION OF USE OF 53-FOOT TRAILERS

We also have concerns regarding restrictions on the type of trucking equipment U.S. carriers will be able to use in Mexico. Currently, 53-foot trailers are prohibited in Mexico. Without the ability to use 53-foot trailers, the trailer of choice for shippers and carriers in the U.S. and in Canada, carriers will be required to continue transloading freight at the border onto Mexican 48-foot trailers. This is an inefficient and costly way to conduct business. The result is that the growing number of U.S. carriers that have converted to all 53-foot trailer fleets will effectively be shut out of the crossborder freight market.

*Recommendation:* Given that 45 of the 48 contiguous states and half of the Canadian provinces allow 53-foot trailers, Mexican law should be revised to allow 53-foot trailers on designated highways.

#### WEIGHT HARMONIZATION

Truck weight standards currently vary greatly in North America. The gross weight limit on a five-axle tractor trailer is 80,000 pounds in the U.S.; 87,058 pounds in Canada; and 91,508 pounds in Mexico. By comparison, the gross combination weight limit in Europe is 88,160 pounds for tractors hauling trailers and 96,980 for tractors hauling containers. The U.S. weight limits are the lowest and, as a re-

sult, place our manufacturers at a competitive disadvantage in the international market.

*Recommendation:* The NAFTA land transport standards subcommittee should work to harmonize truck weight limits in North America to ensure that no one country is put at a competitive disadvantage.

For the record, ATA has no intention of using NAFTA negotiations to advance the use of longer combination vehicles (LCVs). This is a sensational claim by the Citizens for Reliable and Safe Highways (CRASH) with absolutely no substance. Congress froze the expansion of the use of LCVs in 1991 and called for a study to be conducted to investigate and make recommendations regarding the use of LCVs. We believe that this mechanism is the appropriate means to consider the question of the overall expanded use of LCVs. ATA wrote to Mickey Kantor, the U.S. Trade Representative, on March 24 and advised him that we do not propose to encumber NAFTA negotiations with the LCV issue.

#### REMOVE CURRENT BARRIERS TO USED EQUIPMENT

Furthermore, due to the 15-year restriction on the importation of used U.S. trucking equipment into Mexico, U.S. carriers will be required to use either Mexican equipment or purchase and import new equipment for use in their operations in Mexico. It is important to note that there are no such restrictions on Mexican used equipment being imported into the U.S.

*Recommendation:* A letter of clarification should be attached to the NAFTA containing a commitment from the Mexican government to allow the "temporary import" of qualified used equipment from the U.S. for the following limited purposes:

- to lease to Mexican carriers which have an interline, partnership or other operating arrangement with the U.S. carrier; and
- for use in a U.S. carrier's Mexican operations or that of its Mexican subsidiary, once the entry and investment restrictions (pertaining to Mexican international carriers) in Mexico are eased.

#### ENHANCE ENVIRONMENTAL AND LABOR PROTECTIONS

In terms of the already proposed supplemental agreements, there are two important provisions we have asked the negotiators to include in the environment and labor agreements:

- Use of Clean Diesel: U.S. law recognizes low-sulfur "clean diesel" as an alternative fuel meeting the strict air quality standards of the Clean Air Act.

*Recommendation:* The environmental supplemental agreement should ensure that clean-diesel vehicles are permitted in Mexico and that the sale and use of clean diesel fuel is not prohibited.

- Truck-driver Training: The U.S. trucking industry is currently experiencing a shortage of qualified truck drivers.

*Recommendation:* The labor supplemental agreement should include a program and funding for American workers, who have lost jobs as a result of NAFTA job displacement, to make them eligible to be retrained as truck drivers.

#### SAFETY ISSUES

The Committee also asked us to respond to the harmonization of driver certification and overall safety standards under the NAFTA. In terms of the Commercial Driver License, or CDL, reciprocity with Mexico, we have heard only anecdotal stories regarding the lack of control on the CDL process in Mexico. We demand that Mexican drivers operating in the U.S. meet the same qualification requirements as U.S. and Canadian drivers.

There is a Memorandum of Understanding between the U.S. and Mexico agreeing to accept the CDL issued by states of both countries as valid in both countries. It is essential that information be shared for the program to work.

While we have no firm evidence, we have been told that at the present time, there is no computer system which unites the issuing authorities of all Mexican states, and that records of Mexican drivers violations can only be shared by hard copy which would not allow computer access by U.S. authorities. If this is true, it's a problem that needs to be fixed. Obviously we would want to tighten these controls to ensure that only the best drivers are on the road.

As regards the overall harmonization of safety standards, we understand that these issues will be discussed in the NAFTA Land Transport Standards Subcommittee. In general, we believe all Mexican equipment and drivers must be subject to U.S. safety standards when they are operating in the U.S.

## CONCLUSION

In terms of the changes we are seeking, these issues must be resolved if the NAFTA is to be fair and equitable and result in an efficient and competitive North American transportation system. The success of the NAFTA hinges on the ability to move the increasing amount of freight generated by trade liberalization. Trucks are the predominant mode moving that crossborder freight.

The changes we are requesting reflect that reality and make good business sense for shippers, carriers, and transportation workers alike. We ask our government to anticipate these needs rather than be forced to react once it's evident that the NAFTA has impeded, rather than facilitated crossborder freight transportation. It should be noted that most of the changes we are seeking can be made through letters of clarification, definitions, unilateral changes, or memorandums of understanding and do not require reopening of the Agreement itself.

The trucking industry supports the concept of a NAFTA and if our governments are able to make these adjustments, then it will have our enthusiastic support. Absent this kind of agreement, U.S. motor carriers, shippers, investors and—most important—consumers will fail to get the benefits that NAFTA is intended to provide. Without these crucial changes, our industry will have difficulty supporting the Agreement.

Senator EXON. Thank you very much, Mr. Collins. We appreciate your testimony.

Next is Mr. Edwin Harper. Mr. Harper, we welcome you back once again. Please, proceed.

**STATEMENT OF EDWIN L. HARPER, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS**

Mr. HARPER. Thank you very much, Mr. Chairman and Senator Burns. I appreciate the opportunity to state the position of the Association of American Railroads concerning the North American Free Trade Agreement. My full testimony has been filed with the committee, and I shall just briefly summarize it here.

The railroad industry is extremely concerned that the land transportation harmonization process required under annex 913(a) of NAFTA will result in proposals to increase truck sizes and weights. The new truck size and weight standards could take the form of increased single tractor trailer weights and dimensions, or of a relaxation in the freeze on longer combination vehicle operations imposed by the Intermodal Surface Transportation Efficiency Act of 1991, known as ISTEA.

The Senate Commerce Committee will be discussing NAFTA with the administration and other congressional committees, such as the Senate Finance Committee. In those discussions, the Association of American Railroads urges you to insist that the NAFTA implementation legislation prohibit U.S. negotiators from agreeing to any size and weight standards which would permit the operations on U.S. highways of vehicles with more than two 28-foot trailers, or vehicles weighing more than 80,000 pounds.

If our concern is addressed, the Association of American Railroads supports the proposed North American Free Trade Agreement. By helping Mexico to grow faster, NAFTA will increase export opportunities for the United States. And as U.S.-Mexican trade grows, railroads can look forward to increasing cross-border traffic. We already carry 43 percent of U.S. exports to Mexico, and 16 percent of U.S. imports from Mexico, excluding petroleum products.

Increased use of railroads in cross-border trade can benefit both societies. Railroads are safer and less polluting than over-the-road transport of freight. Greater reliance on railroads can also ease the congestion and infrastructure problems that now afflict urban areas along the border.

Prospects for increased use of rail are good. Enactment of NAFTA will shift Mexican trade patterns toward the longer lengths of haul that tend to favor rail transportation. This growth in rail market share will be reinforced by Mexico's plans to modernize its logistics system, including the Mexican National Railroad.

As a part of its modernization effort, Mexico is now considering changes in truck size and weight policy that could reduce currently allowable weights, although proposed new weight limits will still exceed those in the United States. This Mexican action is, however, coming at a time when the provision of NAFTA, to which I have referred, may threaten U.S. truck size and weight standards. NAFTA's annex 913(a) calls for harmonization discussions on truck sizes and weights within 3 years of the agreement's adoption.

Both Mexico and Canada currently allow heavier and longer trucks than in the United States, as the chart on my right indicates. Here you see to scale the U.S. currently authorized truck size and weight in all 50 States, which would be the twin 28's and 80,000 pounds. In Canada, you can see the truck size and weight can get up to 137,000 pounds, and in Mexico up to 170,000 pounds. So, indeed, those are huge trucks competing on the highways with family cars that may weigh as much as 3,000 pounds.

So, it is a fairly dramatic change, if we would allow these very large combination vehicles, and you can see why we have expressed concern about this.

Incidentally, I have with me today Mr. Lee Lane, our vice president of policy and special projects, with the AAR.

A future harmonization agreement on bigger trucks could be included in an omnibus harmonization bill with fast-track authority, but this might deprive the Congress of its right to consider any proposed increase on its own merits. As I noted, the AAR opposes consideration of higher truck sizes and weights in a trade context. This applies to both LCV's and proposals to increase single tractor trailer weights and dimensions.

Neither NAFTA nor North American trade patterns justify another cycle of size and weight increases. Moving to LCV's would cause massive rail diversion. It would threaten the transportation system's safety and imperil the financial and physical integrity of the highway system.

Proposals for NAFTA corridors in the West are unsupported by the pattern of trade flows. In my full testimony, exhibit 6 demonstrates this and illustrates where the trade flows are.

The existing patterns are principally between Ontario and Mexico, not in the West, where NAFTA corridor agitation has been centered. We feel the effort is clearly a disguised attempt to repeal the ISTEAF freeze, and would inevitably lead to eventual nationwide operation of LCV's. Increased continental trade flows belong on long-haul railroads, which have the capacity to carry them without changes in truck size and weight limits, and with the attendant safety and environmental benefits of shipping by rail.

Thank you.

[The prepared statement of Mr. Harper follows:]

PREPARED STATEMENT OF EDWIN L. HARPER

Mr. Chairman and Members of the Committee, my name is Edwin L. Harper. I am President and Chief Executive Officer of the Association of American Railroads. The AAR represents the nation's major freight railroads, as well as the principal railroads in Canada and Mexico. Our U.S. members produce 96.4 percent of annual U.S. rail ton-miles, 93.3 percent of annual rail revenue and employ 206,000 people.

I appreciate this opportunity to present the railroad industry's views on the North American Free Trade Agreement (NAFTA), its impact on transportation and the need to distinguish these trade issues from thinly camouflaged attempts to re-visit the present limits on truck sizes and weights.

The AAR Board has endorsed NAFTA in principle. The idea behind NAFTA is simple but powerful: to create a single North American market that will make all three NAFTA countries richer. Mexico today has a per capita GNP that is about 11 percent of that of the United States. Only by becoming a full participant in the North American economy can Mexico hope to ignite the economic growth necessary to narrow that gap. A richer Mexico, in turn, is a Mexico that will be an even better customer for the United States. We in the United States sometimes lose sight of the fact that the United States already has a positive trade balance with Mexico. A successful free trade agreement that leads to a richer Mexico will mean even stronger demand for U.S. goods and services. Nowhere in the world is there a market more avid for U.S. products than in Mexico.

RAILROADS AND U.S./MEXICO TRADE

The direct implications for the railroad industry of a successful free trade agreement could also be profound. Excluding the trade in petroleum and natural gas, railroads already carry 43 percent of U.S. exports to Mexico and 16 percent of U.S. imports from Mexico (Exhibit 1). Expanding cross-border trade driven by a rapidly developing Mexico could be a "growth engine" for the railroads. NAFTA's promise of increased international trade is, therefore, an appealing vision to the railroad industry.

Exhibit 1  
Rail Share of Non-Petroleum  
U.S.-Mexico Trade

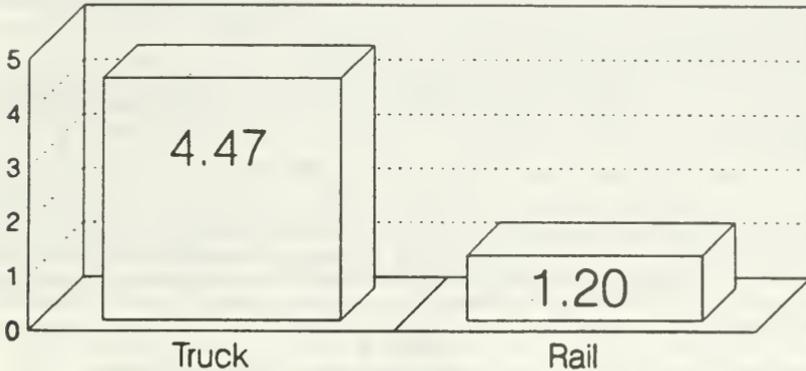


And just as NAFTA promises benefits to the railroad industry, so too could expanded use of railroad transportation produce important social and infrastructure benefits. Substituting rail for long-haul trucking means cleaner and safer transportation. Per ton-mile, railroads have less than one third the fatalities of heavy trucks (exhibit 2). Railroads pollute far less—up to ten times less emissions per ton-mile than heavy trucks (exhibit 3).

## Exhibit 2

## Fatalities: Rail Vs. Truck

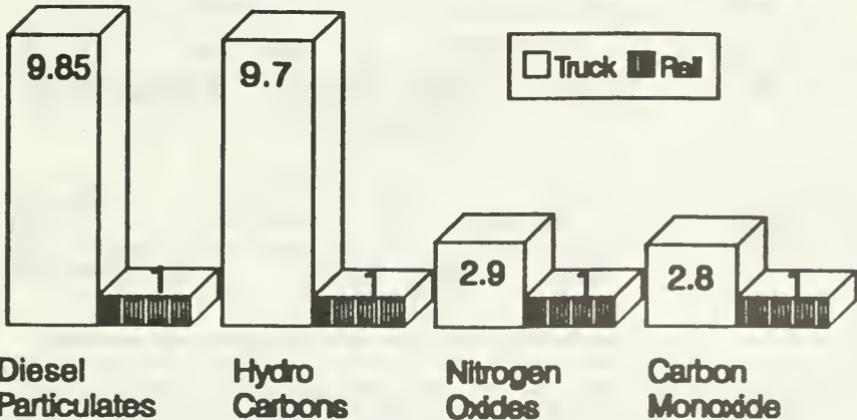
Per Billion Ton-Miles -- 1990



## Exhibit 3

## Truck and Rail Pollution

(Truck vs. Rail Ratio of Emissions Per Billion Ton-Miles)



Railroads can also ease the congestion and infrastructure investment problems that already afflict urban areas along the U.S.-Mexican border. In cities like Laredo, truck congestion is at crisis levels. Highway departments are responding with proposals for massive new investment in highway infrastructure. Texas DOT, for example, is considering spending \$2 billion over the next decade on border area transportation infrastructure.

An increased rail share in U.S./Mexico trade could help ease border congestion and reduce the need for massive new investment. Increased reliance on rail would also help preserve new and existing highway infrastructure by reducing pavement damage from heavy truck traffic.

Prospects for an expansion in rail traffic are good.

Enactment of NAFTA will shift Mexican trade patterns toward longer lengths-of-haul that favor rail. Much of the prospective growth in Mexican manufactured ex-

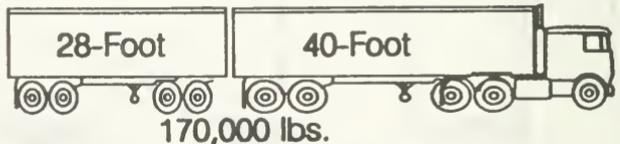
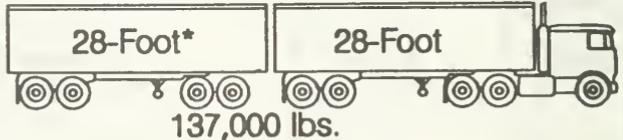
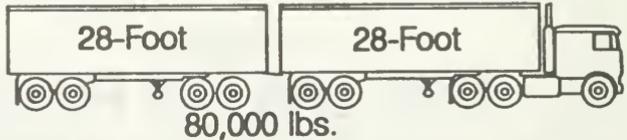
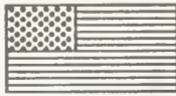
ports to the U.S. is likely to come from the interior rather than the border areas. This shift creates a major opportunity for enhanced rail market share.

This growth in rail market share will be reinforced by Mexico's plans to modernize its logistics system. Mexican producers have only recently begun switching to containerized shipments. New, far more powerful equipment for loading and unloading intermodal containers and trailers is being introduced in Guadalajara and—soon—in Monterrey. Once in place, this will allow intermodal service with modern equipment to and from Mexico's three most important industrial centers (Mexico City already has modern intermodal facilities).

FNM, the Mexican national railroad (an AAR member), has embarked on a major program of modernization. The U.S. railroads—as well as AAR itself—have assisted the FNM in this on-going modernization drive. I know from my conversations with FNM and with the Mexican government that Mexico is committed to building a first class railroad system.

One of the major factors that will determine FNM's ultimate market share—and hence the rail market share in cross-border traffic—is the Mexican government's emerging policy on truck size and weight. Like Canada, Mexico now allows much bigger trucks than the United States (exhibit 4). The heaviest legal Mexican trucks operate at weights of up to 170,000 pounds. In practice, however, Mexican weights are effectively unlimited, because Mexico has virtually no enforcement of its weight standards. The sorry state of the Mexican road system shows the result of this lack of enforcement.

Exhibit 4



\*Most Canadian provinces allow total vehicle length of 82 feet, which would permit twin 31-foot trailers.

The Mexican government, however, is now in the midst of a comprehensive review of its truck size and weight policy. With Mexico now embarked on a major program of new road construction, the government is under intense pressure to lower legal weight limits and to adopt a program for adequate truck size and weight enforcement.

As we know from our experience in the United States, truck size and weight limits are one of the most important determinants of rail market share. FNM tells me that they expect that the new Mexican truck size and weight limits will mean a significant increase in rail market share.

#### NAFTA AND U.S. TRUCK SIZES AND WEIGHTS

This Mexican action comes at a time, however, when one provision of NAFTA itself may threaten the U.S. size and weight standards—including the freeze on the expansion of longer combination vehicle (LCV) operations—that were part of the 1991 ISTEA legislation.

The threat to U.S. limits comes from NAFTA's Annex 913A, which calls for harmonization discussions on truck size and weight within three years of the agree-

ment's going into force. As I noted, Canada and Mexico both allow heavier and longer trucks than the U.S. Thus, U.S. negotiators in the harmonization negotiations could well face intense pressure to increase truck size and weight limits to Mexican or Canadian levels. Of course, no thaw in the freeze is possible without congressional approval. But a future harmonization agreement on bigger trucks could be included in an omnibus harmonization bill with fast track authority, depriving Congress of its right to consider the freeze on its merits.

The Association of American Railroads strongly opposes consideration of higher truck sizes and weight in a trade context. AAR therefore opposes the current ATA proposal to use the NAFTA harmonization process as a subterfuge for increased single combination truck weights. Today's single combination trucks already drastically underpay their highway cost responsibility (according to U.S. DOT's analysis). And experience teaches that, if truck weights are raised, the ATA will soon be lobbying the states for increased trailer lengths. The rising numbers of 53 foot trailers that are already straining the safety limits of highway geometry will soon be joined by 57's and 60's.

Nothing about NAFTA or North American trade patterns justifies another endless round of the past cycles wherein ATA, having gained higher truck weights, then seeks higher truck lengths.

Even less justified would be any attempt to use NAFTA as a pretext for thawing the LCV freeze. Congress included the freeze in the 1991 ISTEA for two principal reasons: serious concerns about LCV safety, and overwhelming public opposition to expanded LCV operations. Nothing suggests that the safety question has been resolved or that the public is any more willing to accept LCVs now than it was in 1991.

And nationwide LCVs would still put a lot of rail freight on the highways, degrading the over-all safety of the transportation system if for no other reason than truck's safety inferiority to rail (see exhibit 2). AAR's analysis shows that a nationwide system of LCVs would cost railroads nearly 20 percent of their current freight ton miles, adding dramatically to the already rapid growth in truck traffic. Putting all this new, heavily subsidized truck traffic on the congested and underfinanced national highway system will have severe adverse consequences for both highway users and highway agencies.

Just last month, a special subcommittee of the American Association of State Highway and Transportation Officials (AASHTO) recommended maintaining the LCV freeze in part because the "freeze allows NAFTA negotiations to proceed using stable size and weight limits without impending and unknown national changes."

Interestingly, even the American Trucking Associations agree that LCVs are not an appropriate part of the NAFTA negotiations. In a letter circulated to members of Congress in late March, Timothy Lynch, ATA Vice President of Government Affairs, states, "Having been personally involved in meetings with our U.S. trade negotiators as well as their Mexican and Canadian counterparts, I can assure you that the trucking industry has had no agenda—hidden or otherwise—to undo the LCV freeze."

Unfortunately, some in the U.S. have joined in the call for an end to the LCV freeze because of NAFTA. Some interests are advocating what they refer to as "NAFTA corridors" where LCVs would be allowed. These proposals would designate certain western interstates as international trade corridors with bigger and heavier trucks. Of course, railroads do not oppose new highway construction or upgrading to meet any needs generated by NAFTA-related traffic. AAR's concern is with the creation of NAFTA corridors as a pretext for allowing increased use of LCVs.

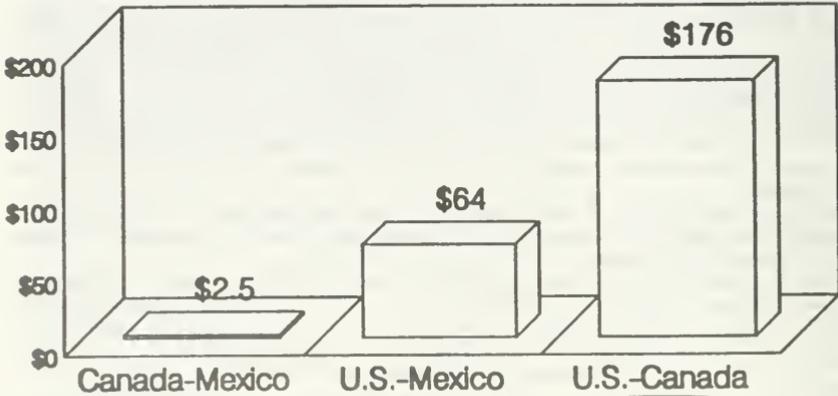
As pretexts, the NAFTA corridor proposals are transparent, with no real justification as trade issues. Trade between Mexico and Canada is small—only a little over \$2.5 billion (U.S.) in 1991 (exhibit 5). And what trade exists is not in the west where NAFTA corridor activity is centered—it is between Ontario and Mexico in manufactured goods like auto parts (exhibit 6). Alberta, probably the leading Canadian provincial advocate of trade corridors, had a total 1992 trade with Mexico of approximately \$88 million—only about 3 percent of the very modest Canadian total.

## Exhibit 5

## Canada-Mexico Trade Is Small

\$ Billions U.S.

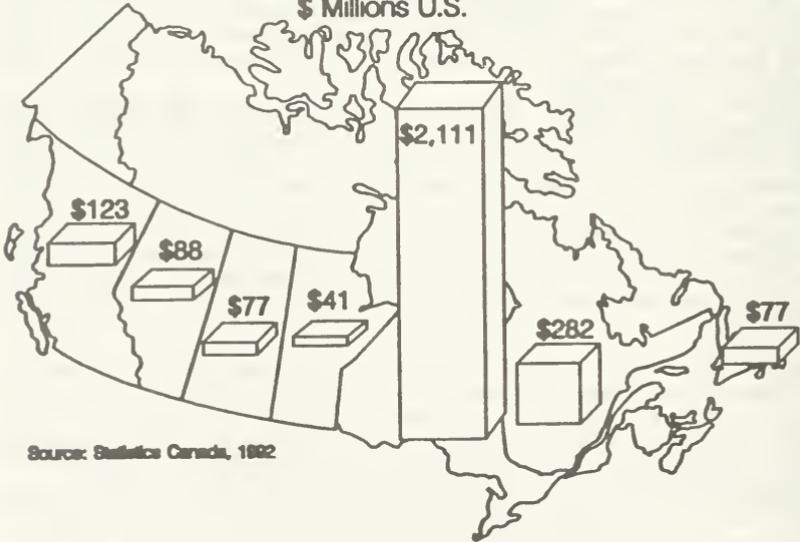
1991



## Exhibit 6

## Canadian Trade with Mexico

\$ Millions U.S.



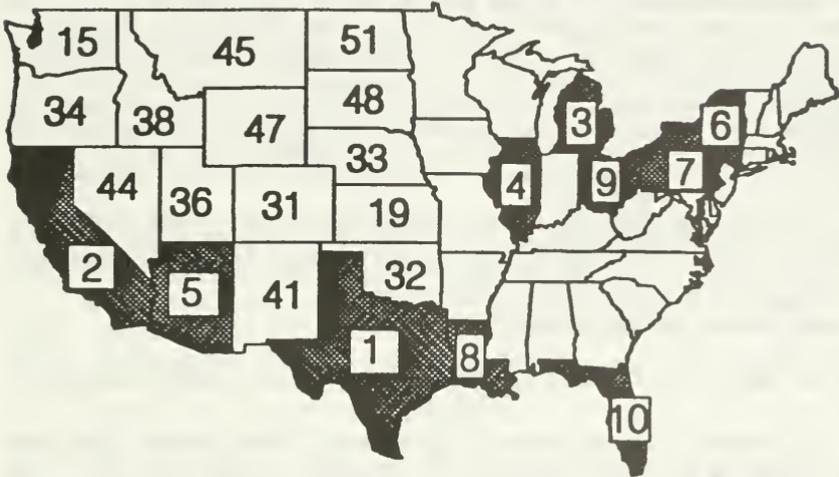
Source: Statistics Canada, 1992

Nor is there substantial trade between Mexico and the states in the Mountain West favoring NAFTA corridors. U.S./Mexico trade is with border states like Texas and California, or with states in the northeast and Great Lakes region. It is not with the Mountain West (exhibit 7).

## Exhibit 7

## Exports To Mexico-1991

(Ranking among 50 states and D.C.)

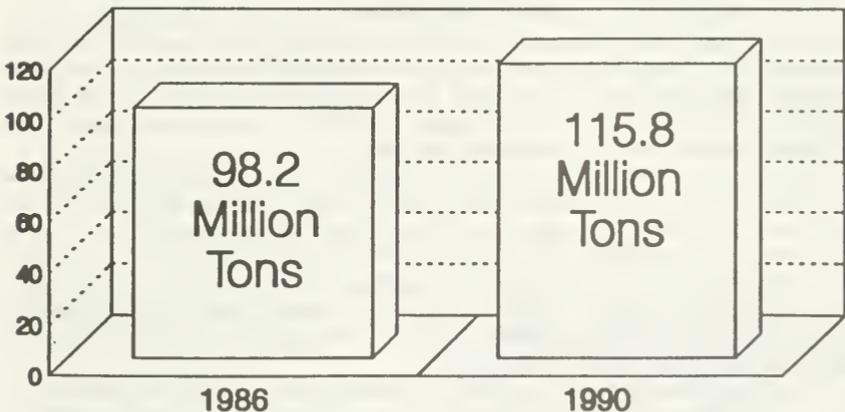


The fact is that the American railroad network already constitutes NAFTA corridor systems that can easily accommodate any expanded trade without changing truck size and weight laws. Railroads have already been expanding North-South trade dramatically. Between 1986 and 1990, long haul rail traffic to, from, and through U.S.-Mexico border states rose 17.9 percent (exhibit 8).

## Exhibit 8

North-South Border States Traffic  
1986-90

Million Rail Tons



## CONCLUSION

I know that you, Mr. Chairman, have joined with two of your colleagues on this Committee, including the full Committee chairman, Mr. Hollings, and Mr. Dorgan, in a letter to Mickey Kantor, the US Trade Representative, urging that NAFTA not

be a pretext for LCV expansion. A majority of the members of the Environment and Public Works Committee, including Mr. Baucus, the Committee chairman, have joined in a similar letter to Mr. Kantor. The railroad industry deeply appreciates these strong statements of support for the freeze and I commend you and your colleagues for the leadership role they have taken on this issue.

Congress, of course, will have the final say on any recommendations that arise from the harmonization negotiations. But Congress can also insist that the Administration include in the NAFTA enabling legislation language requiring that future harmonization negotiations not take any steps that would lead to a change in the 80,000 pound limit or an end to the freeze. AAR urges you to seek such a requirement from the Administration. By doing so, Congress would recognize that the "NAFTA truck" already exists. The standard Surface Transportation Assistance Act (STAA) vehicles mandated throughout the United States in 1982 are also legal in all of North America: single 48 foot tractor-trailers and twin 28 foot doubles, with a weight limit of 80,000 pounds.

