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## NAFTA CORNER: TRUCKS TO CROSS U.S./MEXICO BORDER

In an action that has elicited widespread response from disparate groups including the Teamsters and conservative think tank Judicial Watch, the Bush administration during the week of February 20, 2007 announced a plan to send U.S. inspectors to Mexico to check freight trucks. Vehicles and drivers that pass the 22 point safety audit will then be permitted to cross the border and deliver loads anywhere in the United States. This was announced as a pilot program, but the eventual goal is to open the border to additional traffic as called for by the North American Free Trade Agreement (“NAFTA”). Mexico reciprocated by announcing that the trucks from 100 U.S. trucking companies will be permitted to enter Mexico.

Whether the truck that is crossing the border originates in the United States or Mexico, there are certain immigration requirements that must be met for drivers to enter the foreign country. Drivers from the U.S. will be required to stop at the border and obtain Mexico Immigration Form FM-2 or FM-3 and those coming from Mexico will be required to meet the general entry requirements as a visitor for business (B-1 classification) set forth in section 101(a)(15)(B) of the Immigration and Nationality Act of 1952 (INA) and the Department of State regulations.

To qualify as a bona fide visitor to the United States for business, the driver must:

- Have a current passport
- Have a residence in a foreign country which he or she has no intention of abandoning
- Intend to depart the United States at the end of the authorized period of temporary admission
- Have adequate financial means to carry out the purpose of the visit to and departure from the United States
- Establish that he or she is not inadmissible to the United States under the provisions of section 212(a) of the INA, which includes such grounds of inadmissibility as health related, criminal, subversive, public charge, improper manner of arrival or improper documents, other immigration violations and several other categories of ineligibility.

In addition to immigration compliance, Mexico truck drivers must meet certain educational and driving requirements. These prerequisites include the ability to speak and read English, proof of appropriate insurance and a clean driving record devoid of serious offense.

The new regulation will provide opportunity to common carriers in all of the NAFTA countries. While the change has been long in the making, it is one that is required by NAFTA and one that has the potential to reduce the cost of goods to consumers since the requirement of loading and unloading trucks at the border will be minimized and goods will get to their respective markets quicker.