

THE IMPACT OF NAFTA ON
U.S.-MEXICO COMMERCIAL AND
BORDER ZONES AND THE POTENTIAL
CONSEQUENCES TO THE BORDER

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Forward

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The legislature provides funds to support the efforts of the **Texas Centers** in three principal activity areas:

- 1) Development and maintenance of an economic database;
- 2) The conduct of economic development research and planning; and,
- 3) The provision of technical assistance to industrial and governmental entities.

Texas A&M International University's **Texas Center** operates under the direction of the Graduate School for International Trade and Business Administration's **Institute for International Trade** (IIT).

This report "*The Impact of Nafta on U.S.-Mexico Commercial and Border Zones and the Potential Consequences to the Border*" by Dr. Jim Giermanski contributes to the goals of the **Texas Centers**.

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**THE IMPACT OF NAFTA ON U.S.-MEXICO COMMERCIAL AND BORDER ZONES
AND THE POTENTIAL CONSEQUENCES TO THE BORDER**

It is clear that the North American Free-Trade Agreement (NAFTA) will have a profound effect on future U.S.-Mexican trade relations. But nowhere will this impact be so keenly and widely felt than along U.S.-Mexico border. This is so because of one significant economic activity which permeates the region: international commercial truck operations. For many border communities transportation-generated revenue is essential for their continued prosperity and growth. For instance, in Webb county which includes Laredo, 15% of employment is in the transportation sector. This does not reflect the indirect service employment linked to transportation.¹ Truck traffic is a core source of this revenue. Truck transportation revenue is due substantially to the existence of two barriers which as long as they remain untouched ensure a steady stream of income to the border communities. These two barriers are the United States Interstate Commerce Commission's commercial zones and the Mexican frontier zone. These zonal barriers prevent a motor carrier of one nation from entering the interior territory of the other nation, thus guaranteeing that any revenue produced by their economic activity remains within the border community. Additionally, because this activity must involve the handling of goods and their clearance through the Customs Services of each nation, additional economic activity such as warehousing,

¹ Texas Employment Commission, First Quarter 1993.

forwarding, brokering and related service functions provide additional sources of revenue for the border.

While one may debate certain other potential consequences of NAFTA, one may state with perfect certainty that these two particular barriers will be eliminated and that those economic activities linked to them will also be impacted. Therefore, it is essential that border communities understand the meaning and purpose of these barriers and that "business as usual" cannot be assured once these barriers are removed.

THE U.S. ZONES

Interstate Commerce Commission (ICC) commercial zones are territories within the United States defined by federal statute and contained in 49 CFR Ch X, para. 1048.1 to 1048.102. These territories are contiguous to international ports of entry and are defined and named specifically such as Albany, N. Y., or Tacoma, Washington or defined by population as in the case of Laredo, Texas. In the case of Laredo, the population falls between 100,000 and 200,000 which gives Laredo a zone extending 8 air miles in all directions beyond the corporate limits of the City. There are as many different zones, then, as there are U.S. ports of entry.

These territories have been and continue to be used to exempt foreign carriers, both "for hire" and private commercial carriers, from the ICC rules which are applicable to U.S. domestic commercial motor carriers. Both the 1984 and 1988 U.S.

Motor Carrier Acts intended that Mexican motor carriers be limited to these zones even though the President of the United States may waive this restriction if he does so in the national interests and notifies Congress in writing of such waiver before the date on which the waiver is to take effect (49 USC 10530 [i] [2]). President Reagan exempted Canadian carriers by Executive Memorandum Order of August 30, 1984.

Zone Requirements

U.S. Federal law (49 USC 10530) requires that any truck, private or for-hire, arriving from Mexico at U.S. land border ports of entry must have a valid Certificate of Registration issued by the Interstate Commerce Commission after approved by the U.S. Department of Transportation (DOT). At the present time, meeting U.S. motor carrier safety standards for equipment, proper driving credentials (a Commercial Drivers License or Mexican equivalent), a filing fee of \$200, evidence of insurance (It may be trip insurance.), and a wait of a few weeks are all that are needed for Mexican carriers to operate in the ICC commercial zones.

Enforcement

Under current regulations there are three primary federal agencies with jurisdiction: ICC, DOT, and U.S. Customs Service. In reality, once the Mexican carrier passes the Customs entry point, there is no actual enforcement of zone requirements. There are check points manned by the U.S. Border Patrol which serve as inspection sites to ensure compliance with U.S.

immigration and certain U.S. criminal law.