Thank you for allowing me to present the industry's views. I want to commend again the forward-looking position already taken by the members of this committee on NAFTA and LCVs. I would be happy to answer any questions you might have.

Senator BURNS. Thank you, Mr. Harper.

Mr. Kaiser, please, proceed.

#### **STATEMENT OF FRED E. KAISER, PRESIDENT, KERRVILLE BUS CO., INC.**

Mr. KAISER. Senator Burns, my name is Fred Kaiser. I am the president of the Kerrville Bus Co. located in Kerrville, TX. And today I appear as a representative of the Nation's two leading motor coach associations, the United Bus Owners of America and the American Bus Association. Together, UBOA and ABA total membership of more than 1,000 commercial bus companies.

I welcome this opportunity to express the consensus views of the American motor coach industry on the proposed free trade agreement with our neighbors in Canada and Mexico.

As an aside, my verbal comments today will focus only on our dealings with Mexico, because, as you may know, the Government of Canada has refused to participate in any motor coach access provisions at NAFTA. To us, then, NAFTA is a bilateral proposal.

My purpose for being here today is to urge this committee to remove any and all references to motor coaches from the NAFTA, not because the American operator wants to close our borders, but specifically because we want them open and cordial. We have done much work toward that end already. NAFTA threatens to upset the delicate balance which has been struck.

With pride, I report to you that the American motor coach industry has already negotiated open access agreements with the Government of Mexico. The first of those, entered as appendix A in my full remarks, has been in place and working since late 1990. A successor agreement has recently been negotiated, which improves the original, and satisfies the international access desires of virtually all UBOA and ABA members, and the members of CANAPAT, our Mexican association counterparts.

Our agreements were negotiated starting more than 2 years ago, by teams from the appropriate federal agencies of both governments, in harmony with the industry itself. They are specific to our industry. That is a very important point, because they reflect the wants, needs and especially the cautions of the motor coach industry in both nations.

To be more precise, the motor coach access agreements open our borders for international charter and tour business, and maintain closed borders to scheduled, intercity services performed by an alien carrier. The exchange of letters entered as appendix C will demonstrate that both American and Mexican carriers agree to this restriction.

NAFTA, however, is not so cautious. Trade representatives from both nations proceeded, against the pleadings of our industry, to negotiate cross ownership and barrier-free operating rights phasing schedules which are inequitable, largely unenforceable and, simply stated, unwanted by any but the most predatory operator in either country.

On the issue of alien ownership of a bus company, the U.S. NAFTA negotiators agreed to an unbalanced phase-in, which would give an advantage and a significant headstart to Mexican operators. While the phase-in of intercity scheduled service operating rights appears to be equal on both sides of the border, the imbalance which exists today between operating costs for a Mexican-based carrier and any American-based carrier would give the Mexican operator an overwhelming competitive advantage and threaten the viability of American companies.

Mr. Chairman, our friends in Mexico say that they have no interest in initiating scheduled intercity service in the United States, and they do not want us performing scheduled service there. But the advantages offered by these NAFTA terms may prove too tempting to resist for a carrier which might wish to approach America as a predator.

To summarize, we neither want nor need NAFTA intervention to facilitate motor coach trade between the United States and Mexico. We have done that on our own. At best, ratification of NAFTA as it is now worded would jeopardize this very promising new international enterprise which the American motor coach operator and the Mexican Government have carefully nurtured.

For all those reasons, we urge that the committee remove any and all references to the motor coach industry from NAFTA by use of side letters or full document rewrites. Should that not occur, we urge the committee and the full Congress to reject the proposed agreement and halt the implementation.

I appreciate the opportunity to express those views, and would entertain any questions you may have.

[The prepared statement of Mr. Kaiser follows:]

#### PREPARED STATEMENT OF FRED E. KAISER

Mr. Chairman, members of the Committee, my name is Fred E. Kaiser. I am President of the Kerrville Bus Company, located in Kerrville, Texas, and today I appear as the representative of the Nation's two leading motorcoach associations: the United Bus Owners of America (UBOA) and the American Bus Association (ABA). The combined membership of UBOA and ABA totals more than 1,000 private bus companies performing scheduled intercity, charter, tour and special operations service in every state of the Nation as well as Canada and most recently, Mexico.

Personally, I have served as a past member of the UBOA Board of Directors and I currently serve on the ABA Board. I operate full service motorcoach businesses in a number of locations across the country, offering regular route service, charter, tour and special operations. The largest of these is the Kerrville Bus Company serving the State of Texas.

I welcome this opportunity to express the consensus views of the American motorcoach industry on the proposed free trade agreement with our neighbors in Canada and Mexico.

Allow me to begin with a quick summarization of this industry's position on NAFTA: "Thanks, but no thanks." We find nothing in this proposed agreement which we believe would enhance the business or the realistic business opportunities of an American motorcoach operator in either Canada or Mexico. But there are provisions and inequities in the NAFTA which could harm the motorcoach business environment now existing in North America. We believe we can justify a recommendation by this Committee for the removal of those objectionable provisions before any trilateral trade agreement takes effect.

Mr. Chairman, please understand that our displeasure with this agreement, which I will explain, is not an expression of our displeasure or lack of trust of our Canadian or Mexican colleagues in the motorcoach business. It is not an appeal for a single industry's protectionism. Nor is it a recommendation that the free trade agreement be rejected in its entirety. It is a universal recognition that we have nothing to gain but potentially much to lose based on the actual provisions in this proposed agreement.

American coach operators have long enjoyed amicable business relations in Canada and, more recently, we have begun to open those same relations in Mexico. I'm pleased to say that the North American continent is more open to travel by motorcoach today than at any time in the past. But the access which is currently available between our three Nations is "limited" in ways which operators either do not wish to change or in ways which would not be substantially changed by this proposed agreement.

In order to explain this industry's objections to the proposed NAFTA, it is critical to explain what has gone before, what is happening now and what this agreement would and would not do for American, Canadian and Mexican motorcoaches.

First, understand that this agreement purports to be a tri-lateral pact, but in truth—certainly as it applies to the commercial motorcoach business it is a bi-lateral agreement. Despite the fact that the Canadian government invited itself to the bargaining table where U.S. and Mexican negotiators were discussing trade, the Canadian government has unilaterally revised to participate in any NAFTA discussions about commercial motorcoach trade, just as it refused to discuss this area during negotiations of the U.S.-Canadian Free Trade agreement less than a decade ago.

Unlike our own central system, the Canadian government long ago delegated control of motorcoach operating authority to its provinces. There, the motorcoach business has remained as tightly regulated as it had been in America prior to 1982. Without promoting authority centralization and, in essence, "deregulating" its own motorcoach business, the Canadian Federal government apparently found itself powerless to negotiate any broader international operating rights as part of the NAFTA discussions. At the same time, Canadian motorcoach operators who are happy with their own tight regulation urged their government to walk away from the table, which they did.

When Canada closed the door to NAFTA concessions, it left only the U.S. and Mexico remaining at the table to discuss motorcoach issues. By then, however, the bus industry already had in place a fully-satisfactory negotiated trade agreement with the government of Mexico, completed well ahead of any broader free trade discussions between the two Nations.

Acting at the invitation of the Government of Mexico and working through the appropriate agencies of the United States government, the American motorcoach industry helped shape a Memorandum of Understanding (MOU) to facilitate motorcoach access between the two countries. The MOU was signed by both nations in December 1990 and continues under mutually-agreed terms to this date. Within a matter of weeks, we expect that it will be replaced by a successor international agreement—which has already been negotiated—further broadening U.S./Mexico motorcoach traffic. With your permission, Mr. Chairman, I offer a photocopy of the original MOU into the record as Appendix A to my comments.

The MOU created ground rules for charter and tour coaches to enter both nations, though traffic has so far been limited to American coaches venturing into Mexico. With the exception of insurance coverage for American coaches while in Mexico, virtually all driver and vehicle certification, safety, inspection and financial stability issues which need to be addressed to facilitate international business were established at that time. Because of a U.S. prohibition, the original agreement did not offer equal access for Mexican charter and tour buses to come into the U.S. The successor agreement will equalize access for Mexican charter and tour coaches by removing a portion of the existing moratorium on ICC rights. Once access is equal, the full range of business opportunities sought by motorcoach operators in either

country will have been satisfied without any need for NAFTA or any broader free trade agreement.

In part, Mr. Chairman, we take pride in the original MOU and the progress in development of cross-border traffic since then because it is a very specific agreement. It was created by and shaped to fit the needs of the United Bus Owners of America, the American Bus Association, the National Tour Association and our new friends and colleagues in the Mexican motorcoach industry. The MOU's success and the extraordinary cooperation and harmony between Nations which has resulted from that agreement provided an ideal prototype NAFTA discussions relating to other service industries. Had NAFTA not been launched, our relationship with the Mexican government could easily have served as a pattern for success in other industries.

Since signing the MOU, the Mexican government has been extremely responsive to our industry's needs. It has improved crossing security and speed; it has enhanced highways and embarked on a massive road-building project to create modern limited access roadways. And it has urged Mexican businesses to make improvements which would facilitate U.S. motorcoach travel there. PEMEX, Mexico's national petroleum company, for example, has greatly expanded its distribution of the high-grade, low-sulfur diesel fuel used by American coaches. Today, we're pleased to say that dozens of American coaches pass easily into Mexico for very successful motorcoach tours there. Again, for the record, I offer into the record Appendix B, a copy of a page from the UBOA newsletter, *The Docket*, dated August 1, 1991, which demonstrates the lengths to which the Mexican government has been willing to accommodate this industry.

All of this has been done in a very short time and all of it was rooted in the most simple of bi-lateral agreements between governments and subsequent meetings between the Mexican government and the American and Mexican motorcoach industry. We believe that they were productive largely because we were not distracted with issues other than those which were important to our own industry. We weren't generic "motor carriers," we were motorcoach operators. We weren't forced to make concessions in passenger transportation to accommodate freight movement. And, while not perfect, our relations with the Mexican government and our motorcoach operator colleagues in Mexico are, I believe, working well today.

Based on our experiences, UBOA and ABA might well recommend that the necessarily-broad NAFTA be abandoned in favor of smaller, industry-specific agreements between each and every American business element which wishes to conduct trade to or from Mexico. A long succession of industry-specific trade pacts could avoid the cross-purpose provisions which seem to have plagued the NAFTA's discussion of motor carrier issues.

By saying that our industry has already settled on the agreements we wanted or needed, I'm forced to acknowledge the other side of the coin: we excluded references in the MOU to the service areas which we did not want to be opened.

It is those excluded areas which cause today's problems in the NAFTA. We believe that department trade negotiators on both sides of the U.S./Mexico border entered NAFTA discussions feeling a great compulsion to address each and every aspect of possible trade, virtually without regard to the actual need for change or the involved industry's desire for change. Following the bus industry's pioneering success in achieving bi-lateral access for charter and tour operators who wanted it, NAFTA representatives were left only to barter the motorcoach traded conditions which had been "excluded" from the MOU: regular route service between the two Nations. Sadly, this is an area where there is strong opposition from organized operators on both sides of the border.

Why the opposition? For our part, American regular, scheduled route operators within UBOA and ABA feel that there are substantial operating cost inequities between the typical American and Mexican company which would give Mexican operators a tremendous price advantage if allowed to compete from a Mexican base. U.S. Social Security, 0511A, EPA, minimum wage and employee benefit requirements and a host of other laws which are imposed on American-based operators which would not—cannot—be imposed on a carrier doing business from a base in Mexico.

While we have strong indications that the majority of Mexican motorcoach companies don't want to compete in the United States for intercity customers, the predatory advantages which might be offered to a Mexican carrier under the NAFTA's current wording could be too strong a temptation to resist. Many Mexican carriers are far better capitalized than their American counterpart, with fleets of 5,000 or more buses. The largest fleet in America today numbers less than 2,000 and it belongs to a company less than two years out of bankruptcy. Equally important, Mexican coach operators have long enjoyed a near-monopoly on intercity transportation. It is estimated that anywhere from 65 to 85 percent of all intercity travel in Mexico

occurs by bus, compared with a three percent market share for intercity travel by bus in the U.S. The motorcoach enjoys a travel market domination in Mexico comparable to that held in the United States by the airline industry.

We certainly can't speak for the reasons why our Mexican counterparts oppose Americans performing scheduled service there, but we can surmise. We believe that the Mexican scheduled service companies simply don't wish to share their dominance with American operators whom they perceive to be more advanced in the predatory ways of an open market.

Mr. Chairman, the reasons why such service shouldn't be opened are less important in this forum than the fact that operators in both countries are agreed on the point.

I offer for the record as Appendix C, a series of letters outlining the position of UBOA and ABA on NAFTA negotiations. The first, a letter dated May 12, 1992, to the U.S. Department of Transportation's chief NAFTA negotiator, explains the two associations' mutual interests in NAFTA talks. We asked the U.S. negotiator, in essence, to leave our business out of NAFTA altogether, or at most to limit discussions to charter and tour permit areas which simply needed refining. A second letter, dated June 10, 1992, expressed our concern about NAFTA negotiations to Sr. Agustin Iurrita Perez, then-president of CANAPAT (Camara Nacional del Autotransporte de Pasaje y Turismo), the largest association of commercial motorcoach operators in Mexico. You will see by the responses of June 12 and 23, 1992, from CANAPAT general manager Arturo Garcia Falcon that CANAPAT agrees with the UBOA and ABA position: regular, scheduled route service should not be provided in either country by foreign carriers.

We have steadfastly maintained to our negotiators that the right to perform regular, scheduled route service outside of our home nation has not been sought by the motorcoach associations of either the U.S. or Mexico. When motorcoach associations representing Canadian carriers urged their own negotiators to pull Canada out of the NAFTA's surface transportation discussions, it was done. In stark contrast to the action in Canada, U.S. negotiators verbally informed UBOA and ABA only that the U.S. team would continue to work on removal of all operating right restrictions, primarily because they were continuing to seek that remedy for trucking concerns. They expressed the belief that they could not justify separation of coach and truck treatment when it came to negotiating interstate operating rights.

Mr. Chairman, that leads us to the agreement which is proposed. Bulling ahead with its agreement—which is neither sought nor wanted by the representative motorcoach associations on either side of the border—the USDOT trade team concentrated on two issues: the rights of bus company alien ownership and the rights of alien owners to hold interstate operating authority.

Today, an investor from any Nation may own a motorcoach company in the United States, but because of the U.S. moratorium on the granting of ICC interstate operating rights, those rights may not be granted to any company which is "substantially controlled" by a Mexican national. In Mexico, foreign ownership of a bus company is prohibited by law, while interstate operating rights are granted by special permit. Our trade representatives ostensibly sought to equalize ownership and operating rights. Yet they failed to do even that.

The NAFTA proposal grants international, point-to-point service between points in the two nations three years after its effective date. That means a coach could, presumably, carry one-way passengers from Mexico City to Chicago as long as it did not pick up Chicago-bound passengers at any intermediate point in the U.S. While the provision specifically prohibits scheduled, open door route service at the three year mark, both we and our Mexican counterparts believe that the performance of de facto open door service is absolutely unenforceable and therefore, worthless.

Mexican nationals may own 100-percent of an American bus company right now if they wish, but Americans would not be allowed to become even a minority owner of a Mexican bus company until year three of the agreement. At year seven, an American could own 51-percent of a Mexican bus company, but would have to wait a full 10-years after the agreement takes effect to own 100-percent of that company in Mexico. At year seven, operators in both countries would be allowed full interstate operating authority in both nations.

The net effect of this combination of provisions is to give Mexican companies completely unrestricted, unshared operating opportunity at year seven while forcing American companies to endure sham partnerships through year ten. And those who select to "cheat" on the international point-to-point service would grab an obvious seven-year head start on taking business away from U.S. domestic regular route carriers.

Mr. Chairman, even if the American motorcoach industry wanted to perform regular route service by owning a bus companies in Mexico, this agreement would not

provide an equalized opportunity to do that despite the fact that our negotiating team focused narrowly on that point.

To summarize:

- American charter and tour motorcoach operators in UBOA and ABA already have adequate agreements to perform the kinds of international business which we seek to perform in Mexico and, with completion of the renewed International Agreement, Mexican operators will have the right to perform charter and tour services into the U.S.

- The NAFTA could lead to harmful, unwanted regular route service in both the U.S. and Mexico, creating a serious rift between U.S. and Mexican operators which could serve as a deterrent to cooperative ventures.

- NAFTA inequitably handles foreign ownership questions, providing predatory advantages to Mexican companies if they wish to seize the opportunity.

- While the United States might be able to regulate the most basic safety, vehicle and driver qualifications of Mexican-based operators entering the U.S., it cannot regulate or impose the long litany of employee wage and benefit, occupational safety or economic responsibility conditions which are imposed on an American operator, seriously unbalancing the competitive price structure in favor of Mexican-based carriers who wish to enter the U.S. intercity passenger business.

- NAFTA totally ignores any changes, concessions or "field-leveling" compromises in Canada.

For all those reasons, we wish to have any and all references to the motorcoach industry removed from the North American Free Trade Agreement. Should that not occur, we urge the Committee and the full Congress to disapprove and halt implementation of the proposed North American Free Trade Agreement.

Thank you for this opportunity to speak. I would be happy to entertain any questions you might have for me.

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[Appendixes A, B, and C may be found in the committee files.]

Senator BURNS [presiding]. Thank you very much.

Let me apologize for Senator Exon. He had to leave the room. He should be back shortly.

I guess whenever we start talking about any exchange on this agreement, as far as doing business with Mexico, doing business here, and in light of the testimony of you three witnesses, I think it is sort of centered around if we all sing from the same hymnal, off the same page, if we possibly could.

Let me talk about your studies up to this point. On enforcement, are you satisfied with the safety enforcement if we were to come to the standards?

In the first place, Mr. Kaiser, does the NAFTA usurp the agreement that you have with the Mexican people now? Does it sort of just throw that out and we start all over again?

Mr. KAISER. It would widen that agreement that we presently have with the Mexican Government to provide regular route intercity scheduled service, versus just charter and tour operations. In other words, after a period of 10 years, a Mexican carrier could come into the United States and provide local service, say, between Dallas and Laredo or Dallas and Chicago, or wherever.

At the present time, under the phase-in rules, a Mexican can own an American company. However, there is a moratorium in effect that prevents him from being granted operating rights by the Interstate Commerce Commission. But we can only own 49 percent of a Mexican company.

Senator BURNS. Mr. Harper and Mr. Collins, do you want to chime in on this? I am concerned about enforcement more than anything else. That is what concerns me, because it is hard to enforce some of the rules that we put on our own people across the border. Does that concern you in this agreement?

Mr. COLLINS. Senator Burns, it concerns us, because our carriers are very visible in the United States. We know if we do not have safe operations we can be subject to lawsuits and enforcement actions. We are very concerned that if Mexican carriers come in, slip across the border, do not have safe operations, and then slip back, as I said in my statement, then they are really cutting their costs by shortchanging safety.

So, we think an aggressive enforcement program is key to maintaining safety operations. It is one area that we very, very strongly support.

Senator BURNS. Mr. Harper.

Mr. HARPER. The safety of operations in the United States would be unaffected by NAFTA, because basically we would continue to have U.S. railroads run by U.S. crews on U.S. roads. And, likewise, in Mexico, the Mexican National Railroad will be running that railroad. So, we do not see a significant difference with respect to safety enforcement.

There is another dimension of enforcement we have not talked about here, and that is the cabotage issue, with the possibility of a foreign carrier, for example, a trucker, making pickups and carrying between domestic points within the United States. We are not quite clear on how that might be enforced within the United States. But that is a regulatory matter, rather than a safety matter.

Senator BURNS. Tell me about something, Mr. Harper. You know, generally, I am a pretty much a free trader. But I have got to watch sometimes where I say that. Because we have got a situation in Montana right now that would tend to make most of us in the political business a little bit sensitive to this kind of an agreement. We have wheat coming in from Canada on an unprecedented scale right now.

Tell me about the way Canada subsidizes its railroads and the implication it may have—could that also carry over even to NAFTA, which would include Canada, United States, and Mexico? Because we know they have that crow's nest thing up there. It is still a bone of contention as far as shipping is concerned in Canada.

Mr. HARPER. The Canadian Government does subsidize its grain growers. And one of the ways it implements that subsidy is through reduced rail rates, which the government then reimburses the railroads up to the cost of shipping the grain. And, you know, the agricultural subsidies are really beyond our expertise, but essentially that is the mechanism the Canadian Government uses to effect that subsidy.

Senator BURNS. Is there anything in place in Mexico that even looks like that sort of an arrangement in Canada?

Mr. HARPER. I am not aware of any. I think we send a lot more grain to Mexico than they ship anyplace else.

Senator BURNS. I have no more questions with regard to this from your written testimony. I have just been handed another question.

Mr. Harper, does anything in this agreement raise the possibility that Mexican railworkers would be hired to do railroad maintenance or signal work on U.S. land?

Mr. HARPER. Not that I am aware of. We have asked the administration, various officers of the administration, to try and clarify this and the cabotage issue for us. As far as we understand and we are aware of, the same kinds of immigration rules, work permits and all the rest that govern work by foreign nationals in the United States would apply to these situations. We know of no exception that would be made in NAFTA.

Senator BURNS. Well, we thank you gentlemen. We will look over your testimony here today. We appreciate it.

As far as the seven specific things that you are looking for in this thing, Mr. Collins, we will go over those things and see if we cannot get them worked out.

As I say, there are a lot of us here in the Congress that still have concerns over this agreement. And they are not the common concerns that we usually find. I think most of us with concerns are on border States. Now if you go down to Texas, you will find a great deal of support for NAFTA. And if you go into Montana, in dealing with the Canadian Free Trade Agreement, we were talking a little while ago about the situation of hauling livestock. A lot of livestock comes into the United States from Canada. But when you start moving live cattle back toward Canada, you run into all kinds of problems.

It is not just in transportation. It is not just in safety. It is not in the size of the trucks. It is nothing like this. It boils down to we have got some areas to do in health requirements when you start moving livestock. And of course we have all been through those things before. And that is not in your bailiwick, and not of your concern, so we will take that up at another time.

But we thank you for your testimony and for coming and your time this morning.

Thank you very much.

The next panel is Mr. Aaron Belk, vice president, International Brotherhood of Teamsters; and Mr. James Brunkenhoefer, who is the national legislative director for the United Transportation Union; and Ronald Maas, executive director, Nebraska Wheat Board out of Lincoln, NE.

And, gentlemen, we welcome you here this morning as we start these hearings off on the North American Free Trade Agreement, and knowing that it is not a perfect document, but, nonetheless, it has created quite a lot of dialog here in the halls of Congress.

Mr. Belk, thank you for coming this morning. The rules would remain the same as with Senator Exon. Your written statements will be made a part of the record this morning, and if you want to summarize, that would be fine with me too.

And welcome, and thank you for coming.

**STATEMENT OF AARON BELK, VICE PRESIDENT, INTERNATIONAL BROTHERHOOD OF TEAMSTERS; ACCOMPANIED BY VERNON McDOUGALL, ASSISTANT DIRECTOR FOR HEALTH AND SAFETY; PAUL LAMBOLEY, ESQ., NEWMAN & HOLTZINGER PC**

Mr. BELK. Thank you, Senator Burns.

My name is Aaron Belk, and I am a vice president of the International Brotherhood of Teamsters. We are pleased to have this op-

portunity to address this committee on the effects of highway safety and the impact to the U.S. transportation industry on the land transportation provisions proposed in the North American Free Trade Agreement, NAFTA.

The committee has raised many truck safety, regulatory, and legal questions. Appearing with me today to assist on these technical areas are Vernon McDougall of our safety and health department, and Paul Lamboley. Mr. Lamboley is the former ICC Commissioner and currently with the firm of Newman & Holtzinger, a petitioner on behalf of the IBT in our pending lawsuit against the Department of Transportation in regard to rulemaking, implementing a memorandum of agreement between the Governments of the United States of America, and the United Mexican States.

The Teamsters Union, which represents 1.4 million working men and women, is adamantly opposed to the North American Free Trade Agreement. Our union represents hundreds of thousands of men and women in virtually every sector of the trucking industry. This agreement will cause massive job loss. Additionally, it will make a mockery of the years of legislative and regulatory action, dating from 1982, over congressional concerns regarding safety of commercial motor vehicle operation in the United States.

The committee has raised concerns over lower Mexican wage scales having an adverse effect on American employment and wages. Consider this: Mexican commercial motor vehicle drivers make an average \$7 per day, without any fringe benefits. Compare this to Teamster professional drivers: Freight drivers make an average of \$22 per hour and partial delivery drivers making \$17 per hour, including fringe benefits.

Make no mistake about it, the lure of lower wages alone will result in hundreds of thousands of lost U.S. transportation jobs, many of them held by Teamsters.

Besides the loss of good paying jobs in America, the committee has raised other issues regarding highway safety. The committee has asked if it could be ascertained whether the qualifications to obtain a Mexican commercial driver's license are comparable to those of the United States.

As you know, the Teamsters Union has brought suit against the DOT over their recognition of the Mexican CDL as equivalent to our CDL. No matter how good this may eventually look on paper, our members' experience with Mexican drivers in California and elsewhere leaves us very skeptical that the Mexican program will ever be as effective as the U.S. CDL program.

The IBT believes that there are significant differences between the U.S. CDL and the Mexican equivalent. Some of those are, No. 1, age requirements. Because studies establish that younger drivers take more and graver risks than older drivers, current DOT regulations require CDL applicants to be 21 years of age or older to drive in interstate commerce. Mexico allows CDL's to be issued—their equivalence of a CDL—to be issued to 18-year-old drivers.

No. 2, language requirements: An important requirement for a U.S.-based CDL applicant is that the driver must be able to read and speak English sufficiently to converse with the general public to understand highway traffic signs and signals which are in the English language. In response to official inquiries that have to be

responded to, they have to be able to do that, and to make entries on reports and records. There are many U.S. Teamsters whose first language is not English. Yet, they must meet these requirements to obtain our CDL's.

Under the final rule, no English requirement exists for Mexican CDL drivers. Now, these same Teamsters will have to share the U.S. roads with Mexican holders of the Mexican equivalent of the CDL who have not had to meet this requirement. This is neither fair nor safe.

No. 3, safety requirements: Under the U.S. regulations, American drivers must demonstrate specialized knowledge and skill to operate specific equipment, such as double and triple trailers, tank trucks, and to transport placarded hazardous materials. U.S. CDL's are issued with separate vehicle groups and license endorsements for individuals who have met these required tests.

There is no hazardous material endorsement on the Mexican equivalent to the CDL. We understand informally that there is a new separate Mexican license for Hazmat. However, the U.S. DOT has not published anything that explains how this has any effect on the U.S. arrangements or how they are going to inform U.S. State and local police that the Mexican equivalent of the CDL, by itself, qualifies as a CDL in this country, including tank and double endorsements for hazardous material handling.

No. 4, information exchange requirements: In order to have effective enforcement of the standards set by the CMVSA, structured information exchange and clearinghouse functions required by law were established domestically among the States. In fact, no U.S. State was allowed to issue CDL's in this country until they were up on the computer network so they could share information.

Information exchange and retrieval services is a valuable method of identifying problem and disqualified drivers and is a vital part of the enforcement. The MOU and the final rule establishes a subgroup for informal exchange of CDL information between the United States and Mexico of not less than once a year. We are concerned that the harmonization process may result in the relaxation and deterioration of certain truck safety rules with respect to both the Federal motor carrier safety regulations and the size and weight regulations.

One example of a very important area is motor carrier safety, which is probably endangered by NAFTA is the hours of service rules. For example, Canada allows drivers at least 3 more hours of driving time per shift than the United States does. We understand that Mexico may be in the process of structuring hours of service regulations. However, we have no knowledge of what the process is, nor of anything that is currently in place in that area.

On the other hand, U.S. hours of service rules are the most comprehensive on the continent.

Through the efforts of thousands of Teamster drivers who signed petitions and concerned Members of Congress on both sides of the aisle, we were successful in blocking attempts by DOT to weaken these regulations which are crucial to preventing driver fatigue. DOT's ill-advised proposal was to reset the clock on drivers, which is the weekly hourly limits whenever they are off duty for 24 hours.

It may interest you to know that Canada is currently considering a very similar proposal, with 36 hours instead of 24 hours off duty. If they adopt this rule, it would bring the issue back to the NAFTA table, where it will find a very supportive U.S. industry and a receptive DOT.

Another area of concern is harmonization of truck size and weight. The U.S. trucking industry has already put Canada and Mexico on notice that they expect a new standard single semitrailer to be at least 53-feet long. This is longer than either of those countries currently allow.

Both Mexico and Canada allow maximum weights far higher than the United States, even for tractors with single semitrailers. Their limits for doubles are tens of thousands of pounds heavier as the charts earlier illustrated. It is very likely that the harmonization process will lead to substantially higher truck weight limits throughout the United States, which will put a tremendous strain on the infrastructure, as you well know, since roads and bridges are prepared and built for weight standards.

