

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JAMES P. HOFFA  
General President

25 Louisiana Avenue, NW  
Washington, DC 20001



KEN HALL  
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February 24, 2015

The Honorable Michael Froman  
U.S. Trade Representative  
600 Seventeenth Street NW  
Washington, D.C. 20508

Dear Ambassador Froman,

In my recent letter to Secretary Foxx, attached, I urged the Department of Transportation (DOT) to “continue to negotiate with the Mexican government for the safe operation of Mexico-domiciled carriers into the United States.” In your recent Hill testimony before the House and Senate committees of jurisdiction, you described the Trans-Pacific Partnership (TPP) as a renegotiation of NAFTA. The purpose of this letter is to request that your office offer advice and technical assistance to DOT and immediately put this issue on the table in the on-going TPP talks, starting with the appropriate notification to the Mexican delegation.

As a member of both the Labor Advisory Committee (LAC) and the Advisory Committee on Trade Policy and Negotiations (ACTPN), and as the General President of America’s largest transportation union, I want to offer all the resources of the Teamsters union to help you make the case to the Mexican government and to the American people that highway safety trumps foreign commercial and investment interests, as a matter of U.S. trade policy. I know you agree that, if protecting the lives of working families on American highways is ‘protectionist’, then that label fits the U.S. negotiating position on cross-border trucking.

The Teamsters and our consumer group allies have followed this issue for many years, through Republican and Democratic administrations, and we have developed expertise on which DOT and USTR are encouraged to rely to avoid any misunderstandings about U.S. policy priorities and to avert any retaliation.

The Honorable Michael Froman

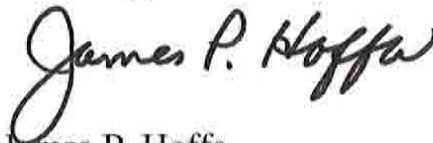
February 24, 2015

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When the Mexican government imposed excessive tariffs in 2009, we offered evidence and analysis to challenge those tariffs before the NAFTA arbitration panel, as set forth in my letter to your predecessor, also attached, which he declined to utilize. He also ignored my advice to simply renegotiate NAFTA to keep our border closed to unsafe trucks, so I repeat it now to you.

Given the paramount importance of safe highways throughout the continental United States, and given the illegitimacy of the pilot program data and the consequent failure of the DOT to meet its statutory obligations (described in my letter to Secretary Foxx), and given the excessive and unfair Mexican retaliation in the past, it is clear that the Administration has no better option than to reopen negotiations with the Mexican government, in the context of the TPP talks, to demonstrate once and for all that we will not compromise on consumer safety. The Teamsters will do everything we can to support the sensible U.S. position to get out of this bad aspect of NAFTA and make the TPP the truly high-end agreement that the President promised us. I thank you in advance for your prompt reply to this urgent request.

Sincerely,

A handwritten signature in black ink that reads "James P. Hoffa". The signature is written in a cursive, flowing style.

James P. Hoffa  
General President

Enclosures (2)

JPH/md



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January 12, 2015

The Honorable Anthony Foxx  
US Department of Transportation  
1200 New Jersey Ave, SE  
Washington, DC 20590

Dear Mr. Secretary:

I am shocked that your department has decided to ignore the findings of the DOT Inspector General (IG), and move forward in granting operating authority to Mexican-domiciled carriers to conduct long-haul trucking operations into the United States. In doing so, I strongly believe that you have put highway safety and the traveling public at greater risk.

The IG was clear that the pilot program lacked an adequate number of participants, and that it could not be determined with confidence that the carriers participating in the program would be representative of Mexico-domiciled carriers seeking long haul operating authority in the future and most importantly that the safety performance of this unknown population could not be determined. This was confirmed by the Department's own Motor Carrier Safety Advisory Committee. How then does your department side-step these conclusions and move forward with expanding operating authority to additional Mexico-domiciled carriers?

Public Law 110-28, U.S. Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Section 6901 is clear that funds can only be expended to grant operating authority to a Mexico-domiciled motor carrier to operate beyond the United States commercial zones after such authority is first tested as part of a pilot program and that it complies with requirements of section 31315(c) of title 49, United States Code, related to pilot programs.

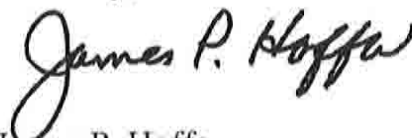
The Honorable Anthony Fox  
January 12, 2015  
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Under the statute, pilot program plans must include a reasonable number of participants to yield statistically valid findings. The pilot has failed to do that, and there is no provision to allow DOT to use “data developed for comparison purposes of other Mexico-owned motor carriers” – namely certificate and enterprise carriers – to draw conclusions about the safe operation of the Mexico-domiciled carrier population.

DOT presents no evidence that certificate or enterprise carriers conducted significant long-haul operations into the U.S. In fact, in the Executive Summary of the Report to Congress, it is stated that “The analysis of the Certificate and Enterprise carriers was conducted, in keeping with the Agency’s analysis plan, to provide complementary safety information *as they operate substantially the same as the Pilot Program carriers under a different oversight regimen.*” I do not need to remind you that 90 percent of the trips performed by the carriers in the pilot program were into the already permitted commercial zones. Further, DOT indicates that “nearly all of the roadside inspections performed on Mexican carriers during the assessment period occurred in the four Border States (CA, AZ, NM, and TX)” (page 22). Therefore, it’s very possible that those carriers traveled no further than the already permitted commercial zones.

