

**NAFTA 2022 COMMITTEE**  
**2014 ANNUAL REPORT OF THE TASK FORCE ON SECTORAL ADR**  
**FOR THE TRANSPORTATION INDUSTRY**

This Report includes a summary of the work completed by the Task Force in the last year.

1. Update to Baseline Study on the U.S.-Mexico Cross-Border Trucking Pilot Program
2. Update on International Transportation Survey and Possible Industry Association Partners
3. Summary of Interviews conducted with International Transportation Attorneys and Arbitrators

*Annex I: U.S. Mexico Cross-Border Trucking Pilot Program - Operational Update Report*

*Annex II: U.S. Mexico Cross-Border Trucking Pilot Program – Aggregate Data Report*

*Annex III: NLCIFT Interview Questions for Transportation Attorneys*

*Annex IV: Transportation Attorney Interview Table*

## 1. Updated Study on the U.S.-Mexico Cross-Border Trucking Pilot Program

### Prepared as Reference Material by the National Law Center for Inter-American Free Trade

In 2013, the NLCIFT prepared a baseline study focusing on factors that impact the overall practicality of establishing a specialized arbitration tribunal for the transportation industry. These factors included an analysis of the most traded non-agricultural goods within the NAFTA countries, a description of the key players in the transportation industry and an update in the status of the U.S.-Mexico Cross-Border Trucking Pilot Program. Since the Pilot Program is scheduled to conclude in October 2014, the NLCIFT includes an update on the Program here.

#### a. U.S.-Mexico Cross-Border Trucking Pilot Program

The U.S.-Mexico Cross-Border Trucking Pilot Program (hereinafter “Pilot Program”) began operations in 2011 and the first Mexican trucking company authorized under the program crossed the border into the U.S. in October 2011. The Pilot Program is a three year program that was designed to “test and demonstrate the ability of Mexico-based motor carriers to operate safely in the U.S.” beyond border towns. The Pilot Program is scheduled to conclude in October 2014 and is tracked by the Department of Transportation Federal Motor Carrier Safety Administrator (FMCSA).

While NAFTA is the basis of many other laws that establish free trade, it does not establish that Mexican-based trucking companies are allowed to haul cargo from state to state (domestically) within the United States. The Pilot Program is consistent with this and only acts as a program to authorize Mexican-based trucking companies to haul cargo that will be crossing the border as well as to run empty for purposes of picking up cargo that will cross the border. This means that Mexico-based trucking companies are not allowed to carry freight from one point in the U.S. to another and that Mexico-based trucking companies are only allowed to pick up cargo in the U.S. and haul it to Mexico (cross-border cargo) and vice versa.

Since its inception in 2011, a total of 36 Mexico-based companies have applied to the Pilot Program. The FMCSA’s website provides a wealth of information on the Pilot Program. For instance, data for all active participant carriers includes: their current status, the number of vehicles authorized for that carrier as well as identification information for such vehicles, the number of drivers, the number of crossings and inspections, and the percentage rate of out-of-service vehicles and drivers. In addition, compliance reviews of active carriers are also available and provide information regarding compliance with safety measures. The overall availability of this data to the public shows the Pilot Program’s level of transparency. These Operational Update Reports are prepared weekly and a sample is included as Annex I to this report.<sup>1</sup>

Aggregate data is also available in a weekly basis. This aggregate data represents the cumulative vehicle and driver activity of participating carriers since the beginning of the Pilot Program.

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<sup>1</sup> FMCSA, *U.S. Mexico Cross-Border Trucking Pilot Program - Operational Update Reports*, at <http://www.fmcsa.dot.gov/international-programs/mexico-cross-border-trucking-pilot-program/mexico-cross-border-trucking-pilot>. Sample Report included is from September 21, 2014.