A serious safety issue on longer and heavy trucks is the braking system that we are concerned with. Presently, DOT is moving toward antilock brakes for trucks. To the best of our knowledge, Mexican trucks are not even required to have front brakes. While this has been a requirement on all U.S. trucks manufactured since 1980. We are very concerned that important future safety requirements such as antilock brakes may fall victim to the harmonization process.

You do not have to be a safety expert to know that older equipment is much more difficult to maintain, and it is clear that Mexican trucks tend to be significantly older than U.S. trucks. The age factor will make it a much more difficult chore for Mexico to obtain the standards that we strive for in this country.

As more of their trucks come across the border as a result of NAFTA, it will be doubly important to provide, through MCSAP, an enhanced safety inspection presence at crossings. Even if our trinational trading partners agree to the most stringent driver and truck safety standards, the ultimate test will lie in the enforcement of these regulations.

Unfortunately, the specter raised by NAFTA prompts many more questions than answers. Some that we have are:

What are the revenue sources for the potential exponential growth in DOT inspectors, immigration personnel, and all the other enforcement officials?

What effects will Mexican trucks, which are not required to be equipped with antipollution devices, have on U.S. efforts to control air pollution pursuant to the Clean Air Act?

What about insurance regulations? Will American motorists have accident claims honored by Mexican insurance carriers? If not, what will be their recourse?

Under NAFTA, Mexican carriers will be prohibited from engaging in cabotage. Currently, it is extremely difficult to catch Mexican drivers who drive outside of the permissible commercial zones. If this is a problem now, how will cabotage be enforced when Mexican drivers are allowed to drive throughout the United States?

The transportation industry is still reeling from the job loss and upheaval caused by the Motor Carrier Act of 1980 and other misguided deregulation policies of that era. The NAFTA will again tax the resources of State officials and governments who are already overburdened by increased enforcement activity.

NAFTA, for Teamster members and for the working men and women of the United States is a bad deal. Massive job loss and the potential impact on highway safety is a real concern for the professional Teamster driver, for highway officials and for the general public. We hope you will carefully examine the issues we have raised here today when you consider your position on the North American Free Trade Agreement.

The committee will undoubtedly hear that Mexico is in the process of developing or has already instituted driver and truck safety standards which are, at minimum, comparable to U.S. standards. We would strongly urge the committee to go to the border States of California and Texas and to witness firsthand the types of Mexican vehicles which are currently being driven in the commercial zone areas.

Additionally, we would recommend that the committee visit with our drivers at truck stops across the border States, with State highway patrolmen and enforcement officials who are dealing today with what NAFTA will hold for the future. We challenge the committee to investigate firsthand in order to determine if the regulations Mexico has on paper are the reality on the highways today.

We believe this is a crucial problem. We believe it would be better served if we did go these extra steps, and we will be happy to assist the committee in facilitating this undertaking.

Thank you, and I appreciate the opportunity to testify today.  
[The prepared statement of Mr. Belk follows:]

#### PREPARED STATEMENT OF AARON BELK

Good morning. Mr. Chairman, my name is Aaron Belk. I am a Vice President of the International Brotherhood of Teamsters. We are pleased to have the opportunity to address this Committee on the surface transportation implications of the North American Free Trade Agreement (NAFTA). The committee has raised many truck safety, regulatory and legal questions. Appearing with me today to assist in these technical areas are Vern McDougall of our Safety and Health Department and Paul Lamboley. Mr. Lamboley is a former ICC Commissioner and is currently with the firm of Newman & Holtzinger, a Petitioner on behalf of the I.B.T. in our pending lawsuit against the Department of Transportation in regard to rulemaking implementing a "Memorandum of Understanding" (MOU) between governments of the United States of America and the United Mexican States.

The Teamsters Union which represents 1.4 million working men and women, is adamantly opposed to the North American Free Trade Agreement. Our union represents hundreds of thousands of men and women in virtually every sector of the trucking industry. This agreement will cause massive job loss. Additionally it will make a mockery of the years of legislative and regulatory action dating from 1982 over Congressional concerns regarding the safety of commercial motor vehicle operation in the United States.

Teamster truck drivers are the most qualified and skilled commercial motor vehicle operators in the United States. They take pride in the safe and efficient delivery of our nations goods. The Committee has asked what effect NAFTA will have on the competitiveness of surface transportation workers. I think the answer is apparent when one considers the wage differential. A Mexican commercial motor vehicle

driver makes an average \$7.00 per day without any fringe benefits.<sup>1</sup> Compare this to Teamster professional drivers: freight drivers making an average \$22.00 per HOUR and parcel delivery drivers making \$17.00 per HOUR, including fringe benefits.<sup>2</sup> American drivers simply can not compete, nor should they, with Mexican commercial drivers who are not required to be covered by the U.S. minimum wage, workers' compensation insurance, unemployment insurance and social security. The Teamsters Union is not aware of any safeguards that are even being discussed, let alone in place which will stymie the flow of American transportation jobs. Make no mistake about it, the lure of low wages alone, will result in hundreds of thousands of lost U.S. transportation jobs, many of which are held by Teamster members.

Just in the last ten years alone, the U.S. Congress has passed many laws governing commercial motor vehicle standards and driver fitness and qualification. The Teamsters Union has been an advocate and leader in seeking significant gains in both of these areas. This has been accomplished through safety gains in our national collective bargaining agreements; testimony before this and other Congressional Committees on numerous occasions over the past two decades; and active involvement in DOT rulemaking on driver and truck safety matters. The safety of the motoring public and our drivers' whose workplace is the highways, has always been a priority of our union and this country. However, we are concerned that the harmonization of driver certification and safety standards and truck size and weight to accommodate NAFTA will lead to degradation of these important U.S. standards.

We would first like to address the area of driver qualification and specifically the differences between a U.S. Commercial Drivers License (CDL) and it's Mexican counterpart the Mexican Licencia Federal. As many of you may already know, prior to the announcement that negotiations had been completed on the NAFTA, Teamsters were struggling with an indirect consequence of that agreement. On November 21, 1991, the United States government entered into a secret agreement called a Memorandum of Understanding (MOU) with the government of Mexico. With the stroke of a pen, this agreement granted Mexican drivers full access to the United States by treating the Mexican federal commercial drivers license as a valid U.S. CDL. To add insult to injury, the Department of Transportation issued a Final Rule on July 16, 1992 implementing the agreement without hearing or comment. As you know Mr. Chairman, the Teamsters Union has brought suit against DOT over their recognition of the Mexican Licencia Federal as equivalent to our CDL. No matter how good this may eventually look on paper, our members' experience with Mexican drivers in California and elsewhere leave us very skeptical that the Mexican program will ever be as effective as the U.S. CDL program.

I think it is valuable to reexamine Congressional intent in establishing the U.S. CDL program. In 1986 the Congress passed and the President signed into law the Commercial Motor Vehicle Safety Act of 1986 (P.L. 99-570). The intent of this law is clearly stated in the Report to accompany H.R. 5568 of Committee on Public Works and Transportation, July 23, 1986, p. 1. "The bill is needed to help prevent truck and bus accidents and injuries by establishing national minimum standards for testing and licensing of commercial drivers and requiring drivers to have a single classified driver's license and driving record." Under the CMVSA, no person may operate a commercial motor vehicle unless that person has taken and passed a written and driving test to operate and which meets the minimum federal standards established by the Secretary of Transportation. Further, states may issue CDL's to Mexican drivers only if the licenses meet the federal uniform minimum standard.

The Final Rule, published July 16, 1992, implementing the MOU grants reciprocity by stating that a Licencia Federal de Conductor (LFC), or Mexican CDL satisfies the U.S. commercial driver testing and licensing standards of 49 C.F.R. Part 383. Which brings us back to your question—Does the Mexican CDL meet the same U.S. minimum federal standards? The I.B.T. believes that there are significant differences between the U.S. CDL and the Mexican LFC.

(1) *Age requirements:* Because studies established that younger drivers "take more and graver risks than older drivers,"<sup>3</sup> current DOT regulations require CDL applicants to be twenty-one (21) years or older to drive in interstate commerce. Mexico's LFC issues CDL's to eighteen (18) year old drivers.

(2) *Language requirements:* An important requirement for a U.S. based CDL applicant is that "A driver must be able to read and speak the English language suffi-

<sup>1</sup>"Salarios Minimos": Instituto Nacional de Estadística, Geografía e Informática: Comisión Nacional de los Salarios Minimos; Bureau of Statistics, ILO, Geneva; October 1992; p. 83.

<sup>2</sup>Weintraub, Norman, "IBT-UPS National Master Agreement: 1990-1993: Wages, Vacations, Holidays, Sick Leave and Health & Welfare and Pension Plans": International Brotherhood of Teamsters: Washington, DC, September 1992.

<sup>3</sup>49 C.F.R. Part 391, May 13, 1986, 51 F.R. 17572 (Proposed Rules).

ciently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records."<sup>4</sup> There are many U.S. Teamsters whose first language is not English, yet they must meet this requirement to obtain a CDL. Under the Final Rule, no English requirement exists for Mexican LFC drivers. Now, these same Teamsters will have to share the U.S. roads with Mexican holders of the *Licencia Federale* who have not had to meet this requirement. Why? This is neither fair, nor safe.

(3) *Safety requirements:* Under present U.S. regulations, American drivers must demonstrate specialized knowledge and skill to operate specific equipment such as double/triple trailer trucks, tank trucks or to transport placarded hazardous materials. U.S. CDL's are issued with separate vehicle group and license endorsements for individuals who have met the required tests. There is no hazardous materials endorsement on the Mexican LFC. We understand, informally, that there is a new separate Mexican license for Hazmat. However, the U.S. DOT has not published anything that explains how this is as effective as the U.S. arrangements, or how they are going to inform U.S. state and local police that the *Licencia Federale* by itself, qualifies as a CDL including tank and doubles endorsements for hazardous materials.

(4) *Information exchange requirement:* In order to have effective enforcement of the standards set by CMVSA, structured information exchange and clearinghouse functions, required by law, were established domestically among the states. In fact, no U.S. state was allowed to issue CDL's until they were up on the computer network so they could share information. Information exchange and retrieval serves as a valuable method of identifying problem and disqualified drivers and is vital to enforcement. The MOU and Final Rule establishes a "subgroup" for informal exchange of CDL information between the U.S. and Mexico of not less than once a year.

In addition to these U.S. minimum federal standards, we are concerned about a key element of the U.S. CDL program, that of the single license, single driver record concept. Our understanding of the Mexican program is that holders of the *Licencia Federale* will also hold licenses from their home states. This being the case, a Mexican truck driver may have more than one license and therefore more than one driving record.

The MOU prohibits all states from issuing non-resident CDL's to Mexican drivers residing in Mexico. Mexican carriers with ICC authority, already operate in U.S. commercial zones along the border. While the MOU further facilitates access for Mexican carriers, U.S. carriers are currently prohibited from entering Mexico. U.S. carriers will not be granted access to the Mexican border states until three (3) years after NAFTA is signed. Additionally, while the MOU lifts restrictions only on drivers license requirements, the pending North American Free Trade Agreement would lift all restrictions and allow foreign carriers unlimited access within ten years following ratification.

In addition to the driver's license standards, there are numerous other U.S. truck safety related regulations, which in NAFTA would be left to Land Transportation Sub-Committee negotiations. Specifically, Article 913 of NAFTA, establishes sidebar negotiations to harmonize the transportation systems of the U.S., Canada and Mexico. To the best of our knowledge, the I.B.T., the U.S. organization which represents more drivers of heavy trucks than any organization in this country, has not been asked to participate on any Committee, subcommittee or working group related to NAFTA transportation harmonization.

We are concerned that the harmonization process may result in the degradation of certain truck-safety rules with respect to both the Federal Motor Carrier Safety Regulations and the size and weight regulations.

One example of a very important area of motor carrier safety which is probably endangered by NAFTA is the Hours of Service Rules. For example, Canada allows drivers at least three (3) more hours of driving time per shift than the U.S. does. We understand that Mexico may be in the process of structuring hours of service regulations, however we have no knowledge of what the process is nor of anything that is currently in place. On the other hand, U.S. hours of service rules are the most comprehensive on the continent.

Thousands of Teamster drivers signed petitions last year in an effort to block DOT's attempt to weaken these regulation which are crucial to preventing driver fatigue. We want to particularly commend Senators Exon and Danforth for intervening with the Secretary of Transportation to help discourage him from finalizing DOT's ill-advised proposal to "reset the clock" on drivers' weekly hours limit whenever they were off duty for twenty-four (24) hours. It may interest you to know, Mr.

<sup>4</sup>49 C.F.R. section 391.11(b)(2).

Chairman, that Canada is currently considering a very similar proposal (with thirty-six (36) instead of twenty-four (24) hours off duty). If they adopt this rule, it will bring the issue back to the NAFTA table where it will find a very supportive U.S. industry and a receptive DOT.

Another area of concern is the harmonization of truck size and weights. The U.S. trucking industry has already put Canada and Mexico on notice that they expect the new-standard single semi-trailer to be at least fifty-three (53) feet long. This is longer than either of those countries now allow.

On the other hand, both Mexico and Canada allow maximum weights far higher than the U.S., even for tractors with single semitrailers. Their limits for doubles are tens of thousands of pounds heavier. It seems very likely that the harmonization process will lead to substantially higher truck weight limits throughout the U.S.

A serious safety issue on longer and heavier trucks is braking systems. Presently DOT is moving towards anti-lock brake regulations for trucks. To the best of our knowledge, Mexican trucks aren't even required to have front brakes, while this has been a requirement on all U.S. trucks manufactured since 1900. We are very concerned that important future safety requirements such as anti-lock brakes may fall victim to the harmonization process.

Even assuming that Mexican truck safety regulations are, or will be completely compatible with the U.S. Federal Motor Carrier Safety Regulations, we know from our own experience that this alone will not mean that trucks will be maintained to the same level of safety fitness. The still expanding program of roadside safety inspections under the Motor Carrier Safety Assistance Program (MCSAP), has played an important role in raising our awareness of the extent of safety problems in day-to-day operations and in providing motor carriers with new incentives to maintain their equipment to high standards.

You don't have to be a safety expert to know that older equipment is much more difficult to maintain and it is clear that Mexican trucks tend to be significantly older than U.S. trucks. The age factor will make it that much more difficult for Mexico to attain the standards that we strive for in the U.S. As more of their trucks come across the border as a result of NAFTA, it will be doubly important to provide, through MCSAP, an enhanced safety inspection presence at crossings.

Even if our tri-national trading partners agree to the most stringent driver and truck safety standards the ultimate test will lie in the enforcement of these regulations. Unfortunately the specter raised by NAFTA prompts many more questions than answers. Some that we have are: What are the revenue sources for the potential exponential growth in DOT inspectors, immigration personnel, and all other enforcement officials? What affect will Mexican trucks, which are not required to be equipped with antipollution devices, have on U.S. efforts to control air pollution pursuant to the Clean Air Act. What about insurance regulation: Will American motorists have accident claims honored by Mexican insurance carriers? If not, what will be their recourse. Under NAFTA Mexican carriers will be prohibited from engaging in cabotage. Currently it is extremely difficult to catch Mexican drivers who drive outside of the permissible commercial zones. If this is a problem now, how will cabotage be enforced when Mexican drivers are allowed to drive throughout the continental U.S.?

The transportation industry is still reeling from the job loss and upheaval caused by the Motor Carrier Act of 1980 and other misguided deregulation policies of that era. The NAFTA will again tax the resources of state officials and governments who are already overburdened by increased enforcement activity. Federal policy makers or trade negotiators have failed to address the number of jobs that will be lost as a result of Mexican drivers who deliver goods from Mexico to the U.S. and backhaul American goods.

Mr. Chairman, the Committee will undoubtedly hear that Mexico is in the process of developing or has already instituted driver and truck safety standards which are, at a minimum, comparable to U.S. standards. We would strongly urge the Committee to go the border areas of California or Texas and witness first hand the types of Mexican vehicles which are currently driving in the commercial zone areas. Additionally, we would recommend that the Committee visit with drivers at truck stops, state highway patrolmen, and other enforcement officials who are dealing with today, what NAFTA will hold for the future. We challenge the Committee to investigate first hand in order to determine if the regulations Mexico has on paper are the reality on the highway. We believe this is crucial and would be happy to assist the Committee in facilitating this undertaking.

NAFTA for Teamster members and the working men and women of the United States is a bad deal. Massive job loss and the potential impact on highway safety is a real concern for the professional Teamster driver, highway officials and the general public. We hope you will carefully examine the issues we have raised here

today when you consider your position on the North American Free Trade Agreement.

Senator BURNS. Thank you, Mr. Belk. Mr. Brunkenhoefer, thank you for coming today. We will take your testimony at this time.

**STATEMENT OF JAMES M. BRUNKENHOEFER, NATIONAL LEGISLATIVE DIRECTOR, UNITED TRANSPORTATION UNION, ON BEHALF OF THE RAILWAY EXECUTIVES' ASSOCIATION; ACCOMPANIED BY LEROY JONES, LOCOMOTIVE ENGINEERING; AND EDWARD WYTKIND, TRANSPORTATION TRADES DEPARTMENT, AFL-CIO**

Mr. BRUNKENHOEFER. Thank you, sir. If you do not mind, I will just submit my statement for the record and make a few comments to expedite things.

Senator BURNS. Thank you very much. We appreciate that.

Mr. BRUNKENHOEFER. First of all, I am not an expert on NAFTA. I am an expert on driving choo-choo's. And with me today I have a couple of equal experts. From Locomotive Engineers is Mr. Leroy Jones, and from the Transportation Trades Department of the AFL-CIO, Mr. Ed Wytkind. In case I make a mistake they can whisper in my ear and try to correct me, if we know the answer.

The citizens of your State and the citizens of my former State have something in common. We both like country western music. And there is one part out now called, "What Part of No Don't You Understand?"

Senator BURNS. I asked that in 1988 and got elected. It is very dangerous to fool around with that, you know.

Mr. BRUNKENHOEFER. And that is kind of, I think, real labor's feelings about NAFTA. We have seen the experience of some of our brothers and sisters in other nations, for example the EC, and what they went through to get the most successful trading block in the world. It is already there, there is already a plan in place, and it works. We do not have to go out and reinvent the wheel in North America.

And they were able to do this process involving many more nations and very diverse economies, cultures, religions, ethnic groups, and everything else relatively successfully without damaging their own populations.

And what we see in NAFTA is, let us do something quick even if it is not smart or right. And so we are not going to go through all of the steps, we are not going to build all the safeguards that work for America, and we are going to suffer. And we are going to be the real payers in this process by our standard of living.

I do not know about the guy from the Department of Transportation's informal wage survey. I did one myself at a barbecue last summer at Laredo, TX. We have local there, Local 110. And we invite the officers of the Mexican Railroad Union in Nuevo Laredo to come over and join us. It was one of those delightful days where it drizzled and was about 103 degrees, and we ate barbecue with jalapenos on it.

And I met the best paid switchman on the Mexican side. At best, we could do, with kind of a quick negotiating process back and forth about currency exchange, he was making about \$24 a day,

and he was their best paid switchman in Nuevo Laredo, and our people make over \$100 a day.

Now, I do not know how that relates to the informal survey he made, but this was at least as informal, and I think probably at least as accurate as his. And so there is a wage disparity in my industry.

I cannot help but share with what my friends, the Teamsters, say that the enforcement problems—the Interstate Commerce Commission does not have enough people to enforce what they have got already, and we are going to put a lot more on them.

And so I get real concerned about what type of enforcement are we going to be getting on that cabotage. I had to find out what that word was. That meant that when that guy from Mexico left and went up to Chicago and he got him a load, he was supposed to bring it all the way back to Mexico instead of dropping it off at San Antonio. Well, who is going to stop him from operating, when he carries that load out of Mexico City and he is looking for that load, just like every other independent trucker is.

And when those people come in they are going to be a competitor for my employer, and they are going to lose market share. And they are not going to lose market share to my brothers and sisters in the Teamsters, they are going to lose market share to the Mexican nationals.

Now, I am not opposed to those people. They need all the help they can get. I just do not want to see it in unemployment in the United States.

The story that my friend Robert Farris, who operates Valley Transit, says is the story of the two Juan Gomezes. One is an American citizen who may have fought in Vietnam and may have had a son who fought in Desert Storm. And he is about to lose his job to Juan Gomez from Reynoso. And Juan Gomez from the American side is going to draw unemployment, so that is going to come out of my tax dollars. I am going to pay for him not having a job or somebody is, his employer.

And the Juan Gomez who is on the other side of the border who is going to take his job and operate in this country is going to make less money doing that job than the Juan Gomez on the American side is going to draw on unemployment. And so I cannot help but see that that is kind of a loser all the way around in our economic balance.

I think we need fair trade, not so much free trade. And I think we are carrying through a theory that is not real well thought out here.

In conclusion, I just got back from Senator Dorgan's State. I was in Dickinson, Minot, and then I got to the big city of Bismarck yesterday. I had supper last night in Minot, and those are pretty good people. They are a lot like they are over at Glasgow and Shelby and your side of the State. And we talked about the Free Trade Agreement. They were not real troubled about the Canadian side. They were uncomfortable with it.

But these fine people, and most of them do other things besides just railroad. I was with John Risch last night. I have not had not one single person who is a member of my union and they are pretty much into free speech. You get in the union hall, they are going

to tell you what they think. Some of it you may not like to hear, but they are going to tell you.

I have not had one single member, since this NAFTA came about, that said, "Hey, this is something we ought to take a look at and we ought to be for, and something that will really work for us." And we have a pretty free debate society.

But we have not had one single question in any union hall anywhere in the United States that I have traveled to over about the last 18 months that said, we are wrong on this issue. And I am told by my membership quite frequently their opinion and mine are not the same.

So, it is not playing among those people who chew tobacco, drive pickup trucks, and have bumper stickers, and work for a living, and listen to Rush Limbaugh that are my members.

And so I am real troubled by it. And also I would like to take this opportunity if I can—I understand one of the staff people, Ms. Washington, may not be here a whole lot longer. I wanted to ask you all if you all could raise Senator Hollings' budget because it is going to take about three people to do her job. She is one of these unique people that pleased labor, management, everybody that has ever dealt with this committee and we are sure going to miss her. And I think you all are going to take two or three people to fill her job.

And I will end on that and any questions you all have, or however you do it, I will take.

[The prepared statement of Mr. Brunkenhoefer follows:]

#### PREPARED STATEMENT OF JAMES M. BRUNKENHOEFER

My name is James Brunkenhoefer. I am National Legislative Director of the United Transportation Union, which represents railroad and transit workers in the United States and Canada.

Today I am appearing on behalf of the Railway Labor Executives' Association—RLEA—an association of railway labor unions representing the vast majority of rail workers in the United States. Attached please find a list of RLEA's affiliated labor organizations.

I do not know of a single union officer, at any level, within the ranks of rail labor, who has received a call from a rank-and-file member expressing his or her support for the proposed North American Free Trade Agreement. Not a single one.

Rail labor believes in fair trade policies that are good for American workers as well as workers abroad. We support a fair trade agreement that produces good-paying jobs \* \* \* the kind of jobs that President Clinton and Vice President Gore emphasized a need for during the presidential election. The problem is that NAFTA not only promises to displace more than a half million American jobs, it does not provide a lift upward for the grossly underpaid, poorly treated workers in Mexico. We view NAFTA as a vehicle to further exploit workers on both side of the border, ultimately at the expense of American jobs and standards of living.

I do not appear before this Committee to debate the merits of the various economic models being advanced with respect to job loss or job gain. I do, however, want to point out in general terms some of the flaws in NAFTA and specifically, to discuss the concerns of U.S. railroad workers. In support of my testimony today I have also attached transportation labor's reply to NAFTA submitted to the U.S. Trade Representative last year by the Transportation Trades Department, AFL-CIO, whose 29 affiliated unions represent several million workers in the air, auto, rail, transit, trucking and related industries.

For decades America's trade policies have been geared toward helping the economies of other nation's evolve and grow. In theory this approach would also pay dividends for U.S. companies and their employees. Both Japan and Germany have risen from the ashes of war to become economic powerhouses; in many areas, exceeding the United States. But they have gotten this far by implementing trade policies that placed their citizens first. They managed their economies and insisted on keeping a certain level of high-wage manufacturing capacity within their borders. Today, for

example, some 32 percent of Germany's workforce is engaged in manufacturing-related jobs; in the U.S. that number has slipped to 16 percent.

I cannot overstate the importance of a competent, well conceived trade scheme. Without such a scheme the transportation industry also suffers. Let me say parenthetically that if we do not build it here we do not ship it here. And that, in so many ways, is the essence of my message to the Committee today with respect to NAFTA.

It is our view that the Bush-negotiated NAFTA will result in the flight of some 550,000 jobs during this decade. This is occurring already without NAFTA in force. Between 1986 and 1990 U.S. firms increased manufacturing jobs in Mexico by 25 percent while domestic manufacturers increased jobs in the U.S. by less than 1 percent. With the absolute lifting of cross-border trade barriers as contemplated in NAFTA, this trend will not only continue, it will accelerate.

The problem not only lies in the 10 or 15 to 1 wage disparity, it is worsened by the fact that as U.S. producers increase their presence in Mexico they continue to pay their Mexican employees pennies on the hour while taking full advantage of lax health, safety, labor and environmental regulatory enforcement in that country. Let me also point out that for every U.S. worker displaced as a result of NAFTA, his or her Mexican counterpart will be earning about 20 percent of that earned by an out of work American drawing unemployment. This is sensible trade policy only if our long-term goal is to invite worker exploitation on both sides of the border.

Rail labor is concerned that the Interstate Commerce Commission will grant trackage rights to the Mexican railway to operate "international freight only" trains over U.S. rights-of-way at the expense of American railroad workers. Since the U.S. is the true marketplace under NAFTA, we in rail labor do not see a significant benefit for the U.S. railroad industry and its workers—particularly since reciprocity isn't a relevant issue. We would oppose any efforts to change federal laws governing crew changes as well as those governing the entry of Mexican nationals into the U.S. to perform maintenance of way, shop craft, signal maintenance and other work presently reserved to U.S. employees.

The same scenario which has U.S. truck drivers losing out to \$7 a day Mexican truck drivers, a concern we share with the International Brotherhood of Teamsters, has implications in the rail sector as well. A flood of low-wage Mexican trucking carriers on our highways will undoubtedly displace American rail and trucking employees. Under NAFTA, we are essentially trying to narrow the otherwise huge gap in wages and safety standards between our two countries on the backs of U.S. employees.

Shippers in Mexico, many of which will be U.S.-owned, will also achieve a cost advantage due to not only lower wages, but also the cost advantages gained from the existing government subsidy of the Mexican transportation system. This is the grand scheme in play here, as U.S. manufacturers will continue to expand their share of world trade, but will do so at the expense of American and Mexican workers alike. This scenario hardly supports the new Administration's vision of a high skill, high wage American work force.

As the flight of manufacturing jobs is accelerated under NAFTA we must look at the enormous ripple effect in transportation. Should NAFTA go into effect, what used to be built in Flint, Michigan and shipped via rail or truck to Kansas City, Denver and Los Angeles, for example, will be built in Mexico and, whenever possible, shipped via a low-wage Mexican motor carrier. Since there is no disputing the fact that NAFTA allows for this to occur, it is easy to conclude that American and Mexican businessmen will exploit the benefits of these new found rights—again at the expense of American workers.

At a recent press conference by the National Industrial Transportation League the former chairman of that organization stated that an American-made product, and its components, moves 6 to 12 times through the American multi-modal transportation system. A foreign-made product, however, only moves 1 to 3 times through the system. We have seen no analysis to suggest that unencumbered cross-border trade between the U.S. and Mexico will offset the tremendous loss of point-to-point business in the United States due to the anticipated mass exodus of manufacturing plants to low-wage Mexico.

There will be many winners should NAFTA be approved by the Congress, but I can assure you that there will be one major loser—the American worker in virtually every major employment sector across our country. Rail labor cannot support trade agreements like NAFTA that force American workers to apologize for their hard earned standards of living.

I thank the Committee for giving me the opportunity to express the views of rail labor.

[The Reply of Transportation Labor to the North American Free Trade Agreement, by the Transportation Trades Department of the AFL-CIO may be bound in the committee's files.]

Senator BURNS. Thank you very much. We appreciate that. Mr. Maas.

**STATEMENT OF RONALD R. MAAS, EXECUTIVE DIRECTOR, NEBRASKA WHEAT BOARD, REPRESENTING THE NATIONAL ASSOCIATION OF WHEAT GROWERS**

Mr. MAAS. Senator Burns and Senator Dorgan, I am very pleased to be here today to represent the Nebraska Wheat Board to discuss some of the transportation related concerns of U.S. wheat producers in connection with the North American Free Trade Agreement.