The pilot program was supposed to test the safety of Mexico-domiciled carriers performing long-haul operations into the United States. It failed to do that. The DOT should admit its failure, and continue to negotiate with the Mexican government for the safe operation of Mexico-domiciled carriers into the United States. I look forward to working with you toward that end. In the meantime, the Teamsters Union, along with its many allies on this issue, will continue to oppose this policy change and utilize all of our available political, legislative, and legal resources to stop it in its tracks.

Sincerely,



James P. Hoffa  
General President

CC: U.S. House of Representatives  
U.S. Senate



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October 28, 2009

Ambassador Ron Kirk  
U.S. Trade Representative  
600 Seventeenth Street NW  
Washington, DC 20508

Dear Ambassador Kirk:

Thank you for your recent reply to my letter regarding a challenge to the level of trade sanctions imposed by Mexico in retaliation for our decision to protect our highways from unsafe long-haul trucks.

I agree with you that keeping and creating good American jobs is the appropriate lens through which to evaluate the success or failure of our trade policy and to understand the importance of enforcement. I believe, however, that NAFTA has failed us on this score, and resulted in a massive net loss of U.S. jobs; and I feel strongly that the enforcement responsibilities of the USTR require you to challenge excessive sanctions, pursuant to Article 2019(3), in order to mitigate the damage to American working families.

The Mexican government imposed sanctions on \$2.3 billion of U.S. trade seven months ago. The Chairman of the Subcommittee on Terrorism, Nonproliferation and Trade sent you a letter four months ago in which he specifically inquired about the levels of those sanctions and remedies available to protect American businesses and workers. I wrote to you seven weeks ago in support of Mr. Sherman's inquiry and, in reply, you asked for our assistance in supporting a challenge to the sanctions as "manifestly excessive." On behalf of our 1.4 million members, I thank you for your invitation to help on this pressing matter.

As you know, in order to determine the appropriate sanction level, it is necessary to estimate the economic harm that has resulted from the violation and prompted the retaliation. In this case, that calculation depends on two variables – first, the number of Mexican trucks that could take advantage of an open border and access to American highways, and second, the average net revenue for a long-haul truck operating in the United States. By multiplying those two numbers, we can estimate a range for the total damage that the Mexican trucking industry could theoretically have suffered. The Public Citizen report to which Mr. Sherman alluded in his letter of June 16<sup>th</sup> analyzes the available data as to both variables:

1. Data from the Mexican Department of Communications and Transportation reveals the total number of commercial trucks in Mexico (310,013), how many are long-haul trucks (192,102), how many are along the border in the six northern states (89,272) and how many were manufactured in the last five years (61,918 – 20% of the entire Mexican truck fleet), which Public Citizen used as indicator of the likelihood that a Mexican truck could pass US standards as to emissions, safety features and road-worthiness. USTR staff can cut these numbers in different ways, but the bottom line will be that no more than about 13,000 Mexican trucks would or could operate in the U.S.
2. As to the second variable, Public Citizen relied on the Teamsters Union, because we understand the economics of long-haul trucking. We know that the average annual revenue for a long-haul truck on American highways is more than \$100,000. We know that in a competitive market the profit per mile, after the drivers are paid and the gas tank is topped off, is about a nickel. We also know, Mexican drivers don't get paid as much as Americans. Again, your staff can crunch the numbers, but they will conclude, as we have, that the average annual profit that a Mexican truck could generate on American highways will be no more than \$16,800.

If anything, the Public Citizen report, on which we collaborated initially, may be over-counting the actual number of miles -- and therefore 'profits' -- these Mexican carriers would generate by traveling on US highways. As we know, even the potential 8,829 trucks in the mid-range of their estimate would not be operating solely on US roads; we cannot assume that each



truck would derive all its miles under a modeled cost differential. In fact, the suggestion from many NAFTA supporters is that many loads would originate in the interior manufacturing zones of Mexico, rather than from border regions, and easily a third of the total miles en route would be traveled on Mexican roads. If so, this would reduce the middle range estimate of potential 'profits' lost on all truck traffic from \$148 million per year to under \$100 million per year.

In any case, the maximum total theoretical annual loss to the Mexican trucking industry is under \$228 million; but the sanctions which the Mexican government has imposed against \$2.3 billion in U.S trade will generate \$427 million in tariff revenue, more than 50% greater than the total conceivable loss. Although NAFTA Chapter 20 is silent on what constitutes "manifestly excessive" sanctions, we respectfully submit that, by any real-world analysis, the Mexican sanctions qualify and should, therefore, be challenged by your office without further delay.

You have indicated both to me and to Mr. Sherman that your goal is to have the Mexican sanctions lifted in their entirety rather than merely reduced, as though that aspiration justifies the delay in challenging them. As the leader of a Union that has been fighting to keep our highways safe for many years and through different administrations and their trade bureaucracies, allow me to offer my prescription to end the sanctions: get out of NAFTA now or renegotiate it to keep the border closed to unsafe trucks. Short of that solution, the USTR should immediately request an independent Federal government assessment of Mexico's retaliatory measures from the U.S. International Trade Commission (ITC). As I have indicated previously -- and will again in the event that your office proposes another pilot program to the committees of jurisdiction in the U.S. Congress -- the solution is not to reinstitute a flawed cross-border program.

Sincerely,

  
James P. Hoffa  
General President

JPH:tc