

MEMORANDUM OF TECHNICAL COOPERATION BETWEEN THE UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION AND THE UNITED MEXICAN STATES SECRETARÍA DE COMUNICACIONES Y TRANSPORTES RELATING TO ON-SITE MOTOR CARRIER ASSESSMENT PROTOCOLS

The Federal Motor Carrier Safety Administration of the Department of Transportation of the Government of the United States of America (FMCSA), and the *Dirección General de Autotransporte Federal*, and the *Dirección General de Protección y Medicina Preventiva en el Transporte* of the *Secretaría de Comunicaciones y Transportes* of the Government of the United Mexican States (DGAF and DGPMPT), hereinafter referred to as “the Participants”;

WHEREAS the Governments of the United States of America and the United Mexican States mutually agreed to promote the development of long-haul cross-border motor carriage between the two countries in recognition of their obligations under the North American Free Trade Agreement;

RECOGNIZING that the facilitation of commercial exchange is dependent, in part, upon an international transportation service that meets the highest safety standards;

MINDFUL that motor carriers of both countries are subject to on-site assessments at their place of business to ensure they can engage safely in international motor carrier transportation; and

REAFFIRMING their commitment under the North American Free Trade Agreement to promote compatible motor carrier safety standards to the greatest extent practicable;

The Participants declare their intention to promote cooperative activities as follows:

ARTICLE I

Definitions

For the purpose of this Memorandum of Technical Cooperation:

“Long-haul cross-border service” means international cargo transportation provided by motor carriers that are authorized by either United States of America or the United Mexican States to operate in their respective territories beyond limited zones immediately adjacent to the United States-Mexico border.

“Motor Carrier” means a truck company domiciled in the territory of either the United States of America or United Mexican States that has applied for or has received authority for long-haul cross-border service.

“Official” means a representative of the Governments of the United States of America or United Mexican States who is conducting audits, vehicle assessments, and reviews of motor carriers.

“On-site Assessments” for the United States of America means pre-authorization safety audits and reviews as defined in the Federal Motor Carrier Safety Regulations, and any amendments thereto, conducted at a motor carrier’s place of business.

“On-site Assessments” for the United Mexican States means pre-authorization safety audits and reviews as defined in Mexican regulations for long-haul cross-border services, and any amendments thereto, that are conducted at a motor carrier’s place of business.

ARTICLE II

Objective

The objective of this Memorandum is to establish guidelines and cooperative action for any on-site assessment of motor carriers conducted by FMCSA or *DGAF* and/or *DGPMPT*, as well as other activities relating to the safety performance of motor carriers providing long-haul cross-border services.

ARTICLE III

Scope

The protocol set out in this Memorandum is intended to apply to on-site assessments of motor carriers that are conducted in either the United States of America or United Mexican States, in order to evaluate such carriers for operating authority and oversee motor carrier safety and compliance.

Any such on-site assessment carried out by the United States of America or United Mexican States are subject to applicable rules and regulations of each country.

Any such on-site assessment carried out by the United States of America or United Mexican States apply only in their respective territory (i.e., assessments by FMCSA apply only in the territory of the United States of America, and assessments by *DGAF* and/or *DGPMPT* apply only in the territory of United Mexican States).

ARTICLE IV

Cooperative Procedures

In order to achieve the objective of this Memorandum, the FMCSA and *DGAF* and/or *DGPMPT* intend to carry out the following activities, subject to the availability of appropriated funds:

1. Developing, implementing, and promoting actions to improve on-site assessment and monitoring that are conducted in order to ensure safety and conformity in the operation of long-haul cross-border services.
2. Ensuring an appropriate level of training and performance of their officials conducting the assessment activities.
3. Providing assistance to the visiting Participant with logistical support to the extent practicable for the performance of the on-site assessment.
4. Ensuring that assessments are conducted in a transparent manner and in accordance with this Memorandum and all applicable national laws and regulations of each country.
5. Any other activity agreed upon by FMCSA and *DGAF* and/or *DGPMPT*.