The Nebraska Wheat Board supports the position of the National Association of Wheat Growers, which we more commonly refer to as NAWG. By way of introduction, NAWG is a membership organization representing producers in 19 States of the Great Plains, Pacific Northwest, Southwest, and Southeast areas of the United States.

Regionally, their members produce six different classes of wheat for specific end uses such as breads, pastas, cakes, crackers, noodles, and pastries. On average, about one-third to one-half of our annual crop is marketed domestically, while the remainder is sold to customers in over 80 foreign countries.

Given our industry's dependence on exports, the NAWG has been generally supportive of efforts to expand trade. Unfortunately, our support for these initiatives has not always resulted in agreements which guarantee improved market access or adequate safeguards for domestic producers. The NAFTA is an illustration of this point.

NAWG has some very serious reservations about the NAFTA, most of which stem from issues not addressed in the agreement. Among these, several fall within the purview of this committee.

They are, the continuation of the Canadian transportation subsidies in the North American area; the potential application of Canadian transportation subsidies on grain transshipped through the United States; and Canadian investment in U.S. railroads. And as a final concern, the inspection of carriers entering the United States for karnal bunt.

It is well known that the NAWG remains deeply dissatisfied with the outcome of the Canada-U.S. Free Trade Agreement, a key reason being that while it eliminated the use of Canadian rail freight subsidies on Canadian grains shipped to the United States via west coast ports, the Canadian Free Trade Agreement memorialized the continuation of these subsidies on grain moving east in that, as much or more grain moving east in Canada is destined for export rather than for domestic use.

We have strongly, if not successfully, argued that any use of the Western Grain Transportation Act subsidies on Canadian wheat entering the United States constitutes a de facto export subsidy which is in direct violation of the letter and the spirit of the agreement.

In supporting President Bush's request for the extension of fast-track negotiating authority, we had conditioned our support for a final NAFTA agreement on the understanding that inequities in

the Canadian Free Trade Agreement would be corrected in the NAFTA. Our expectations were in vain.

Not only does the NAFTA continue to permit Canada to subsidize grain into the United States, but it allows Canada to do the same into Mexico.

As it is, the current state of the North American wheat trade defies geography. Canada's principal wheat producing region is centered around Regina, Saskatchewan, some 2,800 miles from Mexico City. Yet in 1991-92, Canada captured approximately 76 percent of the Mexican wheat market. This is a market the United States previously dominated and with which the United States enjoys a distinct comparative advantage over other exporting countries.

We believe that the NAFTA should provide that all Canadian transportation subsidies cease on sales made into either the United States or Mexico.

One of our other chief objectives in the NAFTA was to prevent the application of Canadian rail freight subsidies on cargo shipped through the United States to Mexican or other third country markets. As written, the NAFTA provides no assurance that the transshipment of Canadian grain to Mexico or other destinations will be disciplined or monitored.

This is an oversight which must be corrected. The U.S. Government must not allow the United States to become a land bridge for Canadian sales to Mexico or other destinations such as Cuba or other points in Central and Latin America. We seek transportation transparency on shipments moving westbound and eastbound into or through the United States.

U.S. wheat farmers have been worried about recent Canadian purchases of U.S. railroads. The Canadian-Pacific railroad has taken over the former Soo Line, which operates in North Dakota, northern Illinois, Minnesota, northern Iowa, and Wisconsin. We are also troubled by the rumor that the Canadian National Railroad has designs on a southern U.S. line which, if true, would give Canadians access to the Mississippi River, and hence the Gulf of Mexico.

In 1992, NAWG wrote to the then-Secretary of Transportation Andrew Card to request an accounting from the Department of Transportation on the level of Canadian involvement in U.S. rail transportation and the conditions of competition between the United States and Canada on transporting bulk freight into Mexico. That letter was never answered.

We request the assistance of this committee in acquiring that information so that we can more accurately assess the situation.

Finally, I would like to raise a sanitary/phytosanitary issue with implications for transportation. The NAFTA recognizes each country's right to determine the level of protection necessary to ensure continued agricultural health. This will allow each country to set more stringent standards so long as they are scientifically verifiable.

Further, it is our understanding that the United States will not have to modify its current border inspection procedures unless the United States believes it is appropriate, and the trading partner in question has demonstrated that adequate inspection systems and certification and testing procedures are in place.

We are OK with the theory, but we have worries about the practice. Specifically, we are concerned about the entry of karnal bunt infected trucks and rail cars into the United States from Mexico. As a surface transportation systems between the two countries become more integrated, this will become more of a problem.

Karnal bunt is an incurable wheat disease which occurs in Mexico but has not yet been identified in the United States or Canada. It is smut which most severely affects common wheat by significantly reducing the seed quality. The disease is spread by soil-born teliospores and by contact with infected seeds. Quarantine measures have proven to be the only effective way of combating the spread of the disease.

We believe adequate inspection procedures will have to be developed to guard against the inadvertent contamination of the U.S. wheat crop. The presence of karnal bunt in the United States would have a devastating effect on wheat production and on our exports to wheat producing countries, particularly China and the former Soviet Union, and could directly and adversely impact the U.S. farmer's ability to garner income from the market.

In the past, our concerns about specific unfair trading practices of competing exporters were put off by guarantees from the previous administration that they would be handled within the GATT. Having seen the Dunkel draft, we know that this is not true. Notwithstanding, we believe that the terms of the NAFTA agreement would be better than those now being negotiated in GATT.

Unfair and predatory practices have no place in a free trade zone. The United States should do everything in its power to prevent the continuation of policies that disadvantage U.S. producers.

We commend this committee for its oversight of the transportation implications of the NAFTA and look forward to working with you in refining the agreement through implementing legislation or other avenues.

Thank you again for your attention to our concerns, and I will be glad to try to answer any questions.

[The prepared statement of Mr. Maas follows:]

#### PREPARED STATEMENT OF RONALD R. MAAS

Mr. Chairman, members of the committee, I am pleased to appear before you today as a representative of Nebraska Wheat Board to discuss the transportation-related concerns of U.S. wheat producers in connection with the North American Free Trade Agreement (NAFTA). The Nebraska Wheat Board supports the position of the National Association of Wheat Growers (NAWG).

By way of introduction, the NAWG is a membership organization representing producers in nineteen states of the Great Plains, Pacific Northwest, Southwest and Southeast. Regionally, their grower members produce six different classes of wheat for specific end-uses such as breads, pastas, cakes, crackers, noodles and pastries. On average about one-third to one-half of our annual crop is marketed domestically while the remainder is sold to customers in over eighty foreign countries.

Given our industry's dependence on exports, the NAWG has been generally supportive of efforts to expand trade. Unfortunately, our support for these initiatives has not always resulted in agreements which guarantee improved market access or adequate safeguards for domestic producers. The NAFTA is an illustration of this point.

The NAWG has some very serious reservations about the NAFTA most of which stem from issues not addressed in the agreement. Among these, several fall within the purview of this committee. They are the continuation of Canadian transportation subsidies in the North American area; the potential application of Canadian transportation subsidies on grain transhipped through the U.S.; Canadian invest-

ment in U.S. railroads; and the inspection of carriers entering the U.S. for karnal bunt.

#### CANADIAN TRANSPORTATION SUBSIDIES

It is well known that the NAWG remains deeply dissatisfied with the outcome of the Canada-U.S. Free Trade Agreement (CFTA). A key reason being that while it eliminated the use of Canadian rail freight subsidies on Canadian grain shipped to the U.S. via west coast ports, the CFTA memorialized the continuation of these subsidies on grain moving east. In that as much or more grain moving east in Canada is destined for export rather than for domestic use, we have strongly, if not successfully argued than any use of the Western Grain Transportation Act (WGTA) subsidies on Canadian wheat entering the United States constitutes a de facto export subsidy which is in direct violation of the letter and the spirit of the agreement.

In supporting President Bush's request for the extension of fast-track negotiating authority, we had conditioned our support for a final NAFTA agreement on the understanding that inequities in the CFTA could be corrected in the NAFTA. Our expectations were in vain.

Not only does the NAFTA continue to permit Canada to subsidize grain into the United States, but it allows Canada to do the same into Mexico.

As it is, the current state of the North American wheat trade defies geography. Canada's principal wheat producing region is centered around Regina, Saskatchewan—some 2,800 miles from Mexico City, yet in 1991/92 Canada captured approximately 76 percent of the Mexican wheat market! This is a market the U.S. previously dominated and with which the U.S. enjoys a distinct comparative advantage over other exporting countries. We believe that the NAFTA should provide that all Canadian transportation subsidies cease for sales made into either the United States or Mexico.

#### THE SUBSIDIZED TRANSSHIPMENT OF CANADIAN GRAIN THROUGH THE U.S.

One of our other chief objectives in the NAFTA was to prevent the application of Canadian rail freight subsidies on cargoes shipped through the United States to Mexican or other third country markets.

As written, the NAFTA provides no assurance that the transshipment of Canadian grain to Mexico or other destinations will be disciplined or monitored. This is an oversight which must be corrected. The U.S. government must not allow the United States to become a "land-bridge" for Canadian sales to Mexico or other destinations such as Cuba or other points in Central and Latin America.

We seek "transportation transparency" on shipments moving westbound and eastbound into or through the United States.

#### CANADIAN PURCHASES OF U.S. RAILROADS

U.S. wheat farmers have been concerned about recent Canadian purchases of U.S. railroads. The Canadian Pacific railroad has taken over the 500 Line which operates in North Dakota, Northern Illinois, Minnesota, Northern Iowa, and Wisconsin. We are also troubled by the rumor that the Canadian National Railroad has designs on a southern U.S. line which, if true, would give the Canadians access to the Mississippi River and hence the Gulf of Mexico.

In 1992, NAWG wrote to the then Secretary of Transportation Andrew Card to request an accounting from the Department of Transportation on the level of Canadian involvement in U.S. rail transportation and the conditions of competition between the U.S. and Canada on transporting bulk freight into Mexico. That letter was never answered. We request the assistance of this committee in acquiring that information so that we can more accurately assess the situation.

#### CARRIER INSPECTIONS FOR KARNAL BUNT

Finally, I would like to raise a sanitary/phytosanitary issue with implications for transportation. The NAFTA recognizes each country's right to determine the level of protection necessary to ensure continued agricultural health. This will allow each country to set more stringent standards so long as they are scientifically verifiable. Further, it is our understanding that the United States will not have to modify its current border inspection procedures unless the U.S. believes it is appropriate and the trading partner in question has demonstrated that adequate inspection systems and certification and testing procedures are in place.

We are okay with the theory but have worries about the practice. Specifically, we are concerned about the entry of karnal bunt-infected trucks and railcars into the United States from Mexico as the surface transportation systems between the two

countries become more integrated. Karnal bunt is an incurable wheat disease which occurs in Mexico but has not yet been identified in the U.S. or Canada. It is a smut which most severely affects common wheat by significantly reducing the seed quality. The disease is spread by soilborne teliospores and by contact with infected seeds. Quarantine measures have proven to be the only effective way of combating the spread of the disease.

We believe adequate inspection procedures will have to be developed to guard against the inadvertent contamination of the U.S. wheat crop. The presence of karnal bunt in the United States would have a devastating effect on wheat production and on our exports to wheat-producing countries, particularly China and the former soviet Union and could directly and adversely impact the U.S. farmers' ability to garner income from the market.

#### CONCLUSION

In the past, our concerns about the specific unfair trading practices of competing exporters were put off by guarantees from the previous Administration that they would be handled within the GATT. Having seen the Dunkel draft, we know that this is not true. That notwithstanding, we believe that the terms of the NAFTA agreement should be better than those now being negotiated in the GATT. Unfair and predatory practices have no place in a free trade zone. The United States should do everything in its power to prevent the continuation of policies that disadvantage U.S. producers. We commend this committee for its oversight of the transportation implications of the NAFTA and look forward to working with you in refining the agreement through implementing legislation or other avenues.

Thank you again Mr. Chairman for your attention to our concerns. I will be happy to answer any questions you might have at the appropriate time.

Senator BURNS. Thank you, Mr. Mass, for your testimony. And I have a couple of questions for you. And I am sorry that Jim is not here, from your home State, but you will get a chance to chew on him in a little bit and he has said he is used to it.

Ron, with regard to my concern about the subsidy to railroads hauling Canadian grain, my guess is that this correction should not require the reopening of the Canadian Free Trade Agreement. Would you agree with that?

Mr. MAAS. Well, that—

Senator BURNS. In other words, in order to come to a NAFTA agreement we do not have to reopen the Canadian Free Trade Agreement.

Mr. MAAS. No, I do not think we would have to reopen the Canadian Free Trade Agreement; that is a totally different question. Although we would need to get some way of getting some cooperation with the Canadians where they would be willing to live with other rules that were applied to NAFTA. And if it required reopening the Canadian Free Trade Agreement to get those, yes, I suppose we would have to go that far.

Senator BURNS. Would you agree that this type of correction could be discussed in the import surge sidebar negotiations? Could we get that done there, in your view?

Mr. MAAS. That is probably the most logical place to look at it, because the import surge of wheat that has been coming into the United States since the Free Trade Agreement, there has been definitely a big surge upward. And there is no other avenue, at this point in time, available.

Senator BURNS. I do not know about the transportation end of this thing, but I can tell you this, in my State of Montana you go on that high line up there. And when a local farmer wants to sell his grain and he cannot get to the elevator for Canadian trucks, folks get a little bit cranky around the edges. And I know something has got to be done.

I just want to run this by you, too. We raise—like North Dakota does and my friend from North Dakota knows durum, one of our crops up in the northeast part of the State. We noticed in a magazine where a miller who makes pasta—and he is a little miller down in Pendleton, OR—was buying Alberta and Saskatchewan durum, when we have got our bins full just right across the border. He said transportation was his determining factor. He could just get that Canadian durum into his mill in Pendleton, OR, just based on transportation costs.

He also said I was the first elected person to ever call him up and ask him why he was buying Canadian durum wheat. So, we since have been very sensitive to this, and are trying to work with all the entities involved trying to do something about it, but we are just not getting anything done. That is why I went on record early on in this. Until we have some mechanism in place to solve these disputes, these trade inequities, to bring them to some kind of resolution, I just think we are hollering up the wrong tree.

And that is what concerns me. My concern is my farmers, the raw product. Because right now we have got to get some money on the farm or we are not going to have these farmers around to produce anything, we are not going to have anything to haul. I do not care if you are a trucker or a railroader, there "ain't going to be nothing" there to haul one of these days if we do not get some money back on this farm and keep this man in business. We will be importing everything from offshore, and I sure do not want to get into that kind of position.

Oh, I have got another question here; I just want to get a response from Mr. Belk. From all of the issues that you raised, the CDL, safety regulations, the MOU's, all of those issues, the Department of Transportation has come back and said Mexicans will have to operate under our rules and regulations here. In other words if we require a CDL operator to be 21 years or older, then that person, if he drives in the United States, would have to be 21 years or older.

In other words, from the testimony just ahead of you, that is what the man from DOT said, yet you still the raise the possibility of problems. I would like for you to respond to that and how they answer those questions. Now I know you have seen their response to those questions.

Mr. BELK. I guess the biggest question that needs to be answered is how they are going to enforce the rules. I know we have the regulations on record now and you have portable scales in the States now and those teams are already overworked. We have areas where we do not have a sufficient number out there to do the job now.

Our concern is—

Senator BURNS. Keep in mind some of your trucker friends, they think there are way too many of those scales around.

Mr. BELK. Well Teamsters are not too worried about the weights we are hauling since we are regulated differently than independents. Our employers do not require us to carry overweightes. Non-union guys on the other hand sometimes lose their jobs if they do not comply with their employers. Those are the issues that are of

concern to us now in this country, that present laws and regulations are not being addressed by DOT.

We have some concerns about how they are going to enforce these NAFTA regulations that are on paper. I can write you out a lot of things on paper, but it is not worth the paper it is written on if it not enforced. Those are our concerns.

Senator BURNS. Mr. Brunkenhoefer, would you want to respond to that? I mean everything that you brought up—and I am also sensitive to that too, because I think that we have rules and regulations, sure we can put anything on paper but we sure do not enforce them very good.

Mr. BRUNKENHOEFER. That is a concern, Senator. We have concern that we are not enforcing our own regulations on our own commerce internally, and that when we bring across the border, that we are going to have some people—one, they are not going to be familiar with our laws and it is going to take them a while—they are going to be riding around on either our highways or whatever—to get familiar with us.

And at the same time it is that the enforcement that we see already—and I think, correct me if I am wrong, here, they have run some tests of where some of the American equipment is like 40 and 50 percent defective on our highways. And some of the trucks, most of them the independents out there trying to make a living, squeeze in as much as they can.

And we are not getting enforcement there; how can we expect to get enforcement when we open our borders up for a lot more people who come across that are really desperate, that are wanting jobs or want to eat, they have families to feed. I understand their hardship, but how are we going to expect to be able to enforce it on them. And if we do start strongly enforcing it, I cannot help but expect that the people in Mexico City will say you are being very unfair to us; you do not even enforce the laws on your own.

Senator BURNS. Well, we thank you. You raise valid points which should be considered before we proceed too much further, because we have got to work it out.

Senator Dorgan and I, we talked about how we resolve some of these differences whenever there is a violation of the agreement, whether it be in transportation safety or in subsidization of transportation. We have some very serious problems with the Canadian situation, and we just cannot get them resolved. We have to have some way to bring them to some sort of a conclusion that is satisfactory to both sides of the line.

I thank you for coming today. I have not asked your questions, Mr. Chairman, of this panel. They were handed to me and when you walked in I decided that you could just ask your own.

Senator EXON [presiding]. Thank you very much, Senator.

Senator BURNS. You never want to pass up an opportunity to shut up, and so I am not going to miss this one.

Senator EXON. I appreciate very much your taking over while I was out of the room for a little bit.

Senator Dorgan.

Senator DORGAN. Thank you very much. I have unfortunately been detained at another matter this morning, but I read the testi-

mony that has been presented this morning and I appreciate it; it is excellent testimony.

Let me, Mr. Maas, ask you a question. You raise a point that is very important to me, the issue of Canadian trade and the unfair trade that now exists between Canada and the United States with Canadian durum, and now barley and spring wheat, flooding into this country.

Last year I offered the amendment in the House—I guess 2 years ago now, an amendment in the House to prohibit the extension of fast track and you all did not support that, I believe. You felt fast track should proceed. And I respect that judgment. I came to a different conclusion.

Mr. MAAS. Well, as I said in my testimony, we had done that on certain considerations.

Senator DORGAN. Right. And you know the old proverb: "Fool me once, shame on you; fool me twice, shame on me." The question is do you feel—and your testimony suggests to me you do—do you feel at this point that you would reach a different conclusion on the extension of fast track under these circumstances?

And the reason I ask the question is not much has changed, really, in these circumstances. We still have trade negotiators out there chanting free trade without respect to the question of fair trade. We are still being taken advantage of. Our producers are still disadvantaged by a system of trade that is unfair to us. And have you changed your feeling about whether or not the extension of fast track is advisable?

Mr. MAAS. Well, our membership, in their considerations of the NAFTA issue, have said that without some resolution of the specific issues raised in transportation—there are some other issues regarding end use certificates and some of these other things that are related to this—unless we can get this resolved, we cannot support NAFTA as it is now written.

Now, I would assume that they are implying in that that, you know, this would equate to fast track to some extent. And maybe if the conditions look like there is some progress in negotiation, we are willing to talk some more. But the way it stands right now, under the way it is written, that is basically the position of the U.S. wheat industry.

Senator DORGAN. Mr. Maas, do you speak Spanish?

Mr. MAAS. I can count to 10.

Senator DORGAN. Just to 10. Do you raise beans?

Mr. MAAS. Yes.

Senator DORGAN. So, if you raise beans you have an interest in bean provisions in the NAFTA agreement with Mexico.

Mr. MAAS. That is right.

Senator DORGAN. Are you aware that the provision dealing with beans is written only in Spanish?

Mr. MAAS. No, I did not know that.

Senator DORGAN. And so if you went to the Free Trade Agreement to find out how your beans will be affected by the agreement that we negotiated with Mexico, you would have to speak Spanish to read it, or go find somebody to interpret it, because that particular provision is not given us in English.

And it is interesting, the reason, probably, it is not offered in English is what it provides. It provides in the—how am I doing?

Senator EXON. You are doing fine.

Senator DORGAN. I thought my time was up.

Senator EXON. No, your time is not up, Senator.

Senator DORGAN. It provides that the quota of beans going from this country into Mexico is going to be below the last 5 years' average. That is if you take the 5-year average, we are going to say our quota going into Mexico with American beans will be below that average. And then we say in addition to that, above that quota, we will impose a tariff somewhere around 130 percent.

Now, I have mentioned beans. I have not mentioned french-fried potatoes. I could, I could go into a long discourse about Mexican french-fried potatoes coming up north to get fried, and American french-fried potatoes going south to get fried. And I am telling you, our negotiators negotiated something that fried our potato producers; just take it from me.

I can go through the whole darn thing and discover that at least with respect to agriculture, these negotiators decided they could lose, in a week or two, and did. I do not know why. They lost in Canada, they lost in Mexico, they seem to lose every time they put on our jersey and go out and negotiate.

Now, when we get to the details of how does this free trade agreement relate to the economic fortune of a producer in this country, we need to understand the details and relate it to our economic situation and then make decisions. And I had come to the same conclusion you do.

First of all, you do not do a new agreement until you have solved what you screwed up in the last one. I mean the Canadian agreement, with respect to agriculture, is, in my judgment, shameful. And the Mexican agreement moves on beyond that to say let us create a new set of problems and decide not to solve the old ones.

So, I just wanted to make the point to you that I recall last year the difficulty in trying to knock fast track off the tracks, and I respected your decision then, respect whatever you decide now. But I would say this, that if we do not stand up as a unit out there in rural America and decide that we will not trade away our producers' rights in these trade agreements and we are going to fight it when the trade negotiators try to do that, we are going to be left holding the bag again.

And, you know, all of us have to be concerned about that. Other than that, I have no strong feelings on the subject. [Laughter.]

And I appreciate your testimony, as I said. I read in your testimony that you are also concerned. They said we will do certain things, they send a bunch of negotiators down, and it turns out we are stuck holding a great big bag here. And the only thing we can do, it seems to me, is fight.

Mr. MAAS. The one thing that I am concerned about, Senator, as you mentioned, at present right along the border there is a very serious inflow of wheat. It is getting beyond the durum which increased last year. It is starting to get into other types of wheat. And I see some potential problems down the road with this becoming more than just a border State problem. This will start moving

south, and we will have some real major problems—I mean it is major the way it is, but it will become bigger.

Senator DORGAN. Oh, you are absolutely correct. Durum is a problem because the quantity now represents 20 percent of domestic consumption that is coming in from Canada, targeted into our market. More spring wheat is coming in than durum, and it is increasing exponentially. The spring wheat market is much larger. So, now we are talking only about 4 percent coming in from Canada, but it is increasing exponentially.

And the Canadian wheat board has not stumbling on some sort of historical accident here. They have decided up in Canada to take advantage of this agreement to the hilt.

Clayton Yeutter sat at those tables and, frankly, did not tell us the truth. I hate to say that to you, but that is exactly what happened; I know he is from your State. In fact, he presented to me his guarantees in writing, and they were not worth the paper they were written on. The guarantee was that the representation of good faith that he had reached as an understanding with the Canadians is that there will not be an increase in the quantity of grain shipped across the border following the Free Trade Agreement. And you know exactly what has happened; it was not worth the paper it was written on.

And with respect to the crow's nest rates on the shipments going east, you know we also had in the law, in the President's statement, and in a letter guaranteeing all of that from Clayton, that immediately upon passage of the Canadian Free Trade Agreement they would enter into immediate consultations with the Canadians to eliminate the transportation subsidies with respect to grain that came into this country moving east in Canada. They have not lifted a finger.

So, that is—I mean we have been taken. And the fact is when you are taken once, you know that is something you probably do not understand so well. At least I did not; I did not understand how it worked. But I am not going to be taken again by trade negotiators who promise you the moon and then deliver up a dose of medicine that is going to kill you. So, you know, we are going to have a big fight here on this issue until and unless agricultural issues are dealt with, dealt with effectively, and dealt with correctly.

And thank you very much.

Senator EXON. Senator, thank you very much. A good point that you make, and I appreciate your wishy-washy stand on the issue. [Laughter.]

Very seriously, some of the things that the Senator from North Dakota has brought up are weighing on many of our minds today. Which, I guess, leads me into my first question of the panel, and I would like all of you to take a shot at it.

There has never been nor will there ever be any kind of a trade agreement that everyone says as soon as it is signed, this is the greatest in the world, it is so fair and it is so balanced and it is going to work out that way and it does work out that way. So, there is no utopia here.

Let me ask this question, though, of you. In your opinion is it possible for us to enter into side agreements? And when I talk about side agreements, I discussed that, as you may have heard,

with previous panel members. I just do not want a side agreement to somehow turn out to be: And we will here and now announce that we will enter into side agreements that will be satisfactory to all parties concerned. Because as Senator Dorgan has adequately demonstrated, that just does not work that way.

But if we could get into well-defined side agreements on some of the issues that concern you gentlemen and those that you represent, do you think then—or is there any possibility, in your view, that we could work out some agreements that would solve most, if not all of the problems that you have so forcefully brought to our attention this morning?

You can begin in any fashion that you want. I might start with you, Mr. Maas. Ron, we are just delighted to have you here this morning. You do a good job of representing our wheat people out there. And I have talked to individual members of yours; way back when this was just a glint in someone's eye they had some concerns there. I have taken it that the wheat growers, and the wheat growers only, as distinct from other farm organizations, are very dubious about this proposition. But generally they have taken the position that they are not against free and open trade, per se. That generally has helped agriculture so long as it is free and open and fair.

Do you, Ron, and then the other gentlemen can take a crack at it—do you feel that there is any reasonable possibility that we could get some changes made in writing with full understanding that would make this agreement acceptable to each of your organizations? We will start with you, Ron.

Mr. MAAS. To make it agreeable, we would have to get a major change of opinion or direction by the Canadians, because they have—on some of these issues with agriculture that we have raised, have refused to put them on the table. And a side agreement per se that would address this could work if all the parties signatory to the negotiation would give it honest, sincere consideration, and live with whatever decisions were reached, as long as they were fair and equitable, as you say.

But whether we can get there or not, I am not enough of an international negotiator, in spite of the fact that I have lived overseas for 17 years, but never as a negotiator. But I know that sometimes what people say and what actually gets through these kinds of things is two different things. So, we would be very concerned about the wording. Hoping we did not get any more of the kinds of mistakes or guarantees that Senator Dorgan was talking about. To assure us that whatever the negotiation or whatever side agreement would have to be very carefully worded. And if there is a way—I have talked with Canadians, I have Canadian friends with the wheat board, and as persons or as friends they are all right, but as the wheat board I sometimes have questions on how they function in the international market. So, I think those have to be very carefully addressed.

Senator EXON. Ron, thank you very much. Mr. Brunkenhoefer, would you take a crack at that, please?

Mr. BRUNKENHOEFER. Sure. There is a movie played on cable called "Animal House." A guy lent a Lincoln Continental to a friend. The guy that did the lending was named Flounder. The

friend brought the car back and it was wrecked. He says "Flounder, it is your fault. You trusted me." And that is kind of the way I feel about this Mexican free trade, is we went to our friends and negotiators went to the table, and we trusted them. And they brought back a document that at least not my experts and the people that I talk to tell me, is not a very good agreement.

And I think it is going to take a lot more than cosmetic surgery and a few side letters. I did not have the chance to counsel or receive the counsel of Senator Dorgan before I got here. But it seems like that what he has had in his experience in Canada is what we are afraid of in Mexico, and we are afraid of it not just on the agricultural side, we are afraid of it on the manufacturing side.

And as I said previously, there is a working model. We do not have to reinvent the wheel. It is called the Economic Community of Europe. And they have done a pretty good job, and it looks like we are trying to do something very rushed up that is not going to work for us.

Senator EXON. Mr. Belk.

Mr. BELK. In my response, I would like to compare the supplemental agreements that could be negotiated to repairing a tire. Having been a farmer, with a farm background myself and my father having been in construction, I know one of the basic things you have to have in building anything is a good foundation. And I think to try to negotiate all of the agreements that it would take to "patch up" the NAFTA proposals would not be productive.

I think you have to make a decision when you begin as a farmer or construction person or whatever on what you want the final product to be. I think you have to have a good foundation. I think the NAFTA agreement as it is negotiated now is not an agreement that can be "patched." I think the entire thing needs to be scrapped and Congress and the President should move to negotiate a new agreement totally.

Senator EXON. So, what you are saying, Mr. Belk, in essence, in response to my question, I think you have responded. You see little if any reasonable chance that side agreements, letters of understanding or anything else could make this acceptable to you and the people you represent. And you are saying no, you do not think it can be done. The best option would be to strike everything and start all over again.