Data includes information on: 1) the number of northbound crossings per carrier; 2) the number of inspections per carrier; 3) the aggregate number of southern Border States miles traveled; 4) the aggregate number of non-Border States miles traveled; and 5) the number of crossings per port of entry. A sample of this entire aggregate data from the week of September 15, 2014 to September 21, 2014 is included as Annex II to this report.<sup>2</sup> Below is a table that summarizes the various status of applications and compares them to that of 2013.

### U.S.-Mexico Cross-Border Trucking Pilot Program Carriers

<b>STATUS LEVEL</b>	<b># of Carriers in 2013</b>	<b># of Carriers in 2014</b>
Mexico-Domiciled Motor Carriers with Active Operating Authority	10	13
Mexico-Domiciled Motor Carriers with Pending Operating Authority	5	1
Mexican-Domiciled Carriers with Application Dismissed	13	15
Mexican-Domiciled Carriers with Application Withdrawn	4	7
Mexican-Domiciled Carriers with Authority Revoked	0	1

As of August 2014, almost half of the applications were dismissed, one application is currently pending, one authorization has been revoked, and seven applicants have withdrawn their applications. The number of Mexico-based trucking companies with an active operating authority has slightly varied during this time due to new applications and authorization revocations. However, the number of Mexico-based trucking companies with active operating authority has never exceeded fifteen. For instance, in December 2013 only fourteen Mexico-based trucking companies had active operating authority. This means that from the total pool of applicants, fourteen Mexico based companies were allowed to cross the U.S. border and move their cargo beyond border towns. As of September 21, 2014, the number of Mexico-based companies with an active operating authority was reduced to thirteen after a license or authorization to operate was revoked.

The FMCSA had initially determined that 4,100 inspections to the Mexico-based trucking companies over a period of three years would be required to generate sufficient data to validate the results of the Pilot Program. This number was reached in December 2013. As of September 21, 2014, the number of inspections performed by FMCSA amounted to 5,455 with two of larger Mexico-based trucking companies with active operating authorizations accounting for at least 4,400 of these inspections (more than 80%). Even though the number of inspections required by the FMCSA has already been reached, freight unions (e.g., Teamsters) have raised questions as to whether the inspection data will be a representative sample considering that two of the

<sup>2</sup> U.S. Department of Transportation Federal Motor Carrier Safety Administration, *Mexico-Domiciled Motor Carriers with Active Operating Authority – Aggregate Data Charts*, at <http://www.fmcsa.dot.gov/international-programs/mexico-cross-border-trucking-pilot-program/mexico-domiciled-motor-carriers-17>. Sample included is from September 21, 2014.

Mexico-based trucking companies account for more than 80% of the inspections. FMCSA has replied to those questions by stating that Section 31315(c)(2)(C) of Title 49 of the United States Code requires the Pilot Program to have a sufficient number of participants to allow for statistically valid findings. According to FMCSA the term “sufficient number” means at least 46 Mexico-based trucking companies participating in the Pilot Program. Nonetheless, FMCSA acknowledges that the statistical validity of the findings depends entirely “upon the representativeness of the study data.” For instance, if the inspection data collected were to come from only a few Mexico-based trucking companies, the question of sample bias becomes a legitimate concern when producing survey estimates. In order to mitigate the effect of this potential bias, the FMCSA plans to calculate the various violations rates (e.g., vehicle out of service rate, driver out of service rate) both for the total population of Pilot Program participants as well as for individual program participants. According to the FMCSA, this alternate violation rate calculation will help to minimize the effect of the inspection data being potentially dominated by a small number of Mexico-based trucking companies.

In July 2014 the Office of the Inspector General—the office in charge of monitoring the performance of FMCSA’s implementation of the Pilot Program since its inception—from the Office of the Secretary of Transportation initiated the final audit of FMCSA’s implementation of the Pilot Program. One of the objectives of this final audit is to determine whether “the pilot program consists of a representative and adequate sample of Mexico-domiciled carriers likely to engage in cross-border operations beyond the United States municipalities and commercial zones on the United States-Mexico border.” The lack of a larger pool of active participants could definitely have a negative impact in the final safety assessment of Mexico-based trucking companies’ operations which, in turn, may postpone their free transit beyond U.S. border towns.