ARTICLE V

Officials' Status in the United States of America and United Mexican States

1. This Memorandum reaffirms the commitment made by the Governments in the April 2007 Memorandum of Consultations to recognize the authority of officials from FMCSA and *DGAF* and/or *DGPMPT*, as representatives of their respective Governments.

2. FMCSA officials intend to act in accordance with policies and procedures of the FMCSA, in addition to local rules and regulations, including observing the standards of discipline and trustworthiness which are mandatory for officials in public service. *DGAF* and/or *DGPMPT* officials intend to act in accordance with policies and procedures of the *DGAF* and/or *DGPMPT*, in addition to local rules and regulations, including observing the standards of discipline and trustworthiness which are mandatory for officials in public service. The Participants will endeavor to facilitate the necessary arrangements for officials that will be participating in the on-site assessments.

3. On-site assessments in the territory of either Participant may occur after notification to, or request by the motor carrier pursuant to the applicable laws and regulations of either country.

4. When officials of FMCSA or *DGAF* and/or *DGPMPT* intend to conduct an on-site assessment in the territory of the other Participant, written notice at least seven (7) working days in advance of any such assessment – setting forth date, time, purpose of visit, and potential logistical support needs – will be transmitted to the other Participant. Notification to either Participant is intended as a government-to-government communication. Participants may have one or more representatives present during on-site assessments.

5. The visiting Participant's officials are considered "observers" during performance of on-site assessments, and will endeavor to not undertake in the territory of the receiving Participant, the exercise of jurisdiction and performance of functions as authorities, which are exclusively reserved for the authorities of the receiving Participant by its domestic law.

ARTICLE VI
Exchange of Records

1. For purposes of monitoring by both Governments, FMCSA and *DGAF* and/or *DGPMPT* intend to continue their productive exchange, as permitted by the national laws and regulations of each country, of information relating to:

- A. the registration of motor carriers that have applied for and/or have received authority to provide long-haul cross-border services;
- B. information on drivers who may be in the employment of a motor carrier that has applied for and/or has received authority to provide long-haul cross-border services, including available data on accidents, violations, and traffic citations of such drivers;
- C. available data on accidents and violations, including out-of-service orders and traffic citations, of motor carriers that have applied for and/or have received authority to provide long-haul cross-border services;
- D. results of on-site assessments; and
- E. other records and information believed by both FMCSA and *DGAF* and/or *DGPMPT* to be beneficial.

2. Technical information of a non-proprietary nature derived from the cooperative and collaborative activities conducted under the Memorandum may be made available to the public through customary channels and in accordance with the normal procedures of the Participants and other government activities involved in the activities.

3. Technical information of a proprietary nature derived from cooperative and collaborative activities conducted under the Memorandum may be withheld from public disclosure in the United States of America under 5 U.S.C. § 552 and 18 U.S.C. § 1805. Technical information of a proprietary nature derived from cooperative and collaborative activities conducted under the Memorandum may be withheld from public disclosure in the United Mexican States under the Federal Law of Transparency and Access to Public Government Information, and any other applicable laws in the United Mexican States.

ARTICLE VII
Consultations


The Participants may consult at any time on issues relating to the implementation of this Memorandum. Requests for consultations may be made at any time by either Participant, unless otherwise agreed.

ARTICLE VIII
Effect and Termination

The activities under this Memorandum should commence on the date of signature below. Either Participant may end its cooperation at any time, but should attempt to provide thirty (30) days prior written notification to the other Participant.

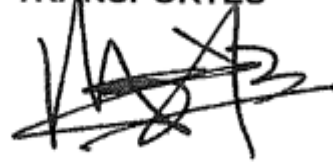
Signed in duplicate at Washington DC, this 11 day of December 2008, in the English and Spanish languages, both versions being equally valid.

**FOR THE UNITED STATES OF
AMERICA DEPARTMENT OF
TRANSPORTATION**



**John Hill,
Federal Motor Carrier
Safety Administration Administrator**

**FOR THE UNITED MEXICAN STATES
SECRETARÍA DE COMUNICACIONES Y
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**Ing. Carlos Antonio González Narvárez,
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**Dr. José Valente Aguilar Zinser,
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