No state jurisdiction to enforce ICC operating rules exists unless a State legislates specific jurisdiction as California has done. Therefore, the California Highway Patrol may enforce zone compliance. In Texas, however, there are approximately 15 DOT investigators and 2 field supervisors, and 6 ICC special agents in the entire state. In fact, the ICC only has 19 agents in the region which covers 15 states. Additionally, even if the Texas Department of Public Safety (DPS) had jurisdiction which it does not have, there are only 13 DPS License and Weight troopers on the entire border currently trained and authorized to enforce basic Federal motor safety regulations. The reality is that enforcement of ICC zones in Texas is really nonexistent.

MEXICO'S ZONES

Although the term "frontier zone" (zona fronteriza) is often used in discussing a border area outside of and distinct from the interior territory of Mexico, there is no definition of "frontier zone" as it is used in English. In Mexico three distinct areas along or near the border are defined, however. They are the "Mexican border region"; the "free zone" (zona libre); and the "frontier perimeter" (franja fronteriza). The Mexican border region encompasses the Mexican municipalities along the U.S.-Mexico border.

The free zone includes Baja California, Baja California de Sur, Quintana Roo, and parts of Sonora in accordance with the

following limits: to the north up to the international dividing line, and from the source of the Colorado River until it reaches a point situated on this dividing line from 10 kilometers to the west of Sonoyta. From this point it follows a straight line until it reaches a point of 10 kilometers east of the port of Penasco; from there it follows the coast line to the Colorado River and from this last point, it follows the river to the north until reaching the crossing of the international dividing line, the U.S.-Mexico border.

The zone was created to encourage development in once remote northern regions of Mexico. Certain foreign products can be shipped to these zones at a reduced duty or free of duty but may not be shipped to the interior of Mexico without paying duty.

The frontier perimeter (franja fronteriza) has over time become known as the "frontier zone." It is defined as a zone corresponding to 20 kilometers parallel to the international dividing line extending from the north to the south adjacent to Belize and southern Guatemala. It is this area commonly referred to as the Mexican frontier zone in which U.S. motor carriers may enter and provide international cargo transportation services.

Legal Basis

In Mexico, official government laws, rules, and policies are promulgated in the Diario Oficial, a practice somewhat similar to the U.S. government announcements in the Federal Register. The following Mexican policy clarification, therefore, appeared in the Diario Oficial, August 14, 1992 promulgating General

Regulation 216 which said:

"In accordance to paragraph three of Part III, Article 46 of the Mexican Customs law, those vehicles providing the international transportation of cargo will be allowed to travel freely in the frontier perimeter zone (zona franja) and free zones (zonas libres) of the country regardless of the nationality of the carrier.

Consequently, all vehicles that enter for this purpose and within those limits referred to in Regulation 216 cited above, may do so in accordance to the law."

Although this is the law of the land, there is still a problem. The problem seems one of politics. At the time of this writing there appears to be a contest between two Mexican government entities, The Secretary of Taxation and Finance which is responsible for the law permitting foreign carriers access to the Mexican frontier zone, and the Secretary of Transportation and Communication which is responsible for determining which roads the foreign carriers may use. Thus, while legal, there is still a problem with implementation.

In effect, then, the Mexican law currently allows a U.S. or Canadian motor carrier to deliver international goods to Mexico and pick up international goods for return to the United States or Canada.

THE U.S. AND MEXICAN ZONES UNDER A NAFTA

In accordance with the terms of NAFTA the zones disappear.

Annex I of NAFTA contains the following:

"A person of Mexico will be permitted to obtain operating authority to provide: (a) three years after 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 the United States through different ports of entry; (b) three years after entry into force of this Agreement, cross-border scheduled bus services; and (c) six years after entry into force of this Agreement, cross-border truck services."

Thus, on December 18, 1995 Mexican motor carriers will be released from the obligation to restrict operations to only the U.S. border commercial zones. Mexican carriers for the first time will have a choice. As long as these carriers meet the standards set forth now for operations in the ICC commercial zones, they will be permitted to leave the border to transport international cargo to and among the major markets anywhere within the border states. Consequently, transportation and related activities which generated and accrued revenue to the U.S. border communities in the past, as a result of keeping the economic activity of the motor carriers exclusively on the border, will no longer be assured. In fact, transportation theory validates that the movement of cargo tends to be between major markets located away from internal borders. The experience in Europe's integration confirms and provides examples of this dynamic. Therefore, it seems likely that under NAFTA there will

be a shift from the past practice of movement of goods **to** the border from the major markets to the more efficient practice of movement of goods **through** the border to their final destination, those appropriate major commercial markets in the internal territories of the party nations. If this happens, the economic consequences for the U.S. border communities may not be positive.