**2. Update on International Transportation Survey and Possible Industry Association Partners**

During the 2013 Annual Meeting, the Task Force presented a summary of the responses received to the Transportation Survey along with a list of the Transportation Survey Contacts. Upon presentation of these findings, the Committee suggested taking an alternative approach more like that which was being implemented by the Task Force on Sectoral Arbitration for the Energy Sector and partnering with industry associations that could distribute the survey to their members. To aid the Task Force in determining which industry associations it might like to work with, the NLCIFT has prepared the following list with associations from each NAFTA country for the Committee’s review. Should the Committee determine that any of these organizations might be a good partner moving forward, the Task Force will reach out and try to establish a collaborative relationship.

<b>CANADA</b>	
Transportation Association of Canada	<a href="http://tac-atc.ca/en">http://tac-atc.ca/en</a> Phone: (613) 736-1350 E-mail address: <a href="mailto:secretariat@tac-atc.ca">secretariat@tac-atc.ca</a>
Canadian Truckers Association	<a href="http://www.canadiantruckersassociation.com/">http://www.canadiantruckersassociation.com/</a>

	E-mail address: <a href="mailto:info@canadiantruckersassociation.com">info@canadiantruckersassociation.com</a>
Canadian Trucking Alliance	<a href="http://www.cantruck.ca/imispublic/Home2/AM/ContentManagerNet/HomePages/Cantruckca_1508_20081210T142956HomePage.aspx?Section=Home2">http://www.cantruck.ca/imispublic/Home2/AM/ContentManagerNet/HomePages/Cantruckca_1508_20081210T142956HomePage.aspx?Section=Home2</a> Phone: 613-236-9426 E-mail address: <a href="mailto:publicaffairs@cantruck.ca">publicaffairs@cantruck.ca</a>
Canadian International Freight Forwarders Association	<a href="https://www.ciffa.com/contact_info.asp">https://www.ciffa.com/contact_info.asp</a> Phone: (416) 234-5100 E-mail address: <a href="mailto:education@ciffa.com">education@ciffa.com</a> ; <a href="mailto:secretariat@ciffa.com">secretariat@ciffa.com</a>
Freight Carriers Association of Canada/North American Transportation Council	<a href="http://www.fca-natc.org/HOMEPAGE.HTM">http://www.fca-natc.org/HOMEPAGE.HTM</a> . Phone: (800) 559-7421 E-mail: <a href="mailto:julieg@natc.com">julieg@natc.com</a> Contact: Julie Gauthier – Administrative Assistant
Freight Management Association of Canada	<a href="http://www.cita-acti.ca/home">http://www.cita-acti.ca/home</a> Phone: (613) 599-3283 E-mail: <a href="mailto:fma-info@bellnet.ca">fma-info@bellnet.ca</a> Contact: Cindy Hick – Vice-President
<b>MEXICO</b>	
Asociación Nacional de Transporte Privado, A.C.	<a href="http://www.antp.org.mx/">http://www.antp.org.mx/</a> Contacted Last Year (no reply) Phone: 01152 (55) 5524 3314 E-mail address: <a href="mailto:g.garcia@antp.mx">g.garcia@antp.mx</a> Address: Jose Maria Rico 230 Col. Del Valle, C.P. 03100 México D.F.
Asociación Mexicana de Transporte y Movilidad	<a href="http://amtm.org.mx/amtm2/">http://amtm.org.mx/amtm2/</a> Phone: 01152 (55) 29 74 20 30 Address: Dr. Atl N. 139, Col. Sta María la Ribera, Delegación Cuauhtémoc, México D.F., C.P. 06400
Asociación Mexicana del Transporte Intermodal	<a href="http://www.amti.org.mx/">http://www.amti.org.mx/</a> Phone: 01152 (55) 5255-1624 Address: Emerson No. 150 Desp. 302 Col. Polanco C.P.11520 México D.F., Delegación Miguel Hidalgo
Cámara Nacional del Autotransporte de Carga	<a href="http://www.canacar.com.mx/contacto/">http://www.canacar.com.mx/contacto/</a> Contacted Last Year (not interested) Phone: 01152 (55) 59 99 71 00 Contact: Lic. David Valente Vertti Cruz E-mail address: <a href="mailto:d.vertti@canacar.com.mx">d.vertti@canacar.com.mx</a> ; Address: Pachuca 158-Bis, Col. Condesa, México, D.F.
Asociación Mexicana de Agentes de Carga, A.C.	<a href="http://www.amacarga.org.mx/servicios.html">http://www.amacarga.org.mx/servicios.html</a> Phone: 01152 (55) 5785 2111 Address: Av Baja California #200 Col. Roma Sur piso