Mr. BELK. That is correct.

Senator EXON. Other witnesses care to say anything or add to that?

Mr. LAMBOLEY. Senator, just let me make a brief observation in response to your question. I think one of the concerns of the IBT, and it has taken it to court against the Department of Transportation for the very simple reason that what the Department did at the outset was entertain a memorandum of understanding and enter into an agreement with the United Mexican States which had the effect of preempting a series of public health and safety laws in this country. And the consequence was that there really is no oversight. This is a side agreement, anticipating NAFTA, anticipating excess, but there has been no oversight.

One of the contentions by the Teamsters and others have been that this was a final rule adopted without notice and comment. We

appreciate the opportunity for this oversight proceeding and the opportunity to participate.

I think one of the serious concerns of both Senator Burns and perhaps Senator Dorgan has been that there is no effective dispute resolution mechanism where potentially an effective oversight for those side agreements, and one should not have public health and safety issues entered into by side agreements from which and before which there has been any public opportunity for participation, both by the various industry sectors as well as consumers and other people that are effected by these arrangements.

And for that reason, I think it is important that anything that Congress does, does with a sense of process in which there is a method by which the public can participate more fully and have some degree of assurance that there would be an oversight of the arrangements reached.

Senator EXON. Paul, let me follow up to your statement a little bit. How did you stand on the trade agreement entered into with Canada? When it was going through, were you supportive of that?

Mr. LAMBOLEY. Generally, yes, I was.

Senator EXON. Back to you, Ron Maas. Once again, I am asking some questions here to try to get to the bottom of some of these things. From contacts that I have had in Nebraska, and they have been quite extensive on this trade agreement because I think it has a whole lot to do with the future of our economy as a whole, we are trying to focus primarily on transportation problems. However, the concerns have expanded, and I think justifiably so, because even if we had the "ideal" in safety and transportation concerns and if everything was fair and reasonable and equitable and everybody was happy with it, there remain other issues, and I would like to get into this a little bit.

From my contacts in Nebraska, I find that basically the wheat people are against the agreement—there are some exceptions, but I am talking about organizations. The wheat people are against it, certainly the sugar people and their leadership are against it. The Farm Bureau, on the other hand, seemed to be quite strongly in support of it, as near as I can tell, although there are some groups—the Farmer's Union, for example, which are against it.

Once again, we get into agriculture, seldom, if ever, do we all seem to agree on anything, and that is one of the reasons that our influence continues to wane on these things. We never can speak with any consensus whatsoever with a unified voice.

Going down the list, the corn producers seem to be in favor of it as an organization. And as near as I can tell, the beef and pork people are for it. Is that your understanding of the best box score at the present time in Nebraska?

Mr. MAAS. Yes, Senator, I would say you are pretty close in going down the list. That is about the way it breaks down in each one of those various groups, commodity groups, or general farm organizations have their specific reasons for their positions. Now, I cannot speak for the corn industry nor the grain sorghum, or soybean. But in the wheat industry we are concerned because of the way in which the NAFTA is being brought forward which will continue the inequities of the Canadian Free Trade Agreement and maybe has

magnified them to a certain degree, and that is where our concern is.

If it were not for that concern, the relationships with Mexico, the opening of their trade, where they are doing away with their quotas and the negotiations on the Mexican side of the issue, we have no major questions or concerns in that area. Our concern is the way the Canadians are going to be given carte blanche to just run over us and cover us up with their wheat as they proceed to move it into Mexico.

Our farmers, some raise wheat, some raise corn, some raise both, so it is an issue that raises questions in Nebraska, yes.

Senator EXON. You can appreciate Ron, I think, the difficult decision it places those of us from farm States in with once again our farm State constituency split pretty much down the middle on which way we should go on this. And therefore, we have got a lot of thinking to do as to what, if anything, we can do to improve and alleviate some of the concerns, but you have already addressed that.

Let me turn if I can, then, to Mr. Belk and Mr. Brunkenhoefer. DOT cites data gathered by the U.S. Embassy in an informal survey that suggests Mexican drivers carrying cargoes across the border earn between \$35 to \$80 a day. How do you reconcile those figures with the average \$7 per day wage for Mexican commercial motor vehicle drivers mentioned in your testimony?

Mr. BELK. We are in the process of doing a survey right now, and as soon as we get those figures we will be happy to forward those over to you. I do not know if Mr. McDougall has any further comments in that area, but we are in the process of formulating some additional work in that area.

Mr. BRUNKENHOEFER. Ed.

Mr. WYTKIND. Mr. Chairman, I am Ed Wytkind with the transportation trades department. On the issue of wages, we site the \$7-a-day figure which is provided to us by the Harligen, TX, Chamber of Commerce. It is about 2 or 3 years old. If you adjust it for increases to cite a \$35- to \$80-a-day figure that I believe was stated by the witness earlier, that would suggest that a truckdriver crossing a border makes more money than a midlevel manager does at a maquiladora plant. And that is just not the case according to our experts within the AFL-CIO.

Even if you did triple the rate of what we are saying, \$7, that is still only about \$3 an hour, and the disparity is so huge that it is still a major cost of doing business, and the differential is still going to weigh very heavily in a company's decision on whether they are going to move south of the border to take advantage of those rates.

Senator EXON. Thank you very much. Here is another general question that we should be taking a look at. It regards safety, which is a key concern of us all, I believe. As you know, Congress has passed many motor carrier and rail safety initiatives in the last 10 years. And I have been in the forefront of most, if not all of those efforts.

How could you describe Mexico's emphasis, from your knowledge on truck, bus, and rail safety, and specifically, the adequacy of en-

forcement by the Mexican Government of safety laws currently on the books?

I am not fully up to speed on what the safety laws they have in place, but I have been led to conclude from some of the things that I have read and some of the studies that I have made on this is that in some cases Mexican law is not significantly different in many of these safety areas from ours. The problem, though comes about—you have great people writing great laws, but if you have no enforcement of those laws, essentially they are meaningless.

What do you have to say about this problem?

Mr. BELK. Sir, I have Mr. McDougall here who is an expert in that area, and I am sure he would be able to enlighten us all on that.

Mr. MCDUGALL. Thank you, Senator. As you observed, it is a lot easier to pass laws than to see them enforced on the roadways or out there in real life. As you, yourself, well know, and until several years ago we had a lot of laws, truck safety laws, on the books in this country. And until you passed and implemented and increased the funding of the MIXAT\* program for roadside inspections for a really aggressive rigorous inspection program in this country, many of those truck safety regulations were largely ignored.

It has been the enforcement in this country that has really improved the safety status of trucking. I think that you can see the same thing in Mexico. And I would offer two ways of looking at this. One is with the hazardous materials regulations, which we understand they passed for the first time last year.

This seems to us to be something more for public consumption, if you would, than a sudden change in the safety culture of the whole industry. Just by passing en mass a whole regulatory structure for hazardous materials in 1992 does not mean that here in 1993 that everybody is actually living with that.

The other thing that I would strongly urge you to take a look at is what Mr. Belk, said at the end of his testimony, suggested to you that you go down to Mexico, or go down to the border States, or at least go down to Mexico or go down to the border States or at least bring some of those people from the border States up here to talk with you about the safety enforcement problems that they are having. I think that if you talk with those people you will find that the trucks, the equipment that is coming across the border from Mexico, is in abysmal shape.

These are the trucks, this is supposedly—these are the people who supposedly have the CDL. Many of these things are being honored more in the breach than in compliance.

Senator EXON. Thank you very much. That was very helpful. This is my last question this morning, because it has been a long and a very interesting hearing, and I thank this panel as I thanked the previous panel, for coming to help us out on this. We will have additional questions for the record that we would like you also to respond to as quickly as you can for the completion of the record. If there is any brief summation that any of you would like to make for the record or desire to clarify something that you think is important, I would be glad to entertain any such comments in that regard.

My last question has to do with Canadian ownership of U.S. railroads, and I want to ask this of the railroad people that are here today. Jim, are you concerned about Canadian ownership of U.S. railroads and possible future extended ownership in the future? What implication does this Canadian involvement have for U.S. rail labor, and/or U.S. shippers in the future?

Mr. BRUNKENHOEFER. I am sure you got a little correspondence a few months ago about a thing called PEB-219.

Senator EXON. It seemed to me there was a few words.

Mr. BRUNKENHOEFER. Well, the Canadians came across and bought this little railroad called Soo, and the Soo Railroad is now Canadian-owned, and we are at the negotiating table with them, and they are wanting to go below 219 at the table, and if that is an indication of what we can expect by Canadian ownership, we are very concerned.

We would probably not find that in our best interest, is when—we had to sign a very difficult agreement. We did not like the process. We did not like the results, and your mailbox is full of those complaints.

Now, to have someone that is a foreign-owned carrier come in and say, we need to go below that, causes us nightmares, and the idea is that there is still another ticking clock out there to go off, another bomb to go off causing another strike and another congressional action, potentially.

I think that statement kind of sums it up about our feelings about the Canadians owning our railroads, because I cannot say that we had a wonderful relationship with the previous Soo ownership, but it had not deteriorated to this state, and somehow or another, every time that we exercise our rights under the Railway Labor Act, it ends up being a problem for the good Senator from Nebraska to play Solomon.

This attitude is that we have to go to Montreal and try to work things out, and we go to Minneapolis and try to work things out, and these people have been waiting on a contract since 1988, and they have been 5 years, and we do not look favorably on additional foreign ownership of our system.

It makes the negotiating process that much more difficult to find out who the principal is and who the decisionmaker is. Is the decisionmaker in this country? Am I sitting across the bargaining table with someone that can make a contract and say yes, or does he have to go outside and overseas or wherever, to make that decision? So, we are not looking forward to it.

Senator EXON. Let me follow up on that, Jim, if I might. Maybe, Ron, you can get into this also. Is it true that the Canadian Government through some kind of arrangement is still subsidizing their wheat producers and other commodities on the transportation without cost to the producer for wheat and other agricultural products to the Great Lakes seaport market? Is that still going on?

Mr. MAAS. That is right, Senator. The Canadian system, the way it functions, they have the crow's nest agreements, and under those agreements they agree to pay a specific amount for wheat going from their Saskatchewan area, Regina, from that central part of the plains area to the lakes, and they pay both directions going

from there to the west coast to Vancouver and to Thunder Bay on the lakes.

Now, the Canadian Free Trade Agreement says wheat going to west coast cannot receive this subsidy. Wheat receiving this special payment by the Canadian system, cannot be then further shipped into the United States.

But what the free trade agreement says, when wheat goes to Thunder Bay going east, it is wheat, and it can be exported when it leaves Thunder Bay. It can stop and be unloaded in Chicago, it can be unloaded in Toledo. I mean, there is no limitation on it, because the Canadian system, as their argument is, that when they send wheat to Thunder Bay, some of it gets into Canadian usage also, so that subsidy is applied.

We find that to be an unfair situation because it affects the price of wheat competing with our wheat as it moves across the Great Lakes and as it comes across the border. It is just an unfair situation.

Senator EXON. Jim, just for the record, would you explain to us the situation with regard to railroads in Canada? Are railroads in Canada operated by ownership similar to that which we are familiar with in the United States such as Union Pacific and the Burlington and the Southern Pacific and so forth and so on, or is the government up there more involved in railroads? Does the Government just issue a check to the railroad or transportation facilities that haul that wheat from Saskatchewan to the Great Lakes?

Mr. MAAS. The subsidy is approximately 50 cents a bushel, and that is the way it is done now. The railroad—there are two railroads. There is the government line and a private line.

Senator EXON. So, there is a government line and a socialized line, is that right, or a socialized line and a private industry.

Mr. MAAS. Right. When that wheat reaches its destination, then a check or payment is made to the rail line that carried it.

Senator EXON. Whether it is the Government line or the private line. Now, the Government and the private lines, customarily are they in competition with each other, or do they generally run in different locales geographically?

Mr. MAAS. Generally I do not think they are running much parallel trackage. They are servicing different areas of the country. There might be some place, but the management of the cars moving grain, moving wheat within Canada, is totally under the control of another, and the railroads do not have anything to do with it.

They basically just provide the rolling stock, and then they move them as they are instructed by the wheat board, and they have another group up there, the Freight Transportation Bureau, or I forget the exact name of it, but they are the ones who daily tell railroads you put 10 cars here, put 20 cars here, take a train here—they do this daily.

Senator EXON. So, it is significantly a different system than we have in the United States.

Mr. BRUNKENHOEFER. Very different, and Mr. Lamboley, if I can use you for your experience—the national railroads of Mexico operate all of the railroads in Mexico. You have a total government-owned and dominated system. The majority of the track in Canada

is government-owned and operated. The CP is the smaller player, the CN is the bigger player.

So, when you look at the American railroad system, which the freight railroads, as far as I know, they are all privately owned. None of them are owned by the Government, and when you put us in competition, we are having to compete with the Treasury of Mexico, or the Treasury of Canada, versus our railroads not only have to operate but we have to pay taxes, and I do not believe that the Mexican system has to pay taxes to the Mexican Government. They get money from the Mexican Government, and I am not sure about the tax policies across the border to the 49th parallel, what is going on up there, but it is a difficult situation.

Senator EXON. Could you check that for us and give us that information for the record, because it seems to me we generally overlook these kinds of "details." They are not minuscule details at all. They are very, very big details.

Mr. BRUNKENHOEFER. I will ask my Canadian counterpart to get a hold of Mr. McClain today.

Senator EXON. Because I think it would be helpful if we had that for the record so that we could put that in the record, because if we are essentially dealing and being in competition with the Government of Mexico and the Government of Canada with regard to railroad rates, safety and so forth and so on, I could see a great deal of problems in that particular area.

What about the unions in Canada? I assume there are no railroad unions in Mexico. Are there any railroad unions in Canada, or not?

Mr. BRUNKENHOEFER. They have an excellent union in Mexico, they really do, and I obviously cannot say their name. Unlike some of the people I do not speak Spanish, and we have met our counterparts, and I told the story a while ago that I met that day's highest paid switchman in Nuevo Laredo. He had made \$24, my guys had made \$100, and the Canadian unions are usually—not in every case, but they are autonomous groups within our internationals.

We usually do such functions as bookkeeping, et cetera, for our Canadian members, but they are autonomous groups that could withdraw any time they want to. We have a much better relationship with our Canadian units than we do with the Mexican units, because they sprang from the American unions, and we have a great deal of dialog with them.

Senator EXON. Are there unions in Mexico?

Mr. BRUNKENHOEFER. Yes. Some are unions in name only. They are very tied to the government, and they are more like what would have been the former Eastern European unions rather than what we think of—as free as we are, they are some place in between the trade union movement of the United States and Europe and that of Eastern Europe. They would think of themselves as being free, and I would not challenge that, but they are not probably as free as our unions are.

Mr. BELK. If I might add one thing, there are a lot of independent unions in Mexico, and they are working very closely with the Teamsters and other unions against NAFTA.

Senator EXON. In Canada, do the labor unions bargain with both railroads, the government-owned railroad as well as the privately owned railroad?

Mr. BRUNKENHOEFER. Yes, sir, that is correct.

Senator EXON. They do negotiate with the government-owned railroad.

Mr. BRUNKENHOEFER. That is correct, and when they go on strike their parliament passes laws putting them back to work.

Senator EXON. Gentlemen, thank you very much. This has been very, very helpful testimony to us, and if you would supply the additional information that I have requested and also if you would respond to other questions from the committee we would appreciate it very much. With that we are adjourned.

[Whereupon, at 12:15 p.m., the committee adjourned.]



## APPENDIX

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### PREPARED STATEMENT OF SENATOR BURNS

I thank you for holding this hearing to determine the effects of the implementation of NAFTA where it concerns transportation and commerce in the United States.

While I believe that NAFTA has some very positive implications for this country, as with anything, there are always one or two groups that end up being overlooked. As the NAFTA agreement plays itself out we now are recognizing, in more detail, the results of decisions made in writing the Canadian Free Trade Agreement.

I want to make it very clear that I generally support NAFTA. My concerns with it cover a very narrow scope. Overall, I believe that NAFTA will create increased trade, will benefit consumers and thus more jobs for Montana and the rest of the nation.

However, grain farmers in my home state of Montana have come face to face with one big glitch.

Farmers in states bordering Canada have come to realize that they are now competing with Canadian grains that are receiving a rail subsidy at fifty cents a bushel and being hauled east to Thunder Bay, Ontario and sold to American buyers.

When the Canadian Free Trade Agreement was signed it was understood that it would eliminate subsidies to third country destinations. I am referring to the Crows Nest rail agreement which created subsidies for grain being shipped out of the Canadian Prairie Provinces to consumers on both coasts—the eastern provinces and west for export out of Canada.

At the time this agreement was established it was not anticipated as a problem of trade inside the U.S.-Canada market. Canada agreed that they would not continue paying subsidies on grain moved to third country destinations, but they did not agree to halt subsidies on Canadian movement of grain east. So as the Canadian grain is moved to the Eastern end of their country, farmers receive a government payment per bushel. This makes it very easy for them to lower their sale price to buyers. This includes American buyers that use these grains to meet the high demand for pastas in the Northeast corner of the U.S.

Again, this is a small technicality in a very comprehensive bill, BUT, it is making a very big impact on border state farmers in this country. I need to have this issue addressed to satisfy the needs of my farmers in Montana.

Mr. Chairman I have one more item and that is the concern about Canadians possibly seeking, under the NAFTA agreement, the right to haul longer truck configurations into this country. Currently, U.S. haulers are not allowed to haul short tongue trucks.

In Montana we are seeing a serious erosion of our highways due to the increased weight and length of the trucks hauling grain in from Canada. For obvious infrastructure reasons this is of concern to us as well as other states along the border.

I thank you for your time, Mr. Chairman and I ask that my statement be entered in the record along with my questions.

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### SELECTED TRANSPORTATION PROVISIONS FROM NAFTA

#### ANNEX 1212—LAND TRANSPORTATION

##### *Contact Points*

1. Further to Article 1801 (Contact Points), each Party shall designate by January 1, 1994 contact points to provide information published by that Party relating to land transportation services regarding operating authority, safety requirements, taxation, data, studies and technology, and to provide assistance in contacting its relevant government agencies.

*Review Process*

2. The Commission shall, during the fifth year after the date of entry into force of this Agreement and during every second year thereafter until the liberalization for bus and truck transportation set out in the Parties' Schedules to Annex I is complete, receive and consider a report from the Parties that assesses progress respecting liberalization, including:

- (a) the effectiveness of the liberalization;
- (b) specific problems for, or unanticipated effects on, each Party's bus and truck transportation industries arising from liberalization; and
- (c) modifications to the period for liberalization.

The Commission shall endeavor to resolve any matter arising from its consideration of a report.

3. The Parties shall consult, no later than seven years after the date of entry into force of this Agreement, to consider further liberalization commitments.

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ANNEX 913.5.A-1—LAND TRANSPORTATION STANDARDS SUBCOMMITTEE

1. The Land Transportation Standards Subcommittee, established under Article 913(5)(a)(i), shall comprise representatives of each Party.

2. The Subcommittee shall implement the following work program for making compatible the Parties' relevant standards-related measures for:

- (a) bus and truck operations
  - (i) no later than one and one-half years after the date of entry into force of this Agreement, for non-medical standards-related measures respecting drivers, including measures relating to the age of and language used by drivers,
  - (ii) no later than two and one-half years after the date of entry into force of this Agreement, for medical standards-related measures respecting drivers,
  - (iii) no later than three years after the date of entry into force of this Agreement, for standards-related measures respecting vehicles, including measures relating to weights and dimensions, tires, brakes, parts and accessories, securement of cargo, maintenance and repair, inspections, and emissions and environmental pollution levels not covered by the Automotive Standards Council's work program established under Annex 913.5.a-3,
  - (iv) no later than three years after the date of entry into force of this Agreement, for standards-related measures respecting each Party's supervision of motor carriers' safety compliance, and
  - (v) no later than three years after the date of entry into force of this Agreement, for standards-related measures respecting road signs;
- (b) rail operations
  - (i) no later than one year after the date of entry into force of this Agreement, for standards-related measures respecting operating personnel that are relevant to cross-border operations, and
  - (ii) no later than one year after the date of entry into force of this Agreement, for standards-related measures respecting locomotives and other rail equipment;
- (c) transportation of dangerous goods, no later than six years after the date of entry into force of this Agreement, using as their basis the United Nations *Recommendations on the Transport of Dangerous Goods*, or such other standards as the Parties may agree.

3. The Subcommittee may address other related standards-related measures as it considers appropriate.

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ANNEX I—CANADA

*Sector:* Transportation

*Sub-Sector:* Land Transportation

*Industry Classification:* SIC 456 Truck Transport Industries; SIC 4572 Interurban and Rural Transit Systems Industry; SIC 4573 School Bus Operations Industry; SIC 4574 Charter and Sightseeing Bus Services Industry

*Type of Reservation:* National Treatment (Article 1202); Local Presence (Article 1205)

*Measures:* Motor Vehicle Transport Act, 1987, R.S.C. 1985, c. 29 (3rd Supp.), Parts I and II; National Transportation Act, 1987, R.S.C. 1985, c. 28 (3rd Supp.), Part IV; Customs Tariff, R.S.C. 1985, c. 41 (3rd Supp.)

*Description:* Cross-Border Services—Only persons of Canada, using Canadian-registered and either Canadian-built or duty-paid trucks or buses, may provide truck or bus services between points in the territory of Canada.

*Phase-Out:* None

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ANNEX I—MEXICO

*Sector:* Transportation

*Sub-Sector:* Land Transportation

*Industry Classification:* CMAP 973101—Bus and Truck Station Administration and Ancillary Services (main bus and truck terminals and bus and truck stations)

*Type of Reservation:* National Treatment (Articles 1102, 1202); Local Presence (Article 1205)

*Level of Government:* Federal

*Measures:* Ley de Vías Generales de Comunicación, Libro I, Capítulo I, II, III; Libro II, Título II, Capítulos I, II; Título III, Capítulo Único

Reglamento para el Aprovechamiento del Derecho de Vía de las Carreteras Federales y Zonas Aledañas, Capítulos II, IV

Reglamento del Servicio Público de Autotransporte Federal de Pasajeros, Capítulo III, IV

As qualified by paragraph 1 of the *Description* element

*Description:* Cross-Border Services

1. A permit issued by the Secretaría de Comunicaciones y Transportes is required to establish, or operate, a bus or truck station or terminal. Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause may obtain such a permit.

*Investment*

2. Investors of another Party or their investments may not own, directly or indirectly, ownership interest in an enterprise established or to be established in the territory of Mexico engaged in the establishment or operation of bus or truck stations or terminals.

*Phase-Out:* Cross-Border Services

Three years after the date of signature of this Agreement, such a permit may be obtained by Mexican nationals and Mexican enterprises.

*Investment*

With respect to an enterprise established or to be established in the territory of Mexico engaged in the establishment or operation of bus or truck station or terminals, investors of another Party or their investments may own, directly or indirectly:

(a) three years after the date of signature of this Agreement, only up to 49 percent of the ownership interest in the enterprise;

(b) seven years after the date of entry into force of this Agreement, only up to 51 percent of the ownership interest in the enterprise; and

(c) ten years after the date of entry into force of this Agreement, 100 percent of the ownership interest in the enterprise.

*Sector:* Transportation

*Sub-Sector:* Land Transportation

*Industry Classification:* CMAP 711101—Railway Transport Services (limited to railway crew)

*Type of Reservation:* National Treatment (Article 1202)

*Level of Government:* Federal

*Measures:* Ley Federal del Trabajo, Capítulo I

*Description:* Cross-Border Services—Railway crew members must be Mexican nationals.

*Phase-Out:* None

*Sector:* Transportation *Sub-Sector:* Land Transportation *Industry Classification:* CMAP 973102—Road and Bridge Administration Services and Ancillary Services

*Type of Reservation:* National Treatment (Article 1202); Local Presence (Article 1205)

*Level of Government:* Federal

*Measures:* Constitución Política de los Estados Unidos Mexicanos, Artículo 32

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro II, Título II, Capítulo II; Título III, Capítulo Único

Ley de Nacionalidad y Naturalización, Capítulo IV

*Description:* Cross-Border Services

A concession granted by the Secretaría de Comunicaciones y Transportes is required to provide road and bridge administration services and ancillary services. Only Mexican nationals and Mexican enterprises may obtain such a concession.

*Phase-Out:* None

*Sector:* Transportation

*Sub-Sector:* Land Transportation

*Industry Classification:* CMAP 711312—Urban and Suburban Passenger Transportation Service by Bus; CMAP 711315—Collective Automobile Transportation Service; CMAP 711316—Established Route Automobile Transportation Service; CMAP 711317—Automobile Transportation Services from a Specific Station; CMAP 711318—School and Tourist Transportation Services (limited to school transportation services)

*Type of Reservation:* National Treatment (Article 1102, 1202)

*Level of Government:* Federal

*Measures:* Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro II, Título II, Capítulo II

Ley de Nacionalidad y Naturalización, Capítulo IV

Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título IX, Capítulo I

Reglamento del Servicio Público de Autotransporte Federal de Pasajeros, Capítulo II

*Description:* Cross-Border Services and Investment—Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause may provide local bus services, school bus services and taxi and other collective transportation services.

*Phase-Out:* None

*Sector:* Transportation

*Sub-Sector:* Land Transportation

*Industry Classification:* CMAP 711201—Road Transport Services for Construction Materials; CMAP 711202—Road Transport Moving Services; CMAP 711203—Other Services of Specialized Cargo Transportation; CMAP 711204—General Trucking Services; CMAP 711311—Inter-City Busing Services; CMAP 711318—School and Tourist Transportation Services (limited to tourist transportation services)

*Type of Reservation:* National Treatment (Articles 1102, 1202); Local Presence (Article 1205)

*Level of Government:* Federal

*Measures:* Memorandum de Entendimiento entre los Estados Unidos Mexicanos y los Estados Unidos de Norteamérica para La Promoción de Servicios de Transporte Turístico de Ruta Fija, 3 de diciembre de 1990

Ley de Vías Generales de Comunicación, Libro I, Capítulos I, II, III; Libro II, Título II, Capítulo II; Título III, Capítulo Único

Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Capítulos I, II, III, V, VI

Reglamento de la Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera, Título I; Título II, Capítulo I; Título IV; Título V; Título VIII, Capítulos I, II, III, V; Título IX, Capítulo I

As qualified by paragraphs 1, 3 and 4 of the *Description* element.

*Description:* Cross-Border Services

1. A permit issued by the Secretaría de Comunicaciones y Transportes is required to provide inter-city bus services, tourist transportation services or truck services for the transportation of goods or passengers to or from the territory of Mexico.

2. Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause may provide such services.

3. Notwithstanding paragraph 2, a person of Canada or the United States will be permitted to provide international charter or tour bus services to or from the territory of Mexico.

4. Only Mexican nationals and Mexican enterprises with a foreigners' exclusion clause, using Mexican-registered equipment that is Mexican-built or legally imported and drivers who are Mexican nationals, may provide bus or truck services for the transportation of goods or passengers between points in the territory of Mexico.

#### Investment

5. Investors of another Party or their investments may not own directly or indirectly, an ownership interest in an enterprise established or to be established in the territory of Mexico engaged in bus or truck transportation services as set out in the *Industry Classification* element.

*Phase-Out: Cross-Border Services*—A person of Canada or of the United States will be permitted to provide:

(a) three years after the date of signature of this Agreement, cross-border truck services to or from the territory of border states (Baja California, Chihuahua, Coahuila, Nuevo León, Sonora and Tamaulipas), and such a person will be permitted to enter and depart Mexico through different ports of entry in such states;

(b) three years after the date of entry into force of this Agreement, cross-border scheduled bus services to or from the territory of Mexico; and

(c) six years after the date of entry into force of this Agreement, cross-border truck services to or from the territory of Mexico.

Three years after the date of signature of this Agreement, only Mexican nationals and Mexican enterprises, using Mexican-registered equipment that is Mexican-built or legally imported and drivers who are Mexican nationals, may provide bus or truck services for the transportation of international cargo or passengers between points in the territory of Mexico. For domestic cargo, paragraph 4 of the *Description* element will continue to apply.

#### Investment

With respect to an enterprise established or to be established in the territory of Mexico providing intercity bus services, tourist transportation services, or truck services for the transportation of international cargo between points in the territory of Mexico, investors of another party or their investments may own, directly or indirectly:

(a) three years after the date of signature of this Agreement, only up to 49 percent of ownership interest in such an enterprise;

(b) only own, seven years after the date of entry into force of this Agreement, only up to 51 percent of the ownership interest in such an enterprise; and

(c) ten years after the date of entry into force of this Agreement, 100 percent of the ownership interest in such an enterprise.

