

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

OWNER OPERATOR INDEPENDENT)	
DRIVERS ASSOCIATION INC)	
)	
v)	No 07 1355
)	
FEDERAL MOTOR CARRIER)	
SAFETY ADMINISTRATION et al)	
)	

DECLARATION OF JEFFREY N SHANE

1 I am Jeffrey N Shane Under Secretary for Policy of the United States Department of Transportation (DOT) a position I have held since March 2003 In this position I supervise DOT s Policy staff and serve as the principal policy advisor to the Secretary of Transportation including advice on matters involving international policy My international policy responsibilities include supervision of DOT s Office of International Transportation and Trade This Office is responsible for advising the Secretary concerning the development of international transportation policy and carrying out DOT s international responsibilities including those related to the implementation of transportation provisions of the North American Free Trade Agreement (NAFTA)

2 I make this declaration on the basis of personal knowledge and professional judgment as well as on the basis of information provided to me in the course of my official duties

3 As DOT s Under Secretary for Policy I have personally directed the efforts of the Office of the Secretary of Transportation in conjunction with DOT s Federal Motor Carrier Safety Administration (FMCSA) in the implementation of the cross border motor

carrier provisions of NAFTA. Among other matters, my responsibilities in this area have included the negotiation and oversight of the development of the Demonstration Project on NAFTA Trucking Provisions announced by the Secretary of Transportation in February of this year. As part of those responsibilities, I have represented the United States in consultations with my counterparts in the Mexican government regarding the Demonstration Project.

4. United States compliance with NAFTA's cross border motor carrier provisions related to Mexican trucks has been long delayed. Under NAFTA, the phase in of those provisions was to have begun in December 1995 and was to have been completed in January 2000. During that period, however, the United States delayed implementation of those provisions based on concerns regarding the adequacy of Mexican motor carrier safety regulation. An arbitration panel convened pursuant to NAFTA issued a report in February 2001 concluding that DOT's blanket refusal to process operating authority applications of any Mexico domiciled long haul carriers breached the United States NAFTA obligations, which permitted Mexico potentially to impose sanctions on the United States for its breach of the agreement.

5. Since the 2001 NAFTA panel decision, DOT has diligently worked to implement NAFTA's cross border motor carrier provisions in a manner that ensures safety. Additionally, the Department has worked to comply with substantial new statutory prerequisites to implementation and has defended litigation that delayed implementation. Throughout this period, the Government of Mexico has refrained from imposing trade sanctions on the United States based on the arbitration panel's findings beyond barring grants of operating authority to U.S. motor carriers. Instead, the

Government of Mexico has diligently, patiently, and cooperatively worked with DOT to bring about reciprocal implementation of NAFTA's cross border motor carrier provisions in a manner that is consistent with each country's laws and that ensures the safety of each country's citizens. This has been particularly true during preparations for the Demonstration Project announced earlier this year.

6. On September 6, 2007, FMCSA commenced the Demonstration Project. A halt to the Project would cause further delay in complying with our NAFTA motor carrier commitments and thus would cause considerable harm to our relationship with Mexico, an important trading and diplomatic partner, especially in light of Mexico's substantial efforts to cooperate with DOT to ensure the safe implementation and operation of the Demonstration Project. Among other consequences, Mexico would likely postpone reciprocal grants of authority to U.S. motor carriers, thereby continuing a prohibition that has frustrated U.S. long-haul truckers from expanding their operations into Mexico. A halt to the Project would also serve to frustrate other significant trade and commercial objectives intended by NAFTA. Finally, a halt to the Project could have a negative impact on the wide range of other transportation-related issues that are currently the subject of consultations or negotiations between the United States and the Government of Mexico.

Pursuant to 28 U S C § 1746 I declare under penalty of perjury that the foregoing is true
and correct to the best of my knowledge

Date September 13 2007

A handwritten signature in black ink, appearing to read "Jeffrey N. Shane", written over a horizontal line.

Jeffrey N Shane