	9, C.P. 06760
Asociación de Transportistas de Carga Federal de Lázaro Cárdenas, S.A. de C.V.	Phone: 01152 (75) 3532-47-63 Address: Carretera Libre Federal Libramiento La Orilla 7 La principal Lázaro Cárdenas, Mich. México C.P. 60950
Instituto Mexicano del Transporte	<a href="http://www.imt.mx/">http://www.imt.mx/</a> Phone: 01152 (44) 2216 97 77 E-mail address: <a href="mailto:diit@imt.mx">diit@imt.mx</a> Address: Nueva York #115 1er piso Col. Nápoles, México, D.F./ C.P.03810
Federation of National Associations, Freight Forwarders and International Logistics Operators Latin America and Caribbean (ALACAT). (Includes Mexico)	See <a href="http://alacat.org/?page_id=9&amp;lang=en">http://alacat.org/?page_id=9&amp;lang=en</a> Phone: 57 310 2562287 Address: Cra 102 A 25H 45 of 106 Bogota, D.C., Colombia
<b>UNITED STATES OF AMERICA</b>	
American Trucking Association	<a href="http://www.truckline.com/">http://www.truckline.com/</a> Phone: (888) 333-1759 E-mail address: <a href="mailto:media@trucking.org">media@trucking.org</a>
U.S. Shippers Association	<a href="http://www.usshippers.org/contact-us.htm">http://www.usshippers.org/contact-us.htm</a> Phone: (979) 793-7375 Contact: Beverly Altimore – Executive Director E-mail Address: <a href="mailto:ussa-altimore@consolidated.net">ussa-altimore@consolidated.net</a>
Transportation Intermediaries Association	<a href="http://www.tianet.org/AM/Template.cfm?Section=About_TIA">http://www.tianet.org/AM/Template.cfm?Section=About_TIA</a> Phone: (703) 299-5711 Contact: Nancy O'Liddy - Director of Government Affairs E-mail address: <a href="mailto:oliddy@tianet.org">oliddy@tianet.org</a> Address: 1625 Prince Street, Suite 200 Alexandria, Virginia 22314-2883
American Association of State Highway and Transportation Officials	<a href="http://www.transportation.org/Pages/ContactUs.aspx">http://www.transportation.org/Pages/ContactUs.aspx</a> Phone: (202) 624-5800 Contact: Jan M. Edwards - Project Director E-mail: <a href="mailto:info@aaashto.org">info@aaashto.org</a> Address: 444 North Capitol Street N.W., Suite 249 Washington, DC 20001
Intermodal Association of North America	<a href="http://www.intermodal.org/">http://www.intermodal.org/</a> Phone: 301-982-3400 Contact: Debbie Sasko - Assistant Vice President E-mail address: <a href="mailto:debbie.sasko@intermodal.org">debbie.sasko@intermodal.org</a> Address: 11785 Beltsville Drive Suite 1100 Calverton, MD 20705
National Motor Freight Traffic	<a href="http://www.nmfta.org/">http://www.nmfta.org/</a>