Investors of another Party or their investments may not own, directly or indirectly, an ownership interest in an enterprise providing truck services for the carriage of domestic cargo.

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#### ANNEX I—UNITED STATES

*Sector:* Transportation

*Sub-Sector:* Land Transportation

*Industry Classification:* SIC 4213—Trucking, Except Local; SIC 4215—Courier Services, Except by Air; SIC 4131—Intercity and Rural Bus Transportation; SIC 4142—Bus Charter Service, Except Local; SIC 4151—School Buses (limited to interstate transportation not related to school activity)

*Type of Reservation:* National Treatment (Articles 1102, 1202); Most-Favored-Nation Treatment (Articles 1103, 1203); Local Presence (Article 1205)

*Level of Government:* Federal

*Measures:* 49 U.S.C. § 10922(1) (1) and (2); 49 U.S.C. § 10530(3); 49 U.S.C. §§ 10329, 10330 and 11705; 19 U.S.C. § 1202; 49 C.F.R. § 1044

Memorandum of Understanding Between the United States of America and the United Mexican States on Facilitation of Charter/Tour Bus Service, December 3, 1990

As qualified by paragraph 2 of the *Description* element

*Description:* Cross-Border Services

1. Operating authority from the Interstate Commerce Commission (ICC) is required to provide interstate or crossborder bus or truck services in the territory of the United States. A moratorium remains in place on new grants of operating authority for persons of Mexico.

2. The moratorium does not apply to the provision of cross-border charter or tour bus services.

3. Under the moratorium, persons of Mexico without operating authority may operate only within ICC Border Commercial Zones, for which ICC operating authority is not required. Persons of Mexico providing truck services, including for hire, private, and exempt services, without operating authority are required to obtain a certificate of registration from the ICC to enter the United States and operate to or from the ICC Border Commercial Zones. Persons of Mexico providing bus services are not required to obtain an ICC certificate of registration to provide these services to or from the ICC Border Commercial Zones.

4. Only persons of the United States, using U.S.-registered and either U.S.-built or duty-paid trucks or buses, may provide truck or bus service between points in the territory of the United States.

## Investment

5. The moratorium has the effect of being an investment restriction because enterprises of the United States providing bus or truck services that are owned or controlled by persons of Mexico may not obtain ICC operating authority.

*Phase-Out: Cross-Border Services*—A person of Mexico will be permitted to obtain operating authority to provide:

(a) three years after the date of signature of this Agreement, cross-border truck services to or from border states (California, Arizona, New Mexico and Texas), and such persons will be permitted to enter and depart the territory of United States through different ports of entry;

(b) three years after the date of entry into force of this Agreement, cross-border scheduled bus services; and

(c) six years after the date of entry into force of this Agreement, cross-border truck services.

## Investment

A person of Mexico will be permitted to establish an enterprise in the United States to provide:

(a) three years after the date of signature of this Agreement, truck services for the transportation of international cargo between points in the United States; and

(b) seven years after the date of entry into force of this Agreement, bus services between points in the United States.

The moratorium will remain in place on grants of authority for the provision of truck services by persons of Mexico between points in the United States for the transportation of goods other than international cargo.

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LETTERS FROM RONALD MAAS, EXECUTIVE DIRECTOR, NEBRASKA WHEAT BOARD

JUNE 9, 1993.

Senator ERNEST F. HOLLINGS,  
U.S. Senate,  
Washington, DC 20510

DEAR MR. CHAIRMAN: Thank you for the opportunity to respond to your additional questions regarding the surface transportation implications of the forth American Free Trade Agreement (NAFTA).

*Canadian Transportation Subsidies:* The Canada-U.S. Free Trade Agreement (CFTA) orders the trade between the U.S. and Canada. It does not directly affect trade to third country markets for agriculture except to the extent that U.S. export subsidies are used. Article 701(4) of the CFTA requires that each country take the export interests of the other country into account in using export subsidies on agricultural goods to third countries.

Obviously, the United States upheld its end of the agreement by its restricted use of the Export Enhancement Program (EEP) against Canada. During the period of negotiations for the North American Free Trade Agreement, the U.S. did not use the EEP to offset the rising tide of Canadian wheat exports to Mexico. We have since learned that Canada used both credit and transportation assistance to increase its share of the Mexican market during the same period. Inasmuch as U.S. producers have complained that the CFTA should have restricted the use of Canadian transportation subsidies and the Canadian Wheat Board's use of predatory pricing, we feel that the CFTA allowed Canada to capture the majority share of the Mexican market at the expense of U.S. producers.

*Canadian Purchasers of U.S. Railroads:* No, we have no specific evidence that Canadian ownership of U.S. railroads may be detrimental to the interests of U.S. wheat growers or shippers. However, we also have no evidence to the contrary. We believe that we would be better able to make an assessment of the potential risks if we were successful in getting the Department of Transportation to respond to the National Association of Wheat Growers' previous request for information on Canadian ownership of U.S. railroads.

*Inspections for Karnal Bunt:* It is our understanding that USDA did not seek specific assurances on sanitary/phytosanitary matters between the U.S. and Mexico. Although, we have been told that scientifically verifiable bans or restrictions will remain in place.

In June 1992, USDA ARS and APHIS were inclined to reject Mexico's request for the establishment of karnal bunt "free areas" that would not be subject to the current U.S. entry ban. We would like to see this understanding confirmed in the implementing legislation for the NAFTA with the requirement that the U.S. wheat in-

dustry be notified of any prospective changes to U.S. or Mexican compliance with this arrangement.

In addition, we would like to require a karnal bunt inspection for all transport vehicles entering the United States that travel through karnal bunt-infected areas in Mexico.

*End-Use Certificates:* As you know, the 1990 Farm Bill states that only commodities produced "entirely" in the United States may be eligible for participation in U.S. government-assisted export programs. There is no benefit to be gained by allowing foreign grain to be exported with U.S. taxpayer dollars. In fact, if this were to occur, we believe it would seriously jeopardize the existence of these vitally important export programs.

Therefore, we believe that the U.S. should institute an end-use certificate to accompany the entry and disposition of foreign grain within U.S. borders. The certificate should contain specific detailed information as to the importer of record; the intended end-use of the imported grain; the assignee and destination of the grain; and the mode of transportation designated for delivery of the grain. Once the imported grain had been milled, malted, or consumed, the importer of the assignee should be required to report that information to the proper authorities at USDA. By requiring importers to take responsibility for the foreign grain they buy, we can avoid having to account for all domestically-produced grain. We have seen no alternative to end-use certificates which would promote compliance with the 1990 Farm Bill.

Mr. Chairman, thank you again for your interest in this very important matter and for the opportunity for me to offer the views of U.S. wheat producers.

Sincerely,

RONALD R. MAAS,  
*Executive Director.*

JUNE 9, 1993.

The Honorable J. JAMES EXON,  
*U.S. Senate,*  
*Washington, DC 20510*

DEAR SENATOR EXON: You requested information on how the Canadian rail subsidy is implemented. I apologize for the delay in getting this sent to you.

I have enclosed two different enclosures. The first is a report on the Canadian transportation system that was presented in a symposium last year in Winnipeg, Canada. This provides an explanation on several aspects of how their system operates, from a Canadian perspective.

Just today, another piece of information came across my desk. As the subject is related to rail subsidy payment in Canada, I am forwarding a copy for your review. I am sure it may raise more questions than it answers, but perhaps you can obtain additional information from one of the information contacts listed in the article.

This press release indicates that changes are forthcoming in the Canadian freight system. We can only hope that it will not increase the adverse impacts on United States agriculture now being experienced.

I have responded to your questions related to my testimony in another letter. We would like to thank you for your efforts on the wheat producers behalf.

Sincerely,

RONALD MAAS,  
*Executive Director.*

NEWS RELEASE—WGTA PRODUCER PAYMENT PANEL ESTABLISHED

WINNIPEG, June 4, 1993—A Producer Payment Panel will draw industry input into the development options for delivering the Western Grain Transportation Act (WGTA) benefit to producers.

The Panel will be chaired by Dr. Edward Tyrczniewicz. Dr. Tyrczniewicz is currently Dean of the merged faculties of Agriculture, Forestry and Home Economics at the University of Alberta. He was Director of Research for the Hall Commission on Grain Handling and Transportation (1975-77) and Co-ordinator of Analysis for the Gilson Consultation on Crowsnest Grain Rates (1982).

"Mr. Tyrczniewicz is an extremely capable Canadian," Mr. Mayer said. "I am pleased he has accepted the challenge of working with industry and producer groups to find the best method of delivering the WGTA benefit to producers."

The two Ministers today also released draft WGTA reform legislation. It proposes a framework for the phasing in over 4 years of a shift in the payment of the WGTA benefit from the railways to producers.

The draft legislation follows up on the announcement made in the last federal budget that the federal government would seek ways to deliver the benefit to producers through Canada's farm safety net system.

The Producer Payment Panel will consider input into how that can best be accomplished.

"There may be many different ways that the WGTA benefit could be delivered to farmers, and the federal government wants to ensure that the method chosen is the most beneficial," said Mr. Mayer. "That's why we have asked the panel to put the highest priority on gathering industry and producer input."

Through the panel process, individuals or groups will be invited to make submissions. Panel members will then follow up with discussions with industry or producer representatives who wish to meet with the panel. The panel will make its report to the federal government by November 30, 1993. The panel will ensure that its recommendations are consistent with Canada's international trade obligations, including the General Agreement on Tariffs and Trade (GATT) and Canada-U.S. Trade Agreement (CUSTA).

In addition to providing a framework for delivering the WGTA benefit to producers, the draft legislation also includes measures aimed at improving the efficiency of Canada's grain handling and transportation system.

"These efficiency changes will remove existing biases in the WGTA," said Mrs. Martin. "This will provide better port equality for Prairie grain movements. In addition, the efficiency measures will give producers a more efficient and cost-effective means of moving their grain."

The efficiency measures include:

- Lifting prohibition orders on abandonment of high-cost, low-volume grain dependent branch lines. National Transportation Agency approval will still be required before lines are abandoned. Lines, which were only protected until 1999, will now be eligible for alternative service funding until 2001 or 2003;

- The freight-rate provisions will be changed to remove biases and encourage port neutrality. Other freight rate changes will also help Canadian railways and ports compete with other grain carriers.

- Maximum freight rates will continue to be regulated by the National Transportation Agency but railways will be allowed greater flexibility to offer incentive rates to producers, which will improve efficiencies and reduce costs.

Peter Thomson, Administrator of the Grain Transportation Agency (GTA) will lead follow-up consultations with industry on the transportation efficiencies proposal.

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#### GRAIN HANDLING AND TRANSPORTATION IN CANADA: THE GRAIN TRANSPORTATION AGENCY

(By Peter Thomson)

It is my pleasure to join you today to give an overview of the Canadian grain handling transportation system. The Canadian system is in some ways less complicated than the American since western grain is shipped through only three major ports, by two major railways. Yet, it is a highly regulated system which adds significant complexity to its operation.

There are also a larger variety of people involved in the system. In the U.S., one company generally purchase's grain in the country and then oversees its shipment to the customer. In Canada there are grain merchants, primary handlers, railways, terminals, and a variety of export companies. All of these people are actively involved in the process of moving grain and as a result a co-ordinated effort is required between all system participants. That is where my organization, the Grain Transportation Agency, comes in.

#### WESTERN AGRICULTURE

To understand the many forces at work in the Canadian grain transportation system let me briefly outline some facts about agriculture in Western Canada. I should clarify that when I discuss these issues I will be referring specifically to Western Canada—the provinces of British Columbia, Alberta, Saskatchewan and Manitoba. There is no similar regulatory regime for grain transportation in the rest of Canada. Currently there are roughly 134,000 farmers in Western Canada, producing an average of 44 million tonnes annually. Canadian production is subject to many changes,

however, as illustrated by the fact that it has ranged between 31 million tonnes to a high of 51 million tonnes within the past decade alone. Part of this is due to the greater weather susceptibility of our crops given our harsh climate. Of course, American production is far greater than what is produced here in Western Canada. Average U.S. crop production has been 335 million tonnes.

Canada's six major crops are wheat, barley, canola, flax, oats, and rye. Crops which are grown extensively in the U.S. such as soybeans and corn are not significant crops on the Canadian prairies. The vast majority of our average 26 million tonnes of exports are in wheat, barley, and canola. Exports represent approximately 58 percent of our total production. As you know, Canada prides itself on its high quality product and its reputation as a reliable shipper. Thus rail transportation is extremely important to our country if we are to maintain our reputation and effectively meet export demand in a competitive international market place.

The legal framework which regulates grain transportation is known as the Western Grain Transportation Act and applies not only to exports but also to the movement of commodities for domestic use in Eastern Canada. The total average movement for both export and domestic use is 32 million tonnes but has ranged between 23 and 35 million tonnes. It is the movement under the Western Grain Transportation Act which is subject to the regulatory system we will discuss this evening, but let me first explain the physical infrastructure that supports this system.

#### PHYSICAL INFRASTRUCTURE

Farmers in Canada deliver to primary elevators located across the prairies. There are approximately 1,500 primary elevators located at 981 shipping points. The total, licensed capacity is 7 million tonnes which hardly compares to the capacity of your commercial system that totals 261 million tonnes.

It is noteworthy that both our systems have experienced considerable attrition over the past few decades. In Canada, over 50 per cent of Western grain elevators have closed in the last 15 years. Of those left, roughly 20 per cent handle half of the export grain. This would suggest that the process of consolidation will continue to be a significant factor in the evolution of the handling system.

The primary elevators are owned almost entirely by six major grain companies who also own the terminal elevators. There are a total of 18 terminal elevators in the system located at Vancouver, Prince Rupert, Thunder Bay, and Churchill.

Roughly 60 percent of Western shipments travel to the West Coast which includes the Port of Vancouver where there are 5 terminals and the Port of Prince Rupert where there is 1 terminal. The West Coast is considered to be one operational unit and contains the only ports which are open year round for Western grain traffic.

The remaining 40 percent of our movement is shipped East through Thunder Bay, Ontario and then down the St. Lawrence to open ports where the grain is transferred onto ocean-going ships. There are 11 terminals at Thunder Bay and the port operates 39 weeks a year. When the Seaway is closed for the winter but sales demand continued shipments East, the Canadian Wheat Board will operate a program to move grain through Thunder Bay to the transfer elevators by rail. It is interesting that the U.S. also uses our side of the Seaway system and at times millions of tonnes of American grain have been shipped through Canadian transfer elevators.

The other port, located in Churchill, Manitoba sits on Hudson Bay, and has one terminal. It operates just 13 weeks a year and therefore handles only a fraction of total grain shipments.

To move the grain from the country to port position, we use rail only. Unlike the U.S. we do not have the opportunity to use rivers as a competitive means of shipping grain. Our network includes 15,000 miles of track and is controlled by two railways—Canadian National (known as CN) and Canadian Pacific (known as CP). There are two experimental short-line railways and one regional railway in British Columbia, but they handle only a tiny portion of the grain movement. While the American system has seen considerable consolidation among the major rail companies and the rapid growth of shortline railways, Canada has not experienced these trends to the same extent.

Rail line rationalization is also a factor in the transportation system. In the late 1970's and early 80's, approximately 300 miles of rail lines were closed each year. Since 1984, that rate of rationalization has slowed to about 100 miles per year.

To facilitate the efficient movement of grain there is a dedicated fleet of 18,850 hopper cars. These cars are owned by the Government of Canada, the Canadian Wheat Board, and the provinces of Alberta and Saskatchewan. The railways use these cars exclusively for grain movement and use their own or lease additional cars as needed to meet movement requirements. At present, the average car cycle time for a hopper car is roughly 17.5 days to the West Coast and 14 days to Thunder

Bay. Please note, however, that during peak periods the cycle times can drop significantly. Given current turnaround times, the annual capacity of the dedicated fleet is estimated to be 31.5 million tonnes.

The Canadian government has added to this physical infrastructure a legal and regulatory environment which is quite complex.

#### CROW RATES

Dating back to the turn of the century, the Canadian government created a transportation system favourable to crop production in Western Canada. In exchange for considerable financial assistance with the construction of the Crow's Nest Pass through the Rocky Mountains, the government negotiated rates with CP for shipping grain to Thunder Bay. In the 1920's legislation extended the original rates to all shipping points on the prairies, to all railways, and to additional destination ports. Those rates were distance related and became known as the Crow Rates.

Since the rates were fixed at the same level since the early 1900's, by the time the 1960's came along the railways found grain movement less than profitable. Indeed, the average base rate under the old Crow was \$4.85 per tonne. To offset their losses, the railways received considerable assistance in various forms from the federal and provincial governments. But despite the assistance, the lack of profitability meant the grain industry received poor service and there was little attention paid to the necessary rail infrastructure.

During the 1970's when grain prices were high and world demand was strong the problems really became self-evident. The Canadian Wheat Board and private shippers complained about lost sales because the transportation system could not accommodate their needs. To deflect some of the criticism, the government created the Grain Transportation Authority in 1979. The Authority's mandate was to try and improve the effectiveness of the system by acting as a co-ordinating body and working with all system participants. The Authority was also involved in long term planning to assess the needs of the transportation and handling system. With this broad mandate, the Authority began to try and address the bottlenecks which had developed in the grain transportation system.

#### THE WESTERN GRAIN TRANSPORTATION ACT

The Authority was one step toward solving the problem. But by the early 1980's, it was clear the situation demanded new permanent solutions if Canada was to maintain its competitive position as a reliable exporter of grain. The government introduced legislation entitled the Western Grain Transportation Act in 1983. The legislation was designed to increase the freight rates so that the railways would have enough revenue to cover their costs and to maintain the grain transportation system effectively. The legislation also provided for government payments to the railways in addition to increased costs to farmers. The intent was clear that producers would be paying a growing share of rail costs over time.

I would be making an error of omission if I did not point out that the legislation was a very controversial measure and that Western farmers feel very strongly about transportation issues. Particularly because there is a tendency to see the Crow Rates as an historic right. But despite the contention, the legislation was passed, creating a new regulatory framework and a new means to calculate the freight rate for grain.

It is stated in the legislation that it is, "An Act to facilitate the transportation, shipping and handling of western grain and to amend certain Acts in consequence thereof." The intent was to ensure the equal access of ALL producers to the grain transportation system. The Act provided for a co-ordinating body to oversee the grain transportation system by establishing performance objectives, monitoring system performance, and creating a system of notional penalties for poor performance. There is also provision for long term system planning under the Act. The Act stipulates the terms under which incentive rates can be used by the railways and that all such rates must be published. It also created the Senior Grain Transportation Committee to advise the Minister of Transport on any and all matters concerning Western grain transportation. The Committee is comprised of members representing all facets of the industry, including 9 elected producer representatives. Finally, and most importantly, it outlined the freight rate setting process which we will discuss later.

#### THE GRAIN TRANSPORTATION AGENCY

The co-ordinating body provided for in the Act became the Grain Transportation Agency of which I am Administrator. The Agency was built upon the Grain Transportation Authority but now has legislated powers and reports directly to the Min-

ister of Transport. The Act states that the Administrator shall exercise his powers in such a manner as to facilitate the movement of grain and to ensure that the grain transportation system is efficient, reliable and effective with the objective of maximizing returns to producers.

That is a pretty broad mandate and leads to a variety of activities. However, at all times the role of the Agency is to act as a co-ordinator for the grain transportation system. We are NOT regulators. Instead we work co-operatively with all parts of the industry to make the system work as effectively as possible.

One of the advantages of the Agency is that we are a neutral body (since the Agency is not itself a grain shipper) and we are therefore able to allocate rail cars equitably to all shippers—including the Canadian Wheat Board, the 8 major grain companies, and other smaller companies involved in grain marketing. Rail cars are a finite resource and there are inevitably more requests for cars to move grain than there are rail cars available. The Agency works with the railways and shippers to assess the car supply available for loading in the country, and then divides the supply fairly between the shippers based on their sales. The goal is to ensure that the right grain is in the right place at the right time.

The first step in this process is to assess the car supply. This is done by analyzing the current grain stocks at each port, the number of rail cars carrying the grain, the rail car unloads, and the arrival pattern for vessels at the port. Based on this information, the GTA, in conjunction with the railways and the Canadian Wheat Board, determines the total number of cars that will be loaded at country elevators, and breaks these down by port.

The second step in the process is to divide the rail cars between Board and non-Board grains.

After the division is made between the Wheat Board and the industry, it is necessary to allocate cars to the individual grain companies. These decisions are based on export sales, terminal authorization, or country handling percentages.

The other type of cars to be allocated are producer cars, which are allocated directly to and loaded by producers. Applications for producer cars are approved by the Canadian Grain Commission.

Following this initial allocation, the Wheat Board allocates cars to individual Board grains, and private companies assign their non-Board grain orders to specific elevators. The Wheat Board attempts to accommodate these requests as it works with the railways to assemble train runs. The last step in the allocations process is the assembly of train runs and the placing of orders for car loading. Then the process begins again as each week there is a new assessment of car availability and new sales to meet.

We also operate port offices in Thunder Bay and Vancouver which help to maximize the effectiveness of the port by ensuring a fair and efficient flow of grain through the rail and terminal facilities. To accomplish this the port co-ordinators establish daily and weekly plans that work towards achieving the unload entitlements for each terminal and railway. This is done in consultation with the terminals and railways through weekly operations meetings chaired by the port co-ordinators. The co-ordinators also administer interchange agreements between the railways to allow for the effective switching of cars between companies as needed to service the port.

The other way in which efficiency is maximized is pooling. Although a company may have loaded a specific car in the country that car becomes part of entire system. At the terminals the companies are entitled to the number of cars they loaded of a specific grain but they will not necessarily get the car that was loaded at their elevator in the country. The pooling of cars results in far more efficient use of port facilities and eliminates a lot of need for rail car switching.

Our other responsibilities include administering the fleet of government-owned hopper cars. The Agency negotiates with the railways for use of the cars under certain conditions. It also administers the apportionment, or division, of the cars between the railways. Recently the Agency has been arranging alternate use agreements with the railways. This allows the railways to lease the cars, when they are in surplus, for the movement of grain to Eastern Canada and the United States.

Administering the System Improvement Reserve Fund is another function of the Agency. The fund was created to promote rationalization of high cost branch lines by offering producers alternate service programs. Affected producers may apply for either an off-track elevator program where the elevator remains open for a period of three years after the closure of the line or a producer trucking program. By reducing the number of high cost branch lines, it is possible to make significant reductions to overall system costs.

One of the most important tasks of the Agency, as outlined in the Act, is system planning. Short, medium, and long term planning are all essential to maintaining

the viability of the system. To achieve this there are several economists on staff who keep the entire system under constant scrutiny. They analyze everything from rail car capacity to volume forecasts for the freight rate setting process. All this is in an effort to assess what demand will be in the future and the best means to meet that demand.

This involves long term planning such as projecting the future demand at the West Coast relative to its current capacity. There have also been studies on the future needs for rail cars. For the more immediate term, the Agency develops a Three-Month plan which outlines guideline unloads for each week and a tonnage target for each month. The railways and terminals try to meet these targets and the Agency monitors performance relative to the guidelines. If performance targets are not met a performance review is conducted to assess where the system fell short and what improvements can be made in future to avoid the identified problems.

All of the Agency's efforts are designed to maximize the efficiency of the grain transportation system and thereby increase returns to farmers. In fact, in Canada our ten-year average production is up by 27 percent. Our exports are up by 40 percent, and at the same time, we are delivering to 49 percent fewer primary elevators which have 25 percent less capacity. We are exporting through three fewer terminals which have 3 percent less licensed capacity. This would seem to indicate that co-ordination has helped to increase the effectiveness of the system. It also allows us to maintain, as much as possible, a just-in-time practice for inventory management.

#### REGULATION OF THE RAILWAYS

The Western Grain Transportation Act and other legislation has also created a regulatory environment which is very demanding of our railways. Both CN and CP have their annual investments in grain transportation monitored by the federal government. In addition, they are prohibited from abandoning any of their high cost branch lines until the year 2000, unless given special permission under an intensive regulatory process. Another government body called the National Transportation Agency reviews railway costs in great detail every four years to ascertain the accuracy and legitimacy of railway costs for the purposes of calculating the freight rate.

Dr. Bill Wilson of the University of North Dakota, an agriculture economist, has noted the, following factors have had a dramatic impact on U.S. grain transportation:

- increased freight rate flexibility,
- easier abandonment of unprofitable operations, and
- legalized negotiation of confidential contracts between railroads and shippers.

In Western Canada, our regulatory system sets the freight rate, impedes branch line abandonment, strictly regulates incentive rates to shippers, and expressly prohibits privately negotiated contracts between carriers and shippers for the movement of grain in Western Canada.

As a result, there has not been the proliferation of multiple-car rates and unit trains which has been experienced in the U.S. American carriers have provided significant financial incentives to encourage the use of these efficient methods of shipping grain and the result has been savings to shippers. The absence of large scale use of these methods in Canada may be reflective of the differences in our systems. While Canada has an orderly, well-managed, just-in-time system, the U.S. benefits from certain economies of scale and price reductions. There are advantages to each approach.

#### FREIGHT RATES

As already mentioned, the government sets the freight rate which will be paid to the railways for moving grain. The freight rate setting process is actually extremely complex but let me give you a broad overview. The rate is distance-related and is set annually by calculating the costs of grain movement for the railways related to the estimated volume of movement for the coming year. The costs are then divided to give a freight rate for each prairie delivery point.

That is the quick explanation but let me delve into more detail. Under the current system, the National Transportation Agency sets the freight rates for each year. They conduct costing reviews of the railways every four years. These reviews assess the actual costs which the railways incur to ship Western grain. The last costing review was based on 1988 costs and until the next review of 1992 costs, projections are made annually for any increases or decreases to these costs, which are then incorporated into the rate.

These costs are divided between the volume-related costs, which are the costs associated with moving grain (such as fuel), and line-related costs, which are the in-

infrastructure costs associated with a rail line (such as track maintenance). The railway costs are calculated as follows:

- a) Base Year Costs—these are the actual costs calculated in the costing review.
- b) Volume Output Index—this represents changes in the volume of grain to be moved relative to the base year volume.
- c) Grain Dependent Branch Line Mileage—this generally results in a decrease to the base year line-related costs due to branch line rationalization.
- d) Composite Price Indexes—this index recognizes the changes in prices the railways will pay for costs such as labour, material, and fuel.
- e) Contribution to Constant Costs—is calculated at 20 percent of volume-related costs and represents a contribution to the costs that exist to maintain a railway regardless of the volume of grain shipments. Examples include taxes and administration costs.

These items are amalgamated to arrive at the total estimated eligible railways costs. This sum is then incorporated into the calculation of the freight rate multiplier. The freight rate multiplier is equal to the total eligible rail costs, less the CN Adjustment, divided by the Base Rate Revenues. The total eligible rail costs have already been discussed. The CN Adjustment is paid to the CN railway company to account for the additional distance CN must travel to Prince Rupert and to cover the additional line-related costs associated with the Churchill route. The difference of these two is divided by the Base Rate Revenues, which are revenues the railways would have received under the base rate scale developed from the old Crow Rates.

The resulting freight rate multiplier is a ratio which is used to adjust the old base scale rate for each delivery point. This makes the freight rates distance-based.

The freight rate must then be divided into the shipper and government share. The federal share is calculated as a percentage and then the remainder is paid by shippers. In 1981-82, the losses incurred by the railways were calculated at \$658.6 million. This became a fixed sum known as the Crow Benefit and there was a commitment by the government to pay this sum annually to the railways under the Western Grain Transportation Act. In addition, there are some provisions for increases to the payments due to inflation sharing on railway costs. As a result, the government commitment was \$721 million last year. However, producers are paying an increasing proportion of the freight rate as costs rise but the government share remains essentially constant based on the fixed Crow Benefit. While the producer share may be rising I should point out that the total freight rate, if indexed in 1983 dollars, has been dropping.

To give you an example of average costs paid by Canadian farmers, let's look at the rates paid to ship through the Western and Eastern systems. These figures are taken from the prairie mid-point at Reford, Saskatchewan where the costs are equal to ship either West or East. The handling fees at the primary elevator are \$15.58 and the shipper share of the rail freight is \$11.07. At the port, the terminal costs are \$7.09. The total paid by the shipper is then \$33.74, but in addition the federal government pays \$21.10 of the rail costs. The total is then \$54.84 to ship one tonne of grain to the West Coast.

To ship East you will note that the handling and rail costs, as well as the federal government share, remain the same. What is added are the costs of shipping down the Seaway and paying the second elevation fees at the transfer elevator. These additional costs for Board grains (ie. wheat and barley) are paid by the Wheat Board and pooled among all western farmers. In total, shipping through the Eastern system costs \$72.73 per tonne to reach an ocean going vessel.

#### TRANSPORTATION TALKS

Now that I have given you an overview of the existing system for western Canadian grain transportation, I must tell you that this system is under review. I know the previous speaker has already explained the Transportation Talks process where extensive meetings with prairie farmers have been held to discuss transportation issues.

