



Agency Name: United States International Trade Commission

Docket #: MISC-045, Rulemaking regarding USMCA Implementation

Statement of Interest: The Owner-Operator Independent Drivers Association (OOIDA) and the International Brotherhood of Teamsters (Teamsters) are organizations representing our members' interests in the United States long-haul trucking industry. OOIDA is the largest trade association representing the views of small-business truckers and professional truck drivers. OOIDA has approximately 160,000 members located in all fifty states that collectively own and operate more than 240,000 individual heavy-duty trucks. The Teamsters represent more than 600,000 members who turn a key in a truck to start their workday. As America's 'supply chain union', the Teamsters represent workers on the roads and rails, in the ports, air cargo facilities and warehouses in every region and market.

OOIDA and Teamsters encourage and support the U.S. International Trade Commission's adoption of the proposed interim rules to implement the provisions of the United States-Mexico-Canada Agreement regarding investigations of U.S-Mexico cross-border long-haul trucking services.

August 10, 2020

William Bishop
Supervisory Hearings and Information Officer
United States International Trade Commission
500 E Street, SW
Washington, D.C., 20436

Dear Mr. Bishop:

The Owner-Operator Independent Drivers Association (OOIDA) and the International Brotherhood of Teamsters (Teamsters) support the U.S. International Trade Commission's (USITC) adoption of interim rules to implement the provisions of the United States-Mexico-Canada Agreement (USMCA) regarding investigations of U.S-Mexico cross-border long-haul trucking services. OOIDA is the largest trade association representing the views of small-business truckers and professional truck drivers. OOIDA has approximately 160,000 members located in all fifty states that collectively own and operate more than 240,000 individual heavy-duty trucks. The Teamsters represent more than 600,000 members who turn a key in a truck to start their workday. As America's 'supply chain union', the Teamsters represent workers on the roads and rails, in the ports, air cargo facilities and warehouses in every region and market.

For decades, OOIDA, the Teamsters and industry partners such as Advocates for Highway and Auto Safety, the Sierra Club, and Public Citizen have opposed implementation of provisions included in the original NAFTA agreement that allowed Mexican trucking companies and drivers that are not held to the same, rigorous U.S. safety, security, or environmental regulations to operate on American roadways. Because of the cross-border trucking services established in NAFTA, Mexican trucking companies are currently taking away jobs and profits from American drivers and motor carriers. At the same time, Mexican trucks are endangering the motoring public. In fact, 2016 annual U.S. DOT safety statistics showed that the crash rate for Mexican-domiciled carriers was 2.8 times higher than U.S. carriers.¹

Since the USMCA renegotiation process commenced in 2017, our organizations have worked closely with the U.S. Trade Representative and Congressional Committees of jurisdiction to craft a new trade remedy to address the threats of material harm under the current cross-border trucking rules. We were pleased with the outcome at the table and in the implementing bill as USMCA establishes a thorough review process to restrict operating authority for Mexican-domiciled carriers and operators.

Title III, Subtitle C, "United States-Mexico Cross-Border Long-Haul Trucking Services," of the USMCA Implementation Act empowers USITC with initiating an investigation when interested parties, including OOIDA and the Teamsters, file petitions on the basis of specific material harm from grants of authority awarded to Mexican operators. The Statement of Administrative Action requires that other governmental agencies including the U.S. Department of Transportation, the U.S. Department of Commerce, and U.S. Customs and Border Protection assist USITC in making determinations under subtitle C of Title III. We believe this intergovernmental process

¹ *Large Truck and Bus Crash Facts 2015*, FMCSA (April 2017)

will be essential in preparing for and conducting any investigations of material harm. USITC consultation with these agencies and other stakeholders will provide useful data and insight on the various aspects of potential investigations such as:

- **Submarkets:** As described throughout proposed interim rule, the term sub-market can be defined in a variety of ways considering the diverse nature of the trucking industry. Trucking operations can be grouped geographically and also by carrier size (the number of actual trucks), the types of freight they haul, the types of trucks they operate, and the regions where they deliver goods just to name a few. Because of this diversity and the total volume of long-haul trucking businesses within the U.S., petitioners might find challenges in determining and identifying some of the information required in 208.5(b) (3) and (5) such as physical addresses, email addresses, and telephone numbers of all other domestic entities, including firms, trade or business associations, and/or certified or recognized unions, or representative group of suppliers, operators, or drivers known to the petitioner. That is why it is essential that the Survey of Operating Authorities required under Section 327 of the implementing legislation (PL-116-113) be as thorough and complete as possible.
- **Border Commercial Zones/Geography:** For both safety and economic reasons, OOIDA and Teamsters have opposed Mexican carriers operating beyond the border commercial zones. There is particular concern regarding violation of cabotage regulations which restrict Mexican carriers from making point-to-point deliveries within in the U.S. We believe that neither the federal government nor the states are properly enforcing these cabotage and labor laws which further exacerbates the threat of Mexican motor carriers and drivers to U.S. businesses, jobs, and compensation. We are hopeful that the required surveys of operating authority will provide much needed information and analysis on specific interstate routes being utilized by cross-border operators.
- **Highway Safety:** Dangers to highway safety posed by Mexican carriers and drivers was and remains the basis of OOIDA/Teamsters original opposition to the NAFTA trucks concession. Mexican carriers and drivers that are not held to the same licensing, inspection, vehicle, environmental, and operational regulations endanger the lives of not only professional truck drivers, but certainly the general motoring public as well.

OOIDA and Teamsters will be providing additional information and data regarding these and other aspects of the proposed interim rules throughout the course of the implementation and investigation processes.

OOIDA and Teamsters concur with the USITC's determination that circumstances exist for dispensing with the notice, comment, and advance publication procedure that ordinarily precedes the adoption of any Commission rules. We believe USITC's prompt adoption of these interim rules will enhance and expedite the investigation process outlined in Title III, Subtitle C of the USMCA Implementation Act. We note that the timing for submitting any petitions of material harm will be impacted by the findings of the mandated DOT Survey of Operating Authority and the DOT Inspector General review of the procedures and actions taken by the Secretary to

determine whether each Mexico-domiciled motor carrier with any operating authority is in compliance with applicable Federal motor carrier safety laws and regulations.

OOIDA and Teamsters encourage and support USITC's adoption of the proposed interim rules to implement the provisions of the USMCA regarding investigations of U.S-Mexico cross-border long-haul trucking services. We will continue working with USITC and other federal agencies as the implementation process moves forward.

Thank You,

Todd Spencer
President & CEO
Owner-Operator Independent Drivers Association

Mike Dolan
Trade Policy Specialist
International Brotherhood of Teamsters