Association	Phone: (703) 838-1810 Contact: Kimberly Hay - Membership & Customer Service Manager E-mail: <a href="mailto:customerservice@nmfta.org">customerservice@nmfta.org</a> Address: 1001 North Fairfax Street, Suite 600 Alexandria, VA 22314-1798
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### 3. Summary of Interviews conducted with International Transportation Attorneys and Arbitrators

#### Prepared as Reference Material by the National Law Center for Inter-American Free Trade

In continuing to search for information that might be helpful to Task Force in determining the practicality of establishing a specialized arbitration tribunal for the transportation industry, the NLCIFT conducted several interviews with attorneys or arbitrators whose areas of practice included maritime and intermodal transportation disputes. The interview questions prepared by the NLCIFT included some of those that were contained in the final International Transportation Survey that was prepared and distributed by the Task Force during the 2012-2013 working year.

A complete copy of the interview questions used by the NLCIFT are included as Annex III to this report. This format was generally followed during the interview process but the interviews also included time for elaboration on the part of the interviewee and follow-up questions based on the progression of the phone calls. Overall, in the interviews the NLCIFT first tried to establish that attorney being interviewed had experience dealing with international transportation disputes and were qualified to answer the questions as a representative of the industry. In addition to these background questions, the interview also included questions such as the following: i) do you see a need for an arbitration institution that specializes in international transportation between Canada, Mexico and the United States?; ii) based on your experience, do you think an arbitrator with special knowledge of the transportation industry would be useful; and iii) are you aware of any institution of group that specializes in handling international transportation disputes?.

The NLCIFT obtained the contact information of 90% of the attorneys interviewed from the Transportation Lawyers Association (TLA) website and its roster of mediators and arbitrators.<sup>3</sup> Consequently, most of the contacted attorneys were from the United States. The NLCIFT also attempted to contact attorneys from the International Chamber of Commerce's International Court of Arbitration and the International Center for Dispute Resolution of the American Arbitration Association however no answer was obtained from these two organizations.

A total of 29 attorneys were contacted for phone interviews by the NLCIFT. Some of the attorneys asked the NLCIFT to send them the survey through email in order to go over it before the phone interview. At the time of this report, only eight attorneys agreed to be interviewed.

<sup>3</sup> Transportation Lawyer Association, *ADR Information*, available at <http://www.translaw.org/Pages/ADR%20Information.aspx> (last accessed Sept. 11, 2014).

The complete responses obtained by the NLCIFT from these participants are included in table form as Annex IV to this report.

While a majority of interviewees were from the U.S., the NLCIFT did speak with one Canadian attorney and one Mexican attorney. The Canadian attorney interviewed is a private practitioner as well as the President of the Canadian Transportation Lawyers Association. The Mexican attorney interviewed is also a private practitioner and was contacted after a recommendation received from one of the U.S. attorneys interviewed. The remaining six attorneys were also private practitioners and were all domiciled in the United States.

Except for two of the U.S. attorneys interviewed, the area of practice of all the attorneys was international transportation. This means that only six of the eight attorneys interviewed had experience with international transportation disputes and that only these six interview answers are included in the attached table. Some attorneys specifically defined their area of practice as “freight law and damages” and “freight claims.” The Mexican attorney interviewed said his main area of practice was Mexican corporate and administrative law with an emphasis in cargo transportation.

As mentioned, the six attorneys interviewed have all been involved with international disputes concerning the NAFTA countries. All maintained that the most common reason that gives rise to international transportation disputes is some sort of cargo damage. Among these attorneys the most popular alternative dispute resolution method was mediation followed by arbitration. All of the attorneys, including the attorneys from Canada and Mexico, have knowledge and have dealt with the Carmack Amendment.<sup>4</sup> However, they stated that the law they generally deal with when involved in an international transportation dispute is that of their respective countries. For instance, the Canadian attorney stated that Canadian law is typically applied in the disputes in which he is involved.