As he noted, the report on these consultations will be forthcoming and may lead to some policy changes such as the method of paying the Crow Benefit. The federal ministers have indicated that the GATT talks and other issues have necessitated reexamining some transportation issues but no conclusion has yet been reached.

#### CONCLUSION

The Canadian system has both its faults and its successes. We have a highly regulated system which maximizes our existing resources in many ways, yet it does not encourage certain efficiencies which Americans have gained through multiple-car rates and unit trains. Comparing the two systems is not easy due to the differences

in geography, competition, and structure. However, I believe that the Canadian system benefits from its just-in-time policy and the c3 ordination which maximizes the use of our existing infrastructure. The challenge is to continue to run the system as effectively as possible while remaining open to cost-reducing innovations such as larger car spots. I hope this overview has given you a better understanding of the way the Canadian system operates and I look forward to answering your questions.

#### PREPARED STATEMENT OF THE RAIL SUPPLY AND SERVICE COALITION

The Rail Supply and Service Coalition (RSSC) is a national coalition of the country's major railroad and transit contracting and supply companies. These companies are represented by five organizations that govern RSSC activities: National Railroad Construction & Maintenance Association; Railway Engineering—Maintenance Suppliers Association; Railway Progress Institute; Railway Supply Association; and Railway Systems Suppliers.

Together these associations represent more than 1,300 companies located in 45 states. They employ more than 150,000 individuals and account for over \$13 billion in economic activity.

The majority of RSSC companies are small and medium size businesses. RSSC was formed to give a collective voice to those businesses as government makes important decisions concerning transportation policy.

The federal government is on the threshold of making just such a decision with regard to the development of high-speed rail. While developing a successful high-speed rail system will be a lengthy process, the decisions the government makes at the outset of that process may well determine high-speed's success or failure. We hope the Subcommittee will consider three points as it makes these important initial decisions.

First, a high-speed passenger rail system has an important role to play in our national transportation network. An increasing number of public and private studies have documented that high-speed rail offers energy savings, reduced pollution, increased safety, land conservation, reduced highway congestion and reduced highway repair expense. These are important public benefits that should not be ignored as the government makes its investment decisions.

Much has been made of the new "flexibility" in the Intermodal Surface Transportation Efficiency Act of 1991 which authorizes over \$153 billion for highway, transit and intermodal projects. While the legislation may represent a first step in the right direction, it is a very tentative step. The overwhelming majority of the funds are still devoted to highways. We concur with the recent Government Accounting Office (GAO) study High Speed Ground Transportation—Financial Barriers to Development that, "it is unlikely that any major high speed ground transportation projects will be built if developers must rely primarily on private capital." We are not suggesting increased federal spending, but more balanced federal spending.

Second, given the federal deficit situation and the limited spending currently being proposed, we believe it is wasteful to devote resources to exotic technologies such as magnetic levitation (maglev). The dollar differences are huge. According to the GAO study, the capital costs of achieving high speed operations would range from \$2.7 million per mile for incremental improvements on existing track to as high as \$60 million per mile for a maglev system. Likewise, operating and maintenance costs are estimated to be 20 percent higher for a maglev system versus a conventional high speed system.

By way of perspective, we could upgrade the entire Detroit to Chicago high-speed corridor to 110 MPH for what the Congress recently appropriated through the Trust Fund and General Revenues to undertake a five year maglev prototype development program.

The issue is not only one of dollars but timing. Today's freight rail network is in place. Speeds already approach 80 MPH on some segments. The Association of American Railroads has approved a policy statement indicating the freight railroads' willingness to cooperate in the extension and advance of high-speed service over their rights-of-way. Incremental improvements to the roadbed, signal systems and grade crossings can be quickly achieved and bring immediate increases in speed. The successful development of a maglev system would require substantial research and development, lengthy delays to identify, purchase and permit new rights-of-way and a significant construction period.

It is argued by some that maglev investment could generate new jobs in a new high-tech industry. While that may be, the alternative "incremental" approach supported by RSSC is no less important a source of jobs, and that fact should not be overlooked by the government. The companies represented by our organization will

supply the majority of materials and labor needed to build a high-speed rail system over the existing rail network. While these jobs may not have the glamorous appeal associated with a new, exotic technology, they are jobs nonetheless. Moreover, these are jobs that can be created quickly as there is a very short startup time required for these "incremental" improvements.

Third, if high-speed rail funding is to remain as limited as it is today, we should concentrate that spending on a limited number of projects. Each successful high-speed corridor will demonstrate the advantages of high-speed rail and generate increasing public support for expanding on that success. Yet, even the so-called "incremental" approach is an expensive proposition. If existing limited resources become a pot out of which every congressional district dips for its "fair share", then the effectiveness of these resources will be greatly diminished and individual project successes will come slowly if at all. We encourage the Congress to target available resources to a limited number of projects that meet objective criteria for success.

It will come as no surprise to the Congress that RSSC members have a strong self-interest in the development of high-speed rail. Our companies will benefit from increased investment in the nation's railroad infrastructure.

However, as individuals who have devoted their professional careers to building and supplying the railroad industry, we believe we also bring experience and a unique perspective to this issue. Collectively our companies are responsible for the industry's construction, manufacturing, research, testing and product application. We are the source of significant research funding for new and innovative rail technology. We develop the services and equipment to make rail operations safer, more productive and more profitable.

In short, we understand the industry, how it grows, what works and what doesn't work. We believe the potential exists to build a successful and safe high-speed rail system and we believe our companies can make an important contribution to both the planning and implementation of that effort.

We appreciate the opportunity to share our views with the Subcommittee and would welcome the opportunity to provide further information.

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LETTER FROM ANTHONY GARRETT, EXECUTIVE DIRECTOR, CITIZENS FOR RELIABLE  
AND SAFE HIGHWAYS

MAY 20, 1993.

Mr. CHRISTOPHER MCLEAN,  
U.S. Senate,  
Washington, DC 20510

DEAR CHRISTOPHER: Although we neither support nor oppose the North American Free Trade Agreement, CRASH is very concerned about the possible truck safety implications of the pact.

We have prepared a summary of the truck safety issues presented by NAFTA. BRASH spent hundreds of hours on this research, and we believe it is thorough and well-documented. am pleased to enclose this "white paper" for your review; I hope you will take a moment to look it over.

Thank you.

Sincerely,

ANTHONY GARRETT,  
*Executive Director.*

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[Citizens for Reliable and Safe Highways' report on NAFTA may be found in the committee files.]

PREPARED STATEMENT OF SAUL N. RAMIREZ, JR., MAYOR, LAREDO, TX

My name is Saul N. Ramirez, Jr. I am the Mayor of Laredo, Texas, a city of 140,000 on the U.S.-Mexico Border and the fastest growing city in Texas. I am also the President and a founder of PRO-NAFTA. PRO-NAFTA is an organization led by U.S. local elected officials which has as its goal helping other officials realize the positive economic opportunity that the proposed North American Free Trade Agreement provides—not just for the border regions but for the entire country. PRO-NAFTA is also dedicated to obtaining investment in public infrastructure to support the increased economic activity that NAFTA will generate. We believe that a key part of realizing this opportunity is adequate investment in transportation, communications and environmental infrastructure by both the United States and Mexico.

This necessity was acknowledged by the House Committee on Appropriations, which directed the Department of Transportation to give special consideration to the infrastructure and transportation needs of the border area in allocating its discretionary funds for fiscal year FY1993.

The City of Laredo is the largest inland port in the United States, and its trade and commerce statistics are indicative of the booming commercial activity along the entire U.S.-Mexico border. If you look at the attached map showing Laredo's strategic location, you can see how we serve as the gateway for international trade with the south for all of the eastern half and middle of this country. Sixty percent of the truck traffic going south from the United States into Mexico goes through Laredo. After Mexico signed the General Agreement on Tariffs and Trade (GATT) in 1986, truck traffic going south increased dramatically. In 1986, 236,000 trucks went into Mexico through the Port of Laredo. The figure for 1992 was 652,731. We project 772,000 trucks will go through Laredo southbound into Mexico in 1993. These figures represent a 227 percent increase in traffic southbound or a 28.3 percent average annual growth rate between 1986 and 1992.

Similar increases are occurring northbound. According to U.S. Customs Service statistics, 178,151 cargo-carrying trucks were inspected crossing from Mexico into the U.S. through Laredo in 1991 and 205,771 were inspected in 1992. This is an average increase of over 75 trucks a day. An additional 225,864 northbound empty tractor trailer trucks were recorded by Customs as crossing into the United States through Laredo, for a total of 438,651 truck crossings into Laredo from Mexico in 1992.

These are the numbers before implementation of the North American Free Trade Agreement. The increases will be even sharper once that happens. For example, beginning in the first year of the agreement trucks from each country will be able to travel all of the way into the Mexican and U.S. border states instead of being confined to a narrow border area. This will greatly reduce the number of empty crossings and increase business for U.S. truckers.

Laredo is also the major U.S. inland port for rail freight movement into Mexico. Railroad car crossings southbound into Mexico through Laredo increased from 28,000 in 1986 to 108,000 in 1992—an almost 300 percent increase in the six year period. Similar increases are seen northbound. 89,921 rail cars arrived from Mexico through Laredo in 1991. 101,976 arrived in 1992, and 43,628 in the first two months of 1993.

At Laredo International Airport, 5,316 aircraft arrived from Mexico in 1992. In the first two months of 1993, 1,860 aircraft arrived. At that rate the 1993 figures will show a doubling of aircraft arrivals in one year. Passenger enplanements have increased from 25,093 in 1987 to 99,020 in 1992, and deplanements increased from 22,719 in 1987 to 84,566 in 1992. Cargo activity totalled 84 million pounds of gross landed weight in 1992 and is projected to double in 1993, based on current scheduled service. During 1989 only 84 airports nationwide handled in excess of 100 million pounds of gross landed weight. Laredo is poised to join this group during 1993.

In spite of what one of my fellow Texans has said, the sound we hear in Laredo is not the sound of jobs going south but the sound of U.S. owned trucks driven by U.S. drivers carrying U.S. materials, parts and products, made in U.S. cities and counties by U.S. workers in U.S. owned businesses. The sound we hear coming north is the cash register ringing in the U.S. Department of the Treasury and in businesses all across the country that are making profits and creating jobs at home from increased trade with Mexico.

The Port of Laredo generated \$191 million in duties collected and deposited in the U.S. Treasury in 1992. This is up from \$151 million in 1991—an increase of 26 percent in one year alone.

I must emphasize that the smooth movement of goods through Laredo not only benefits border areas and Texas in particular, but the entire country. A survey by the Laredo Development Foundation in 1989 showed that 19 percent of the trucks going southbound through Laredo carried cargo that originated in the Southeast region of the United States, 38 percent originated in the Northeast, 30 percent in the Central region, and only 7 percent in the Southwest and 5 percent in the West. In states all over the country the percentage of exports to Mexico has risen immensely from 1987 to 1991. According to figures compiled by the U.S. Department of Commerce, these include Georgia, up 249 percent; Massachusetts, up 130 percent; Alabama, up 89 percent; Minnesota, up 141 percent; Iowa, up 64 percent; Virginia, up 256 percent; and Oklahoma, up 82 percent, to name a few.

Businesses located in Maryland did \$51 million worth of export trade to Mexico in 1991, according to figures compiled by the International Trade Administration of the U.S. Department of Commerce. Maryland's exports to Mexico grew 198 percent from 1987 to 1991, 109 percentage points faster than export growth to the rest of

the world. I have attached to my testimony more detailed information on these increases from the ITA's most recent report.

We in Laredo will be one link, but all the pieces of the chain will come from throughout the country. As an example, the Wal-Mart located in Laredo, Texas, which serves a primarily Mexican market, has the highest sales volume of any Wal-Mart store in the United States. Wal-Mart Stores' corporate headquarters is in Bentonville, Arkansas. We derive benefit from sales taxes and employment, but the toys, appliances, clothes and other accessories sold there are made in many cities throughout the country. Wal-Mart's experience in Laredo is duplicated by other American retail giants such as Sears (headquartered in Chicago), Montgomery Ward, and J.C. Penny (Dallas). This kind of activity will be multiplied many fold if the North American Free Trade Agreement is approved.

This concludes my testimony. Again, I seek your support for the North American Free Trade Agreement and thank you for the opportunity to testify before you today. We look forward to working with you.

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LETTERS FROM LARRY THORNTON, GENERAL CHAIRMAN, JOINT PROTECTIVE BOARD  
No. 60, BROTHERHOOD RAILWAY CARMEN DIVISION, TRANSPORTATION COMMUNICATIONS INTERNATIONAL UNION

APRIL 29, 1993.

Senator ERNEST F. HOLLINGS,  
U.S. Senate,  
Washington, DC 20510

HONORABLE SENATOR HOLLINGS, SIR: In addition to the attached questions, before this committee, I would like the following statement to be made part of the record.

The fact that Canadian National Railroad, is owned by the Canadian Government, and the GTW RR is owned by CN RR by the CN RR ownership of Grand Trunk Corporation, which owns Central Vermont RR and the DWP RR, appears to be quite an international mess. This appears to equate to the fact that we as Americans are indeed somewhat controlled in our livelihoods by a Foreign Governments Parliamentary Laws and rules.

The GTW I owns Domestic Three Leasing Company, who has as a partner, Helms Leasing Company. The work done at the GTW RR Facility in Battle Creek, MI. (Heavy Locomotive Engine Repair) is the work supposedly done for Helms Leasing. GTW Carmen and Machinist and Electricians do the work. How does GTW I have a profit and GTW II always claim losses?

It is my understanding that Canadian National Railroad owns some interest in Burlington Northern Railroad. If so how far does the Canadian Government's arm of ownership and control go in Transportation in this country?

Again I thank you for your interest and attention.

Sincerely,

LARRY THORNTON.

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APRIL 29, 1993.

Senator ERNEST F. HOLLINGS,  
U.S. Senate,  
Washington, DC 20510

HONORABLE SENATOR HOLLINGS, SIR: Sir, the following questions noted below, I would like to be addressed at the meeting on NAFTA, and made a record of, in the meeting.

*Concerning Canadian Government ownership of railroads in the U.S.*

1. Is it legal for any Foreign Government to own a railroad in this Country? If so what specific law allows this? Can they own a series of railroads and companies?

2. Does the Grand Trunk Western receive tax breaks and or grants, because they are a losing Railroad? GTW RR is owned by Canadian National Railroad, and the Canadian Government owns CN RR.

3. GTW RR is split into two companies, GTW I and GTW II. GTW II is a losing RR. GTW I is a profit making Company. GTW I owns Domestic Three Leasing Company which owns Helms Leasing Co. Just how many companies are owned in this spinoff operation?

4. The Canadian National is now running some trains through the tunnel at Port Huron, MI without stopping for ERA Inspections by our Carmen. Our concern is that given the past record of CN RR in Port Huron, MI and in St. Albans Vermont,

we fear for the Road Crews and the Public Safety, if our Carmen are not allowed to inspect these border crossing trains.

5. Is it legal for the Canadian National RR through Ownership of GTW RR, to close down a Carshop in Toledo Ohio, then Lease to an outside Company, still GTW owning the Facility, where the General Electric Car Repair does the work our Carmen used to do? Note: These outside people do not pay Railroad Retirement tax, but do our work.

Thank you Sir, for allowing these questions to be before your Committee.

Sincerely,

LARRY THORNTON.

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LETTER FROM MADISON ANGELL, PRESIDENT, NATIONAL ASSOCIATION OF WHEAT GROWERS

APRIL 29, 1992.

Honorable ANDREW H. CARD, JR.  
U.S. Department of Transportation,  
Washington, DC 20590

MR. SECRETARY: I am writing to convey to you our transportation concerns with regard to a North American Free Trade Agreement.

By way of introduction, the National Association of Wheat Growers is a membership organization representing producers in nineteen states of the Great Plains, Pacific Northwest, Southwest and Southeast. Regionally, our grower members produce six different classes of wheat for specific end-uses such as breads, pastas, cakes, crackers, noodles and pastries. On average about one-third of our annual crop is marketed domestically while the remaining two-thirds are sold to customers in over eighty foreign countries.

Given our industry's dependence on exports, the NAWG is generally supportive of efforts to expand trade. We are particularly interested in a successful conclusion of the NAFTA negotiations.

Despite the potential for a positive outcome, the NAWG has some very serious reservations about the NAFTA talks, especially in the area of transportation. We are firmly committed to a final NAFTA outcome which would expressly prohibit Canada from landing grain in Mexico at prices lower than a comparable movement from the United States.

Mexico represents a good market opportunity for U.S. wheat producers. Over the last five years, Mexican wheat imports have averaged about 625,000 mt per year. Traditionally, the U.S. share of this business has been around 65 percent and the Canadian share has been closer to 20 percent. However, in 1991/92, Canada has captured more than 72 percent of the Mexican wheat market. While much of this is due to predatory pricing by the Canadian Wheat Board, we believe the transportation factor also needs to be closely examined by the United States.

To this end, we direct your attention to two disturbing problems which must be addressed in the NAFTA talks: Canadian transportation subsidies and Canadian investment in U.S. railroads.

1. *Canadian Transportation Subsidies:* The U.S.-Canada Free Trade Agreement allows for the continuation of Canadian rail freight subsidies on exported wheat to third countries in competition with the United States. Admittedly, the U.S.-Canada FTA eliminated the use of agricultural export subsidies for bilateral trade, including export subsidies on Canadian agricultural goods shipped to the U.S. via west coast ports. We are not satisfied that the U.S. is adequately monitoring such exports. Nor are we satisfied by the FTA's treatment of eastbound rail freight subsidies. U.S. negotiators agreed to permit subsidies on shipments through Thunder Bay because the rate applied to such cargo is the same regardless of destination. Unfortunately, more grain moving east is destined for export than for domestic use. We strongly believe that the WGTA subsidies on Canadian wheat entering the United States constitute de facto export subsidies which are in direct violation of the letter and spirit of the agreement.

Not only does the Administration need to plug the loophole that permits Canada to subsidize grain into the United States, but a mechanism must be put in place to prevent Canada from using subsidized transportation into Mexico. We demand "transportation transparency" on shipments moving westbound and eastbound into or through the United States.

2. *Canadian Purchases of U.S. Railroads:* U.S. wheat farmers are also concerned about recent Canadian purchases of U.S. railroads. The Canadian Pacific railroad has taken over the Soo Line which operates in North Dakota, Northern Illinois,

Minnesota, Northern Iowa, and Wisconsin. We are also troubled by the rumor that the Canadian National Railroad has designs on a southern U.S. line which, if true, would give the Canadians access to the Mississippi River and hence the Gulf of Mexico. America's farmers will not permit the U.S. to become a "land-bridge" for Canadian sales into Mexico or destinations such as Cuba and other locations in Central and Latin America.

Therefore, we request an accounting from the Department of Transportation on the level of Canadian involvement in U.S. rail transportation and the conditions of competition between the U.S. and Canada on transporting bulk freight into Mexico.

Quite often our concerns about the specific unfair trading practices of competing exporters are put off by guarantees from the Administration that they will be handled within the GATT. Having seen the Dunkel draft, we know that this is not true. That notwithstanding, we believe that the terms of the NAFTA agreement should be better than those being negotiated in the GATT. Unfair and predatory prices have no place in a free trade zone. The Administration should do everything to prevent the continuation of policies that disadvantage U.S. producers.

I thank you for your attention to our concerns and I look forward to hearing from you soon.

Sincerely,

MADISON ANGELL,  
*President.*

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#### QUESTIONS ASKED BY SENATOR EXON AND ANSWERS THERETO BY MR. HARPER

*Question 1.* How would you characterize oversight and safety enforcement by the Mexican government of its trucking, rail, and bus industries?

Answer. Mexican enforcement of safety and other trucking industry standards falls short of U.S. norms in several areas. As I noted in my original testimony, Mexico has far higher weight limits than the United States. Twin trailer "Rocky Mountain Doubles" can operate legally at weights of up to 170,000 pounds, and even single 48-foot combinations can operate at weights of up to 91,400 pounds. Mexico also has higher axle weight limits, allowing single axles at 22,000 pounds (the U.S. interstate limit is 20,000 pounds) and tandems at 39,000 pounds (the U.S. limit is 34,000 pounds). The higher Mexican axle weights—even at legal levels—lead to greatly accelerated road deterioration.

The Mexican truck weight problem is compounded, however, by the fact that Mexico does almost no enforcement of its already very high truck weight standards. Loads of forty tons or more are common, according to a September 1990 study by Laredo State University. In his April 29, 1993 statement to the House Public Works Committee, Byron Blaschke, Deputy Executive Director of the Texas Department of Transportation stated that:

According to the Texas Department of Public Safety, Mexican vehicles are consistently weighed [in Texas] with gross weights ranging from 100,000 to 140,000 pounds.

Mr. Blaschke goes on to note that the overweight issue is one which "greatly concerns us" because of the exponential relationship between weight and pavement damage.

Mexico also has more lenient standards than the United States in several other key areas. Mexico allows a one axle "brake exclusion" that, in practice, means that front axles in many cases lack any braking ability. According to the National Transportation Safety Board, the lack of front brakes can reduce the stopping ability of a combination truck and increase its susceptibility to jackknifing.

Mexico also has no hours of service (maximum driving time) regulation or random drug testing.

The age of the Mexican truck fleet also raises potential safety concerns. Mexican trucks average 15 years versus a U.S. average of 4.5 years. Older trucks may be in poorer physical condition, increasing the risk of accident.

Because Mexico operates a nationalized railroad system, safety regulation is not comparable to that in the United States. While there is no Mexican equivalent to our Federal Railroad Administration, the railroad self-enforces safety and safety inspectors are held accountable for errors. The Association of American Railroads does not have access to safety statistics for the Mexican railroad system.

AAR has no information about Mexican bus safety enforcement.

*Question 2.* Mr. Maas further testified to the concern of the wheat growers over the spread from Mexico of the wheat disease karnal bunt. How do you reconcile the need for stepped-up inspection procedures to counter new threats such as this with

the desire of Canada, Mexico, and the United States to eliminate border congestion and speed up traffic flow?

Answer. Karnal bunt is not a new disease in Mexico. USDA inspections have been successful in preventing its spread to the U.S. Although USDA inspection practices seem to differ from one border crossing to the next, official policy, in effect since May 1, 1989, is not to inspect U.S. grain hopper cars for contamination upon return from Mexico if (1) the car carried U.S. grain to Mexico, (2) the car was not used for any other purpose in Mexico, and (3) the car was not in Mexico more than 25 days. This policy has both protected the U.S. wheat crop and eased border crossing delays.

*Question 3.* Mr. Maas indicated his concern on behalf of the wheat growers over the level of Canadian involvement in the U.S. rail industry. Could you please describe for the Committee the level of that involvement as you understand it? Does this involvement have any implications for U.S. rail labor or U.S. shippers?

Answer. Both major Canadian railroads own railroads within the United States. CN North American is comprised of the Canadian National Railway Co. (a trans-continental railroad in Canada) and three U.S. railroads: the Grand Trunk Western Railroad of Detroit, Michigan, the Central Vermont Railway of St. Albans, Vermont, and the Duluth, Winnipeg and Pacific Railway of Superior, Wisconsin. CP Rail System owns the Soo Line of Minneapolis, Minnesota and the Delaware and Hudson of Clifton Park, New York.

The U.S. companies employ U.S. workers represented by U.S. labor unions. They pay U.S. Railroad Retirement taxes and conform their labor relations practices to the U.S. Railway Labor Act.

AAR has no information as to whether this Canadian involvement has any implications for U.S. shippers.

*Question 4.* At the Committee's 1988 hearing on the Canadian Free Trade Agreement, concerns were raised about how that Agreement might aggravate the endemic rail car shortage. Has the Canadian Free Trade Agreement had any effect on the supply and utilization of grain cars? Will NAFTA adversely affect rail car supply?

Answer. The Canadian Free Trade Agreement has not had a discernible impact on the supply of rail cars for the movement of grain in the United States. The reason for this is that, while tariffs generally are being eliminated on an accelerated schedule, U.S. Customs entry procedures constitute a barrier to the free and efficient flow of equipment. This costly bureaucratic exercise has the effect of precluding use of Canadian built hoppers by U.S. railroads during sporadic periods of tight car supply. U.S. Customs has determined that legislation is necessary to eliminate the entry procedures.

*Question 5.* Canadian rail subsidies have an effect on the competitiveness of U.S. wheat exports and domestic uses. Have these subsidies had a competitive effect on the U.S. rail industry?

Answer. It is fair to say in general that government subsidies distort free market forces. Canadian wheat growers and U.S. wheat growers receive government subsidies. In the U.S., these subsidies take the form of price supports and export enhancement programs. In Canada, pursuant to the Western Grain Transportation Act (WGTA), they take the form of payments to rail carriers to reduce the costs of bringing wheat to ports.

Under a provision of the U.S./Canada Free Trade Agreement, the WGTA subsidy to which your question refers was allowed to remain in force for sales within North America transported through Thunder Bay or Armstrong, Ontario. This was challenged by the U.S. growers before a bi-national panel established by the Agreement, but the panel upheld the Canadian position. The Canadian Government has introduced legislation pursuant to which the WGTA transportation subsidy is scheduled to be phased out over four years beginning in 1994 and will be replaced by direct payments to producers.

The Canadian rail industry believes that U.S. railroads have benefited from the export programs of both countries. As U.S. wheat producers have had markets created for their wheat offshore as a result of the U.S. Export Enhancement Program, resulting demand in the U.S. domestic market is "back-filled" by Canadian producers. U.S. railroads participate in both movements. According to the Canadian railroads, if the U.S. export subsidies were terminated, there would be no Canadian grain shipped to the U.S. regardless of the Canadian subsidy program.

On the other hand, the U.S. railroads believe that absent the Canadian subsidy and the attendant requirement that Canadian grain entering the U.S. move through Thunder Bay or Armstrong, Ontario, U.S. elevators could compete more aggressively with Canadian elevators. As a consequence the grain could then be handled via different routings by U.S. railroads.

There is no reason to believe that NAFTA will adversely affect grain car supply. To the contrary, the railroads expect NAFTA to produce greater cooperation and coordination between and among U.S. and Mexican customs and USDA and its Mexican counterpart. Improved coordination would serve to speed the return of empty U.S. hopper cars. This in turn would allow more efficient utilization of the fleet, thereby increasing car availability.

#### QUESTIONS ASKED BY SENATOR HOLLINGS AND ANSWERS THERETO BY MR. KAISER

##### *Question 1. Enforcement*

**Answer.** The question of safety enforcement and oversight of Mexican commercial motor carriers by the Government of Mexico is one in which UBOA, ABA and I personally, feel unqualified to characterize. We are aware of the level of Mexican Government oversight of foreign vehicles which can best be characterized as "stringent." We also are aware of the recent implementation of "CDL-level" standards of qualification for commercial drivers there, and the Mexican Federal Government's adoption of common vehicle safety standards which are compatible with the "North American Standards" used as the basis for U.S. FHWA and Commercial Vehicle Safety Alliance (CVSA) vehicle safety criteria.

We believe that more salient in this discussion, however, are these factors:

- The current NAFTA proposal does not increase, decrease or change in any way the standards of vehicle safety, driver qualification or operating rights in the U.S., Mexico or Canada. Nor does it attempt to impose on any participating government a mandate to increase or decrease its oversight of any carrier, either domestic or foreign. In other words, passage of the NAFTA will neither help or harm Americans operating in Mexico or Mexicans operating in the U.S. in regard to safety.

- The Memorandum of Understanding (MOU) signed by the United States and Mexico in December of 1990, and its successor agreement now awaiting signature, both of which were explained in our primary testimony, do establish common vehicle, driver certification and operating rights criteria for American and Mexican carriers who wish to operate within the boundaries of the other nation. Additional MOU's between the transportation agencies of both nations also exist to cover those areas. As such, removal of motorcoach language from the NAFTA—leaving these MOU's and successor agreements as the only operating outlines for common standards—might prove far more beneficial to the governments and operators of both nations.

##### *Question 2. Safety Issues*

**Answer.** While we believe that the issues of predatory competition in regular route service is of primary concern to the industry as the basis of our objections to NAFTA's proposed opening of unlimited operating rights, there are related questions of passenger safety which should be addressed in the discussion. To discuss the safety aspects, it might first be useful to review our definition of the basis for "predatory competition."

Because of the tremendous economic differences which currently exist in the operating environment of U.S. and Mexican motor carriers, we believe that a Mexican operator could perform regular-route service in the U.S. much cheaper than U.S.-based carriers. Mexican-based operators need not meet U.S. wage standards or minimums; many worker benefit programs forced on U.S. operators at great costs will not apply to Mexican drivers operating in the U.S.; Mexican-based route service would not be forced to establish U.S. bases and therefore incur the regulatory oversight which also proves costly for U.S. operators.

