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U.S. Seeks NAFTA Action Against Mexico for Unfair Treatment of Couriers

by LADB Staff

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On May 27, US Trade Representative Mickey Kantor requested a special meeting with representatives of President Ernesto Zedillo's administration to discuss allegations that the Mexican government is violating terms of the North American Free Trade Agreement (NAFTA) in dealings with US shipping companies and package couriers. In a letter to Trade Secretary Herminio Blanco, Kantor asked that the issue be addressed through the dispute resolution mechanism established under NAFTA. The NAFTA disputes panel has reviewed other disagreements involving US-Mexico trade, including a recent case in which Mexico imposed anti-dumping duties on imports of US flat steel (see SourceMex, 04/26/95). This is the first instance in which the US government has acted based on a specific complaint by one company that has alleged unfair treatment, according to the US Trade Representative's Office.

The US action was based directly on a complaint filed by the US package carrier United Parcel Service (UPS), but Kantor has broadened his intervention in the matter to also act on behalf of other US-based shippers such as Federal Express, Airborne Freight Co., and other couriers. Under terms of NAFTA, express delivery companies such as UPS gained the right to use larger vehicles to move packages, which basically would place them on a level field with their Mexican competitors. However, according to the UPS complaint, Mexico has failed to provide the appropriate permits to allow operation of larger vans. "Mexico's decision to ignore its obligations under NAFTA threatens our investment and is inhibiting other US companies from making similar upgrades," said UPS Americas president Bob Elizondo in an interview with the Wall Street Journal.

Elizondo said UPS has committed more than US\$120 million to upgrade operations since NAFTA was passed. The company actually initiated operations in Mexico in 1990 through a joint venture. The following year, the company created a full subsidiary, UPS de Mexico. According to Kantor, the US and Mexico will attempt to reach an accord during a period of 30 days. If an agreement is not reached, the US reserves the right to impose sanctions against imports from Mexico. Kantor expressed hope that the US and Mexico could resolve the problem without having to resort to legal means provided through NAFTA. A Zedillo administration official agreed that a solution was possible. "We are looking at all the appropriate norms, and foresee a solution to the conflict," the official told the Wall Street Journal. On a related matter, business groups in the US and Mexico have asked their respective governments to seek adjustment to certain clauses in NAFTA that have left them at a disadvantage relative to their competitors in the other NAFTA countries.

On May 7, representatives from 40 US companies and business chambers presented a special request to the Clinton administration to seek changes in dispute-resolution mechanisms under NAFTA. Representatives of the steel, lumber, and cement industries said the dispute procedures in NAFTA weaken anti-dumping legislation. According to the US companies, the system which was transferred from the US-Canada Free Trade Agreement to NAFTA was created as a temporary

solution to deal with trade disputes between the US and Canada. The companies charged that the clause has not been effective for either US or Canadian companies. Additionally, they said the clause violates the US Constitution by giving a special disputes panel the power to impose unilateral rulings on US commerce. The companies suggested that the NAFTA clause be substituted with the guidelines and regulations on unfair trade practices created under the new World Trade Organization (WTO), which went into effect this year.

For their part, at an export-import seminar sponsored by the Trade Secretariat (Secofi) in late April, several Mexican foreign trade organizations urged the Zedillo administration to correct the "negative aspects" of NAFTA and other international trade agreements to help Mexican businesses compete in the international marketplace. Among other things, the organizations urged Zedillo to take a more gradual approach in opening the Mexican market to foreign products, enforce anti-dumping regulations even more vigorously, and expand support to small and medium-sized companies, both to enable them to compete against imports and to equip them to enter the export markets. The organizations participating in the forum included the small business institute (Instituto Mexicano de la Pequena Propiedad), the foreign trade coordinating council (Coordinadora de Organismos Empresariales de Comercio Exterior, COECE), and the national association of importers and exporters (Asociacion Nacional de Importadores y Exportadores, ANIERM). [Sources: La Jornada, 04/25/95, 04/27/95; Associated Press, Wall Street Journal, 04/27/95; United Press International, 04/27/95; Financial Times-London, 04/28/95; El Financiero International, Reuter, 05/08/95]

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