When asked by the NLCIFT if they were aware of any institution that specializes in handling international transportation disputes, at least two of the U.S. attorneys interviewed that have experience with international transportation disputes mentioned the Transportation ADR Council sponsored by the Transportation Lawyers Association. Other institutions mentioned during the interviews were the International Chamber of Commerce, the American Arbitration Association, the Association of Maritime Arbitrators of Canada and the Society of Maritime Arbitrators.

A point with which the six attorneys interviewed with experience in international transportation disputes agreed was in the existence of a need of arbitrators with specialized knowledge of the transportation industry and that transportation has several rules and intricacies general lawyers have trouble understanding. However, when asked whether they saw a need for an arbitration institution that specializes in international transportation between the NAFTA countries, four attorneys answered “yes,” one attorney answered “I don’t know,” and only one attorney answered “no.” Two of the four attorneys that answered “yes” were foreign attorneys (*i.e.* Canada and Mexico). The Canadian attorney interviewed stated that “a panel with a good understanding of the Carmack Amendment, the basic principles of logistics and how cargo

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<sup>4</sup> Anne E. Melley, *Limitation of liability—Carmack Amendment*, 4 Ind. Law Encyc. Carriers § 75.



moves, the limitations of liability that go hand-in-hand with transportation and the nature of the transportation claims (*e.g.*, bill of lading, cargo damages, etc.) would certainly be a more efficient forum to resolve international transportation disputes.” The Canadian attorney’s answer is relevant due to the fact that he is the President of the Canadian Transportation Lawyers Association. The Mexican attorney’s answer to the same question was the following: “taking into consideration the fact that Mexican, U.S., and Canadian law varies widely, an arbitration tribunal would provide Mexican and Canadian companies with an adequate forum for dispute resolution.” The attorney for Mexico further stated that the extraterritoriality factor of the Carmack Amendment generally remits all disputes, regardless of the place in which damages occurred, to U.S. courts.

One of the two U.S. attorneys that answered “yes” to the same question stated that there is a need of inexpensive and knowledgeable arbitrators. He further provided that the arbitral tribunal created will have to establish credibility with trucking associations, shippers associations, and insurance companies to work effectively. Mindful that it could imply additional costs to arbitration proceedings, he also suggested the modification of the law and the creation of an appellate body for arbitral awards in order to make sure that transportation law is being applied correctly by this arbitral tribunal.

The attorney that answered “no” was from the U.S. and stated that the Transportation ADR Council sponsored by the Transportation Lawyers Association (which he presides) is already doing this and that therefore there is no need of a specialized arbitral tribunal for the NAFTA countries. He thinks that a better approach would be a closer collaboration between organizations similar to the Transportation ADR Council and the establishment of a system of referrals of potential clients to these organizations. He added that the Transportation ADR Council only makes a couple of hundred dollars per dispute, and for this reason, it might not be worth it to try to establish an independent arbitral tribunal only for the NAFTA countries. Additionally, he mentioned that as an attorney specializing in this area, that there is not a significant enough difference between disputes of the three NAFTA countries as opposed, for example, to disputes for cargo coming from El Salvador and that attorneys specializing in this area are going to focus internationally not just within the NAFTA region. He also mentioned that there was a Canadian version of their organization.

#### **4. Potential Next Steps**

Overall, it appears that the attorneys interviewed would be valuable resources for the Task Force moving forward. The Task Force may want to follow up with the U.S. attorney that suggested collaboration and promotion of the already existing Transportation ADR Council to determine if this is a valid outlet for the NAFTA 2022 Committee moving forward for either survey distribution or as the institution that is specialized through which best practices can be promoted. One advantage of collaborating with the Transportation ADR Council would be the ability to use an already established institution with credibility. For those answering “yes” to the final question, it is noteworthy to mention they also replied that they were unaware of the already existing Transportation ADR Council and perhaps this institution is a place in which their concerns can be met. The NLCIFT can assist with this process should the Task Force elect this option.