In this environment of advantage—the dispatch of a coach from Mexico which is not backed by U.S.-based mechanical support, supervision or advisory and backup assistance virtually invites abuses.

Unlike charter and tour vehicles (covered by the MOU) which are forced naturally to return to base for the return of their passengers, regular route vehicles may be committed to service for prolonged periods of time, far from home base. Because of the tremendous difference in costs between the U.S. and Mexico and the potential for lost revenue while a vehicle returns to its Mexican base, we envision a Mexican operator's strong reluctance to incur proper maintenance of regular route vehicles if they are operating between U.S. cities. That reluctance could lead to the continued use of vehicles with serious safety problems. And while Mexican charter and tour coaches will easily find repair assistance from U.S.-based operators (because they are not competing with American-based operators for the same passenger), the same courtesies most likely will not be extended by competitive regular route operators.

In addition, we believe that the Congress must face the reality of today's enforcement mechanisms when considering the addition of regular route operators. Despite large Federal investments in the Motor Carrier Safety Assistance Program (MCSAP), many states simply will not commit adequate numbers of safety enforcement personnel to the policing of motor carriers of passengers. Because of that lack of enforcement personnel, our operators stand helplessly by now as unlawful Mexican operators travel deep into California, Arizona and Texas—far beyond authorized border zones. If these same carriers are granted limitless interstate operating authority but display such a callous disregard for American law, without concern for enforcement, we believe it would be a mistake to entrust to them the most vulnerable of America's intercity passengers: the low- and middle-income, the very young and very old rider who are prime users of intercity coaches.

*Question 3. U.S.-Canadian Service*

*Answer.* For the most part, there is excellent cooperation between U.S. and Canadian motor carriers of passengers. But because of the significant differences in regulatory environment between the two nations, many American motorcoach operators feel that Canadian operators enjoy far greater access to the United States than is possible for an American carrier in Canada. Canadian carrier may apply for and receive full "48-state" operating rights in the United States under our "de-regulated" environment, controlled centrally by the Interstate Commerce Commission.

By contrast, operating rights in Canada have been delegated to individual provinces by the central Federal government. American operators who wish to transport passengers between provinces, or to pick up passengers in Canada, must be approved by the Motor Transport Boards in each individual province. At the same time, operators seeking such authority are subjected to the "public need and necessity" criteria used by our own ICC until 1982. Similarly, each application is subject to challenge by any operator currently holding rights for that service. Few American operators are ever granted such authority.

For its part, the Federal government of Canada has insisted in both the previous and current free trade agreements with the U.S. that it is unwilling to make changes in conditions, provisions or operating agreements which might affect the reclaiming of inter-provincial operating rights as a Federal responsibility. U.S. operators feel that there is a strong inequity which causes fewer American operators to secure inter-provincial rights and creates a much higher cost and administrative difficulty in the pursuit of those rights. This problem is most pronounced in cross-border business. It is not possible, for instance, for a travel group of Americans to fly from Europe to Toronto then call an American operator for the final ride home to the U.S. Canadian operator must transport the group to the border where they may then be picked up by an American operator. Or, the Canadian operator may carry the group all the way to their destination in the U.S.

Having outlined these concerns, allow me to point out that it is not the American industry's intention to force de-regulation upon the Canadian motorcoach industry through NAFTA. Nor was it our intention to suggest that the Committee force Canada to participate in this section of the NAFTA. Rather, we believe Canada's withdrawal from this area of NAFTA (and the U.S. negotiating delegation's acquiescence to that withdrawal) emphasizes our belief that it is well within our right to ask for removal of all remaining NAFTA references to motorcoach travel. If motorcoach operators in Canada who are particularly uncomfortable with the use of NAFTA to address inequities are allowed to be successful in escaping any implications of the agreement, then U.S. and Mexican operators who are uncomfortable should be granted the same opportunity. Again, using the Canadian withdrawal as precedent, we urge that the Committee remove U.S. Mexican motorcoach provisions from this proposed agreement.

*Question 4. Border Region*

*Answer.* While the American motorcoach industry believes that the authorization of regular route service by foreign carriers would jeopardize the economic viability of many of this Nation's domestic regular route carriers around the Nation, we can say with certainty that the Kerrville Bus Company and others performing regular route service in the so-called "border regions" would be most harmed. We anticipate that few American operators could survive in the border areas of Texas, Arizona, New Mexico and California. The NAFTA-granted opportunity to conduct services across national borders while abiding by the reduced overhead costs of Mexico's business atmosphere, well within reach of lines of support and the less-expensive Mexican labor pool, would allow Mexican carriers to so deeply undercut American route operators as to simply force Americans out of business in near-border traffic. Certainly, I anticipate that the Kerrville Bus Company would be among the first victims of such activity.

The current MOU, and the successor agreement, however, do not threaten the Kerrville Bus Company. If anything, I believe our business can be enhanced under the existing agreement.

Under the conditions of the existing agreements, passengers originating in America clearly are forced to enter Mexico on an American-based carrier. Passengers originating in Mexico will clearly be forced to use the services of a Mexican carrier to enter the U.S. The current agreements reserve domestic tour traveler border crossings to carriers of that passenger's origination point. In addition, Kerrville has recently reached agreement with a Mexican regular route carrier for the interlining of passengers which involved a border community change of coaches at a Kerrville facility and continuation of their trip. Clearly, both parties benefit without concern for predatory business practices in each others' home nation. Such interline agreements would, most likely, simply be abandoned if NAFTA's motorcoach language is not changed.

## QUESTIONS ASKED BY SENATOR EXON AND ANSWERS THERETO BY MR. COLLINS

### INVESTMENT RIGHTS

*Question 1.* To what degree have Mexican nationals currently invested in U.S. trucking companies?

Answer. Although we don't have access to specific figures, our perception is that Mexican investment in U.S. trucking companies is not considerable. However, Mexican citizens currently have the right to invest up to a minority share in U.S. trucking companies—both domestic and international and they have unlimited access to U.S. commercial zones along the border.

*Question 2.* Mr. Levine of DOT indicated that U.S. companies will be able to enter into joint ventures with Mexican companies by the third year after implementation of NAFTA. His testimony also suggested that the relatively weak financial structure of the Mexican trucking industry makes it unlikely that many of the Mexican carriers will have the capital or market knowledge to expand quickly into the U.S. What is your view of this assessment of the Mexican trucking industry?

Answer. Three years after NAFTA is signed, Mexican carriers gain the right to invest up to 100 percent in U.S. international trucking companies. combined with the minority interest rights they already enjoy in U.S. domestic trucking companies, Mexican carriers will have a significant opportunity to invest in or create a viable, profitable trucking company in the U.S.

Given the restriction on U.S. investment rights in Mexican domestic trucking companies and the fact that U.S. citizens don't gain 100 percent investment rights in Mexican international barriers for 10 years, U.S. carriers are put at a significant disadvantage and never have opportunities equivalent to their Mexican counterparts.

We disagree that Mexican carriers will lack the capital and market knowledge to expand quickly into the U.S. In terms of market knowledge, Mexican carriers have been operating in U.S. commercial zones for over a decade affording them the opportunity to learn the "bins and outs" of the U.S. trucking market first-hand.

In terms of available capital, it is important to keep in mind that, until 1989, Mexican carriers were operating in a highly regulated and protected market. Many of these carriers were, and still are, enjoying 30 percent and higher profit margins while U.S. carriers currently average a 2 percent profit margin. For many, available capital should not be a barrier to investment.

### ENFORCEMENT

*Question 3.* How would you characterize oversight and safety enforcement by the Mexican government of its trucking, rail, and bus industries?

Answer. We are aware of strict oversight by the Mexican government over its bus industry. Presumably this is due to government concerns for passenger safety in the commercial tourist bus industry. We have been told that Mexican bus driver regulations are in fact more strict than U.S. regulations with regard to driver qualifications and medical examination requirements.

The Mexican government is now in the process of adopting regulations similar to the U.S. Federal Motor Carrier Safety Regulations for the trucking industry. Mexico is also in the process of training inspectors to conduct commercial vehicle safety inspections using the same Commercial Vehicle Safety Alliance (CVSA) "North American Standard" procedure currently used by U.S. and Canadian states and provinces.

As has been demonstrated by the bus safety program, Mexico has the ability and authority to conduct its own commercial vehicle inspection program.

*Question 4.* Mr. Maas of the wheat growers testified to their concern over the spread from Mexico of the wheat disease karnal bunt. How do you reconcile the need for stepped-up inspection procedures to counter new threats such as this with the desire of Canada, Mexico, and the U.S. to eliminate border congestion and speed up traffic flow?

*Answer.* We believe that with emerging technology being developed through Intelligent Vehicle Highway Systems (IVHS) programs to speed up motor carrier safety inspections and additional resources being directed to border crossing locations, congestion and time delays will be minimized. However, time considerations should always be secondary to concerns over safety of food products from disease and contamination.

#### QUESTIONS ASKED BY SENATOR HOLLINGS AND ANSWERS THERETO BY MR. LEVINE

##### INVESTMENT IN TRUCKING COMPANIES

*Question 1.* If approved, NAFTA would preclude U.S. citizens from having 100 percent ownership rights in a Mexican international trucking company for ten years—while Mexican carriers have 100 percent investment rights in U.S. companies in three years. Does DOT envision any harm to U.S. trucking companies from this delayed level playing field?

*Answer.* There are differences in the motor carrier investment liberalization schedules for Mexico and the United States. We do not believe these differences will materially injure U.S. trucking companies as a result.

We believe that the opportunity for U.S. companies to enter into joint ventures with Mexican companies by the third year after implementation of the NAFTA is important and useful. Our conversations with industry officials indicate that some U.S. carriers are already positioning themselves to take advantage of such opportunities to establish new markets. Moreover, the relatively weak financial structure of the Mexican trucking industry makes it unlikely that many carriers will have the capital or market knowledge to expand quickly into the United States to take advantage of the different schedules for investment liberalization. Indeed, Mexican carriers have been unable to keep up with domestic demand in their own country.

The NAFTA provisions are designed to eliminate the wide difference in U.S. and Mexican investment policies. Mexico's current investment restrictions are far more severe than those in the United States. Mexico now prohibits any foreign investment in motor carriers; the United States permits Mexican citizens to own a non-controlling interest in U.S.-based carriers. Because the existing differences in foreign investment are so substantial, it was difficult to design parallel liberalization schedules.

Further, were NAFTA not to be implemented, Mexican companies would still be permitted to own a non-controlling interest in U.S.-based motor carriers while the existing prohibition on all U.S. investment in Mexican trucking firms would remain in force. The NAFTA, therefore, even with its different investment liberalization schedules, on balance is positive and not harmful to U.S. interests.

##### ENFORCEMENT

*Question 2.* The Administration's budget calls for a freeze on the Motor Carrier Safety Assistance Program (MCSAP) funds at the current level of \$65 million for fiscal year (FY) 1994. Congress, in the Intermodal Surface Transportation Efficiency Act, authorized \$80 million for FY 1994. Do you believe current MCSAP funding levels will be adequate to ensure compliance with U.S. safety regulations if NAFTA is implemented?

*Answer.* It is not clear whether or not FY-94 MCSAP funding will be adequate when NAFTA becomes effective in FY-96. A number of factors, some of which are offsetting, will influence the necessary funding level for the program. Funding for MCSAP will have to be reconsidered once the influence of these factors is clearer. In this regard, the Federal Highway Administration is conducting a comprehensive \$300,000 study of enforcement issues along the U.S. border. This study will be used to assess resource and infrastructure needs in order to assure adequate enforcement of U.S. standards in a post-NAFTA environment. The MCSAP program will necessarily need to be reviewed once these resource and infrastructure needs are identified.

In addition, the Government of Mexico is working cooperatively with the United States to train a cadre of inspectors to perform safety inspections and audits of

motor carrier companies. We are currently working with the Commercial Vehicle Safety Alliance to provide this training and believe it will lead to significant improvement in Mexican enforcement. With a cadre of Mexican inspectors enforcing standards consistent with those in the United States on the Mexico side of the border, there may not be a need for U.S. enforcement activities to match traffic increases associated with the NAFTA on a proportional basis.

#### BUS INDUSTRY

*Question 3.* Mr. Kaiser testified on behalf of the U.S. bus industry associations that U.S. bus operators urged DOT to separate bus and truck issues, and not move forward with equalizing access for regular-route bus operations. Could you explain DOT's views on this issue, and why equalization of regular-route service was included in NAFTA despite the bus industry's stated opposition?

*Answer.* It proved impossible to separate the issue of liberalized access for truck operations from that for regular-route bus operations. From the beginning of the negotiations, Mexico was very reluctant to liberalize access and investment restrictions for trucking, believing that its industry was ill-equipped to compete with U.S. motor carriers. On the other hand, Mexico was eager to gain access to the United States for its bus industry, which it believed was somewhat more able to compete with its U.S. counterparts on an even basis. A significant goal of the United States, by contrast, was to gain access to Mexico for our trucking industry, both for competitive reasons and to make the cross-border transportation system more efficient. Mexico was unwilling to make concessions on trucking without some corresponding concessions from the United States for bus transport.

The United States worked very hard to ease the impact on the U.S. bus industry. As the negotiations developed, Mexico agreed to slow up the schedule for regular route bus liberalization, so that it is separate from charter and tour bus liberalization. There was no intermediate geographic cross-border phase-in for buses providing regular route service on a scheduled basis, at the request of the U.S. industry, because no meaningful passenger market exists in northern Mexico. The United States also insisted that the moratorium for domestic carriage of passengers by Mexican buses remain in place until year seven after NAFTA implementation. The major regular-route bus company in the United States supports the NAFTA provisions.

#### HARMONIZATION SUBCOMMITTEE

*Question 4.* Who will be included on the Land Transportation Standards Subcommittee, and how will these representatives be chosen? Since the Subcommittee's recommendations—which could include revised standards for truck length and weight—may be bundled together, how will Congress have the opportunity specifically to approve, disapprove, or revise recommendations developed through the harmonization process?

*Answer.* The NAFTA includes a commitment from all three countries to work toward compatible safety standards. The NAFTA text establishes a work plan for harmonization of commercial driver and vehicle safety standards by 2000. Harmonization of motor carrier safety standards between the United States and Canada and the United States and Mexico is an ongoing process that predates the NAFTA negotiations. The United States and Canada have worked through the U.S.-Canada Motor Carrier Consultative Mechanism, established in 1982. The United States and Mexico have cooperated through the U.S.-Mexico Transportation Working Group, established in 1989.

The U.S.-Mexico Transportation Working Group, with Canadian participation already occurring on an as-needed basis, has been doing preliminary work in anticipation of seeing certain of its technical subgroups become the Land Transportation Subcommittee established in the NAFTA Standards Chapter. The mandate of both the Working Group and the NAFTA is to attempt to make the domestic federal safety regimes of all three countries as compatible as possible. The focus is thus on federal standards. However, state officials have been and will be involved in this effort. Through the American Association of Motor Vehicle Administrators and the Commercial Vehicle Safety Alliance, for example, state officials are working closely with the Federal Highway Administration and its Mexican counterpart to address many enforcement issues relating to driver licensing and roadside inspection standards.

State involvement in implementing the NAFTA and completing to the extent possible the work begun under the Working Group is critical to its success. Border state representatives were actively involved in the process leading to negotiation of the CDL MOU. State views have also been sought on a wide range of other NAFTA-related activities, including negotiation of a charter and tour bus Memorandum of

Understanding and development of vehicle safety and hazardous materials standards.

With implementation of the NAFTA and establishment of a more formal standards harmonization process under the Land Transportation Subcommittee the Department is committed to providing states representation at future meetings. Clearly, however, if meetings are to be productive, the number of participants must be kept to a manageable number; consequently, it will be impossible for each state to be represented. The Department is thus contacting various state government organizations and soliciting their views regarding who should represent state interests and the selection process.

Similarly, the Department has provided for industry involvement in the harmonization process. We are also considering a number of additional measures to assure substantial industry input within the limitations of existing U.S. procedures for advisory committee participation in the regulatory process. For example, we plan to establish and make public the major areas to be considered by the Land Transportation Standards Subcommittee, and to ask for industry input and suggested agenda items well in advance of meetings. A NAFTA subcommittee of the National Motor Carrier Advisory Committee (NMCAC) has been established as one conduit for assuring substantive industry participation in the process. The NMCAC is an advisory group to the Federal Highway Administration and includes industry participation by carriers and shippers. In addition, we may establish technical review panels to assure that we have the benefit of the most up-to-date technical assessments and options.

The Department recognizes the significant value of industry participation in the NAFTA and related activities since NAFTA negotiations began. We are working through the methods outlined above to be as responsive as possible to industry desires to be more involved in the process. However, given the number of industry and other public interest organizations that will be affected by the NAFTA and their expressed desire to participate in the actual negotiating process, it will not be possible to grant such groups "seats at the table." Therefore, the Department will continue to reserve conduct of the NAFTA Land Transportation Subcommittee meetings to government officials while providing extensive opportunities to industry organizations to offer input to the process.

Current restrictions on truck size and weight in the United States are determined by statute, not regulation. Thus, in the event that technical safety evaluations suggest that a change in current weight limits should be considered, the Administration will work with the Congress to support amendment of the relevant statutes and to ensure understanding of the rationale for changes. There is no expectation at this time that changes in U.S. truck size and weight limits will be proposed. The evaluations of truck size and weight issues under NAFTA will be conducted within a dedicated subgroup of the Land Transportation Standards Subcommittee. This group will be working with federal and state government experts in the area and will be actively seeking industry input as appropriate into the evaluation process.

#### IMPACT ON U.S. TRANSPORTATION WORKERS

*Question 5.* Under NAFTA, could a U.S. trucking company employ a Mexican-licensed driver to operate a U.S.-registered vehicle between the United States and Mexico?

Answer. For a U.S.-owned company based in Mexico, the answer is "yes." For a U.S.-owned company based in the United States, however, the answer is "no." The NAFTA leaves current Immigration and Customs laws concerning foreign-based drivers and vehicles unchanged. Current Immigration regulations generally specify that only permanent residents of the United States may legally be hired by U.S.-based companies. There are some exceptions to the general rule allowing for temporary employment of non-residents; however, these exceptions are limited to job categories for which shortages of U.S. workers have been identified.

Once NAFTA is implemented, Mexican drivers based in Mexico would be permitted to operate trucks transporting cargo from a place in the United States to a place in Mexico or vice versa. Similarly, U.S. drivers would be permitted to transport cargo across the U.S.-Mexican border. However, Mexican drivers would not be permitted to operate vehicles transporting cargo from one point in the United States to another point in the United States; neither would U.S. drivers be permitted to transport cargo from point to point in Mexico.

*Question 6.* Under NAFTA, would a Mexican driver operating a truck owned by a U.S. company be subject to the workers' compensation and tax laws of the United States while driving in the United States or would that worker be considered to be employed in Mexico and outside the jurisdiction of U.S. laws?

Answer. Mexican-based drivers employed by U.S. companies based in Mexico would not be subject to the workers' compensation and tax laws of the United States while driving in the United States. Rather, the U.S. company would be required to meet Mexican government requirements for workers' compensation and taxation.

Similarly, U.S.-based drivers employed by U.S. companies would be subject only to U.S. workers' compensation and tax laws while driving in Mexico.

For Mexican carriers operating in the United States, relevant federal and state tax requirements would apply. Thus, Mexican carriers would be responsible for payment of the federal Heavy Vehicle Use Tax and for-state taxes and registration fees just as Canadian carriers are now.

A copy of a recent Mexican government publication on worker benefits is attached. [This publication may be found in the committee's files.]

#### SMALL PACKAGE DELIVERY COMPETITION

*Question 7.* The American Trucking Associations testified concerning the proposed new regulations by the Office of the Secretary of Communications and Transportation in Mexico to reserve a monopoly on the handling of small packages, both domestic and international, for the Mexican postal service. Would you tell us what you know about this proposal and what steps DOT is taking to ensure that U.S. carriers can transport this international freight?

Answer. Small package delivery cannot be monopolized by the Mexican postal service after the NAFTA is implemented. Mexico has reserved only delivery of first class mail and very small parcels to its government postal system. There is no reservation affecting delivery of most parcels; thus, U.S. firms' access to this market cannot be limited pursuant to Mexico's NAFTA obligations.

ATA is correct that Mexico drafted a proposed rule that would have created such a monopoly. The United States intervened with the Mexican government on the proposed rule, noting that it was inconsistent with the NAFTA, and Mexico has committed in writing to changing the rule so that it is consistent. At this point Mexico appears to have dropped the rule completely.

#### PROTECTION FROM DIRECT COMPETITION

*Question 8.* NAFTA contains anti-cabotage provisions intended to protect U.S. carriers from direct competition from Mexican carriers operating in intrastate and interstate commerce in the United States. a. In DOT's view, how would these prohibitions be enforced? b. Which government agencies will monitor the marketplace to prevent Mexican carriers, while operating in the United States, from offering to carry freight for rates that no domestic carrier can match?

Answer. The NAFTA does not change the existing prohibition against Mexican-owned and -controlled carriers transporting domestic cargo from point to point in the United States. Responsibility for administering this prohibition rests with the Interstate Commerce Commission (ICC).

Under current statutes, states have the authority to enforce the ICC commercial zone restriction, and the Department is communicating with border state authorities explaining this. ICC regulations provide that "any state may agree with the Interstate Commerce Commission to enforce the economic laws and regulations of that State and the United States concerning highway transportation". The ICC has such agreements in most states. The agreement is not self-executing, and each state must pass its own legislation to provide penalties where the federal law is violated.

Upon opening of the U.S. borders to Mexican vehicles, state law enforcement agencies, in a cooperative effort with the Department, will enforce U.S. safety and operating regulations. Enforcement penalties can be imposed consistent with federal law or can be more severe if a state chooses to pass legislation that imposes stiffer penalties. Lack of compliance with penalties will be tracked through computer records, and this information will be used in future enforcement cases.

Immigration and Customs laws cannot be enforced by state officials. However, state law enforcement officials can call in local agents from those agencies and notify the ICC of such violations.

No government agency will monitor the marketplace to assure that U.S. and Mexican carriers offer competitive freight rates. In a deregulated transportation environment, freight rates are not controlled by the government. Despite Mexico's lower wage structure, however, a review of total operating costs for Mexican and U.S. motor carriers suggests that they are more closely aligned. Therefore, it is unlikely that Mexican firms could, over a sustained length of time, offer "bargain" rates and remain profitable, particularly given the widely recognized need for Mexican carriers to improve service quality to the level now provided by their U.S. counterparts.

Studies of NAFTA's impact will be performed from time to time. For motor carriers, the agreement requires a committee of government officials to consider the effectiveness of liberalization five years after NAFTA goes into effect. This review will include any specific problems or unanticipated effects on the motor carrier industry resulting from liberalization.

#### FLOW OF TRAFFIC

*Question 9.* Other representatives from DOT have suggested previously that NAFTA will ease border congestion. Can you describe efforts, including the Southwest Border Improvement Plan, to help deal with increasing congestion and potential transportation delays along the border?

Answer. DOT anticipates a decrease in border congestion as NAFTA liberalization is phased in. At present, U.S. trucks are not permitted into Mexico, and Mexican trucks are confined to U.S. border commercial zones. Thus, all southbound cargo must be transferred to a Mexican truck at the border before entering Mexico, and northbound cargo must be transferred to a U.S. truck after entering the United States. This regime results in many crossings by trucks without cargo, and effectively doubles the number of border crossings necessary to carry cargo through. The NAFTA liberalization schedule permits trucks from either country to carry cargoes across the border without any transfer. This should eliminate a considerable amount of congestion.

The Department is funding a national study of trade corridors between the United States, Canada and Mexico mandated by Section 6015 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The study will include priorities and recommendations for rail, highway, water, and freight centers, and all highway border crossings, particularly those that may be affected by the NAFTA.

Section 1089 of the ISTEA requires that the Department study the feasibility of creating an international border highway discretionary program, which would be used to fund construction or rehabilitation of highway infrastructure facilities along the border. This study is being conducted in conjunction with the section 6015 study; reports to the Congress will be completed by September 30, 1993.

While the Administration's budget proposal does not include funding specifically identified for infrastructure improvements along the United States' southwest border, it will provide increases in infrastructure investment that will be available for specific projects. States, communities, and regional organizations that have completed planning and prioritizing for future development will be well-positioned to advance applications for funding early in the fiscal year to the state or federal agency that will have decisionmaking authority for these funds.

In response to concerns about the adequacy of existing border inspection facilities to accommodate commercial traffic flows, Congress enacted the Southwest Border Capital Improvements Program (CIP) in 1988. The program, which is administered by the General Services Administration (GSA), provided for renovation, expansion, and construction of inspection facilities along the southwest border. Under the CIP, funds were earmarked specifically for southwest border inspection facility projects and were not subject to the GSA's regular planning process. The CIP funds cover 51 projects along the border. These include pedestrian, passenger, and commercial vehicle processing and inspection facilities. They are scheduled to be completed around June 1994. According to the GSA, the new facilities should accommodate any increases in cross-border traffic that will occur as a result of NAFTA implementation over the next ten years. Additional information about the program can be obtained from the GSA.

DOT has suggested that a considerable amount of border crossing delay is not due to a lack of adequate infrastructure, but is caused by sub-optimal traffic management and cargo clearance procedures at the border. We have suggested that a closer look be taken at lower-technology, less costly remedies to congestion, including electronic document filing, better coordination of U.S. and Mexican operating hours, encouraging off-peak hour crossings of commercial vehicles, and improved communications between U.S. and Mexican inspection officials. Other innovations, including the U.S. Customs Service's line release and sealed container programs as well as advance clearance of cargoes by pre-filing of documents, have helped to alleviate some congestion.

#### COMMERCE

*Question 10.* What do you believe would be the implications for the U.S. surface transportation industry if NAFTA is not passed?

Answer. Without NAFTA, U.S. motor carriers would face a continuing struggle to gain access to the significant Mexican market. Eighty-five percent of U.S. trade with

Mexico is transported over land, with a large percentage of that carried by truck. Cross-border traffic is projected to reach 6 million truckloads in 2001. Total trucking revenues on U.S.-Mexico trade are estimated at \$3-4.25 billion annually. Without NAFTA, current cross-border access prohibitions would continue to force U.S. carriers to transfer cargo to Mexican carriers at the border, reducing transportation efficiency, increasing shippers' costs, and, thus, the price of U.S. goods exported to Mexico; and increasing traffic and congestion along the border.

We believe that the basic change that will take place in the transportation sector as a result of the NAFTA will be good for both U.S. carriers and their North American customers. The bottom line will be increased productivity, dynamic investment potential, a strengthened international competitive posture vis-avis Europe and Asia, and increased job opportunities.

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QUESTION ASKED BY SENATOR GORTON AND ANSWER THERETO BY MR. LEVINE

*Question 1.* As you know, U.S. farmers of wheat, dry peas, lentils, and alfalfa, among other commodities, are concerned by Canada's Western Grain Transportation Act, and the rail service it provides to Canadian commodities that are to be exported. Many farmers hoped that this inequity would be corrected in the U.S.-Canada Free Trade Agreement. While the agreement did discipline grain moving West, grain moving East remains subsidized and, as a result, there seems good cause to speculate that Canada is exporting agricultural goods into the United States at a cost below the Canadian Wheat Board's buying cost—a violation of the U.S.-Canada Free Trade Agreement. Now, that agreement has been expanded to include Mexico, but still does not address the issue of Canadian rail subsidies, it seems possible that Canada will use these transportation subsidies to gain a permanent advantage in selling to the Mexican market. I am a strong supporter of NAFTA, and hope to see the agreement ratified as soon as possible. However, I would like to see steps taken alongside the agreement to protect our farmers from these subsidies. Does the Department of Transportation plan to revisit this issue?

*Answer.* The Department is aware of concerns regarding Canada's Western Grain Transportation Act (WGTA). However, subsidies—whether for Canadian export wheat shipments, Amtrak, or Ferrocarriles Nacionales de Mexico—were not a subject for discussions in the Land Transportation group negotiation. That group addressed cross-border transportation and investment in transportation companies only. Thus, the Department of Transportation has no plans to revisit this issue as NAFTA is implemented.

The United States took the issue of subsidies paid under Canada's WGTA to dispute settlement under procedures established by the U.S.-Canada Free Trade Agreement. The arbitrator ruled against the United States.

We do not believe that the continuation of Canada's subsidy policy under the WGTA will lead to rail-carried exports to Mexico through the United States. Even with subsidies on the Canadian portion of the movement, shipping by rail through the United States would be considerably more costly than shipping to Vancouver and continuing the movement by water. Indeed, this is the way Canadian wheat is generally exported to Mexico today. Canada's most recent budget for agricultural support programs includes an across-the-board 10 percent cut in funding for the WGTA subsidies.



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