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U.S. Supreme Court Ruling Opens Door for Mexican Trucks to Transit in U.S.

by LADB Staff
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The US Supreme Court has handed down a decision that could open the door for the US government to allow Mexican trucks to operate throughout the US. The ruling, announced in early June, affirms the discretion of the US executive branch to decide transportation policies at the border. The ruling overturns a 2003 decision by the California-based 9th US Circuit Court of Appeals requiring the federal government to conduct an environmental-impact study before allowing Mexican trucks to transit beyond a 20-mile zone from the US border.

The lower court's decision responded to a complaint filed by a coalition of labor, environmental, and consumer organizations, which claimed that the federal government had failed to conduct a comprehensive environmental-impact study on the effects of the trucks on US communities (see SourceMex, 2002-12-11 and 2004-05-12).

The organizations that filed the lawsuit were dismayed by the Supreme Court decision. "This ruling gives a green light to allow trucks to cross the border with no regard for their effect on the environment," said Joan Claybrook, president of Public Citizen, one of the organizations involved in the lawsuit.

In practical terms, the decision may not be as significant because US President George W. Bush's administration had already initiated the court-ordered environmental-impact study, which it expects to complete soon.

The ruling, however, gives the administration the flexibility to take the final procedural steps needed to allow Mexican trucks to transport freight deep inside US territory. The ruling also allows the US government to move toward compliance with a provision in the North American Free Trade Agreement (NAFTA), which required the US to open its border fully to Mexican trucks by 2000.

The administration of former President Bill Clinton refused to comply with the provision, citing concerns about safety and environmental damage (see SourceMex, 1994-02-23 and 1996-01-17). In 2001, a NAFTA disputes-resolution panel ruled that the US must allow full access to Mexican trucks or offer monetary compensation to Mexico (see SourceMex, 2001-02-14).

Acting on the panel's directive, the Bush administration developed a set of strict guidelines and requirements for Mexican truck drivers to operate in the US. Those guidelines required all Mexican truck drivers traveling into the interior of the US to apply for a permit and submit to an audit every 18 months. To receive the permit, which will cost US$300, drivers must provide proof of insurance and documents listing their medical and work histories. Drivers will also have to show English-language proficiency and submit to drug and alcohol tests (see SourceMex, 2001-05-09).
The administration's decision to begin opening the borders to Mexican truckers was thwarted later that year by the US Congress, which included a provision in the transportation appropriations bill that forbade the administration from processing applications for Mexican freight haulers (see SourceMex, 2001-08-01). Administration officials are confident that they will be able to open the borders to Mexican truckers this year. "I welcome the Supreme Court's unanimous ruling," said Transportation Secretary Norman Mineta. He noted that once the final safety procedures are in place, "our two nations will be able to finally follow through on an important international obligation in a way that maintains the Bush administration's strong commitment to safety." Similar statements came from the White House. "The president has long been committed to opening the border while maintaining safety standards, adhering to environmental regulations, and providing real opportunities for American workers, and we're pleased that we can now proceed," said presidential spokesman Ken Lisaius.

**Mexican government cautious**

The reaction was cautious on the other side of the border. "This ruling only resolves an internal disagreement between the US government and US environmental and transportation groups," the Secretaria de Comunicaciones y Transportes (SCT) and the Secretaria de Economia (SE) said in a joint statement. Officials said the two countries have yet to agree on fundamental differences regarding what Mexico views as excessively strict regulations under consideration by the Bush administration. The guidelines are expected to differ little from those proposed by Bush in 2001.

Conversely, President Vicente Fox's administration is pushing for Mexican trucks to be given the same treatment in the US as Canadian counterparts. Still, the Mexican government is interested in resolving the issue as soon as possible because an estimated 90% of Mexican exports to the US are shipped north of the border on trucks. "Mexican transport companies will lower their costs by 50%," said Gerardo Lopez Noriega of the Secretaria de Agricultura, Ganaderia, Desarrollo Rural, Pesca y Alimentacion (SAGARPA).

The Mexican trucking industry maintained its cautious stance on the Supreme Court decision. "It's a step forward...it upholds the law," said Leon Flores Gonzalez, president of the Camara Nacional del Autotransporte de Carga (CANACAR). "But what we need are legal guarantees to have the right to circulate freely in all states and in equal conditions." CANACAR general director Jose Refugio Munoz Lopez noted that the decision only deals with environmental concerns and not with matters important to the Mexican trucking industry. "This leaves intact the discriminatory regulations that the Bush administration wants to enact," said Munoz Lopez.

Luis de la Calle, who helped negotiate trade agreements during the administration of former President Ernesto Zedillo, said he expects the US and Mexican governments to eventually smooth out their differences. The US has already approached the Fox administration about scheduling consultations on this issue. "I would suspect you will see some Mexican trucks [on US roads] before the end of the year," de la Calle told The Dallas Morning News.

Even when the border is finally opened, transportation-industry analysts expect only a few Mexican trucks to take advantage of the opportunity. "In all likelihood, the Mexican companies that get operating authority will drive to places like Houston and Dallas the major load centers for vessels

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