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**Number of Motor Carriers with Active Operating Authority: 13**

Carrier	Granted	Pending	Dismissed	Withdrawn	Revoked
<a href="#">Transportes Olympic</a>	X				
<a href="#">Moises Alvarez Perez DBA Distribuidora Marina El Pescador</a>	X				
<a href="#">Baja Express</a>				X	
<a href="#">Transportes Del Valle de Guadalupe</a>	X				
<a href="#">Servicios Refrigerados Internacionales</a>	X				
<a href="#">Higienicos Y Desechables Del Bajio</a>	X				
<a href="#">Jose Guadalupe Morales Guevara DBA Fletes Morales</a>	X				
<a href="#">GCC Transporte SA de CV</a>	X				
<a href="#">Transportes Monteblanco</a>	X				
<a href="#">Grupo Behr de Baja California</a>	X				
<a href="#">Ram Trucking SA de CV</a>	X				
<a href="#">Servicio de Transporte Internacional y Local</a>	X				
<a href="#">Transportation and Cargo Solutions SDE RL de CV dba TRACSO</a>	X				
<a href="#">Sergio Tristan Maldonado DBA Tristan Transfer</a>					X
<a href="#">Importaciones y Distribuciones Latina America</a>	X				
<a href="#">Transportadora de Proteccion y Seguridad SA de CV</a>		X			
<a href="#">Transmex, Inc. SA de CV</a>			X		
<a href="#">Transportes Mor SA de CV (Jorge Luis Cardenas Romo)</a>			X		
<a href="#">Transportes Unimex SA de CV</a>			X		
<a href="#">Ricardo Herrera Bolanos</a>			X		
<a href="#">AutoTransportes Libre Comercio SA de CV</a>			X		
<a href="#">Transportes Julian Villa (Maria Isabel Mendivil) Velarde)</a>			X		

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Carrier	Granted	Pending	Dismissed	Withdrawn	Revoked
<a href="#">LAS Transport (Gerardo Antonio Smith Sarabia)</a>			X		
<a href="#">Transportes Grihop (Luis Edmundo Grijalva Gamez)</a>			X		
<a href="#">Transportes Impacto (Adriana de Leon Amaro)</a>			X		
<a href="#">Jose Luis Hernandez Avila</a>			X		
<a href="#">Amador Valdez</a>			X		
<a href="#">Y &amp; R Fashion Mex S de RL de CV</a>			X		
<a href="#">Transportes Diavaolo (Josue Ivan Rodriguez Angulo)</a>			X		
<a href="#">Akemigabby Transport (Figueroa Robles Gabriel)</a>			X		
<a href="#">MediMexico S de RL de CV</a>			X		
<a href="#">Road Machinery CO SA de CV</a>				X	
<a href="#">Trinity Industries de Mexico S de RL de CV</a>				X	
<a href="#">Nature Flavor Produce SRL CV</a>				X	
<a href="#">Aguirre Ramos Jose Luis</a>				X	
<a href="#">Montemayor Espinoza Trucking</a>				X	

**Pre-Authorization Safety Audits (PASA) Conducted**

Carrier	Passed	Failed	Results Pending	PASA Location
<a href="#">Transportes Olympic de Mexico S de RL de CV</a>	X			Mexico
<a href="#">Moises Alvarez Perez DBA Distribuidora Marina El Pescador</a>	X			Mexico
<a href="#">Baja Express Transportes SA de CV</a>	X			Mexico
<a href="#">Transportes Del Valle de Guadalupe SA de CV</a>	X			U.S.
<a href="#">Servicios Refrigerados Internacionales SA de CV</a>	X			U.S.
<a href="#">Higienicos Y Desechables Del Bajio SA de CV</a>	X			U.S.
<a href="#">Grupo Behr de Baja California SA de CV</a>	X			Mexico
<a href="#">Transportes Monteblanco SA de CV</a>	X			U.S.
<a href="#">Jose Guadalupe Morales Guevara DBA Fletes Morales</a>	X			Mexico
<a href="#">GCC Transporte SA de CV</a>	X			U.S.
<a href="#">Transportes Unimex SA de CV</a>	X			U.S.

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Carrier	Passed	Failed	Results Pending	PASA Location
<a href="#">Servicio de Transporte Internacional y Local</a>	X			Mexico
<a href="#">Ram Trucking</a>	X			U.S.
<a href="#">Road Machinery</a>	X			U.S.
<a href="#">Transportation and Cargo Solutions SDE RL de CV dba TRACSO</a>	X			U.S.
<a href="#">Importaciones y Distribuciones Latina America</a>	X			Mexico
<a href="#">Sergio Tristan Maldonado DBA Tristan Transfer</a>	X			Mexico
<a href="#">Transportadora de Proteccion y Seguridad SA de CV</a>	X			U.S.
Adriana de Leon Amaro		X		U.S.
Transportes Mor SA de CV		X		U.S.
TransMex, Inc. SA de CV		X		U.S.
<b>Total PASAs</b>				<b>21</b>

### Motor Carriers with Active Operating Authority – General Information

Total Number of Crossings: 362

Total Number of Participating Vehicles: 55

Total Number of Participating Drivers: 54

### Motor Carriers with Active Operating Authority – Inspections

Total Number of Inspections: 23

Total Number of Drivers Placed Out-of-Service: 0

Total Number of Vehicles Placed Out-of-Service: 0

### Violations of Terms of Operating Authority

- Incidence of Domestic Point-to-Point Transportation: 0
- Incidence of Transportation of Placardable Amount of Hazardous Material: 0
- Incidence of Transportation of Passengers: 0
- Incidence of Use of Unauthorized Drivers/Vehicles: 0
- Incidence of Transportation of Oversize/Overweight Goods: 0
- Incidence of Transportation of Industrial Cranes/Vehicle Towing: 0
- Incidence of Transportation of Package and Courier Service: 0
- Operating without an Operating DOT Electronic Monitoring Device: 0

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### Violations of Hours-of-Service Requirements

- Suspected HOS Issues: 0
- Suspected HOS Issues Investigated: 0
- Violations Verified: 0

### Motor Carriers with Active Operating Authority – Driver’s License Status

Carrier	Number of Drivers	Driver’s License Status
Transportes Olympic	5	Active
Moises Alvarez Perez	1	Active
Transportes del Valle de Guadalupe	1	Active
Servicios Refrigerados Internacional	3	Active
Higienicos Y Desechables del Bajio	1	Active
Jose Guadalupe Morales Guevara DBA Fletes Morales	3	Active
Grupo Behr	3	Active
GCC Transporte	5	Active
Transportes Monteblanco	6	Active
Ram Trucking SA de CV	1	Active
Servicio de Transporte Internacional y Local	17	Active
Transportation and Cargo Solutions dba TRACSO	7	Active
Importaciones y Distribuciones Latina America	1	Active

### Motor Carriers with Active Operating Authority – Reportable Crashes

Carrier	Reportable Crashes
Transportes Olympic	0
Moises Alvarez Perez	0
Transportes del Valle de Guadalupe	0
Servicios Refrigerados Internacional	0
Higienicos Y Deschables del Bajio	0
Jose Guadalupe Morales Guevara DBA Fletes Morales	0
Grupo Behr	0
GCC Transporte	0
Transportes Monteblanco	0
Ram Trucking SA de CV	0
Servicio de Transporte Internacional y Local	0

U.S.-Mexico Cross-Border Long-Haul Trucking Pilot Program  
Operational Update Report  
Reporting Period: 09/15/14 – 09/21/14

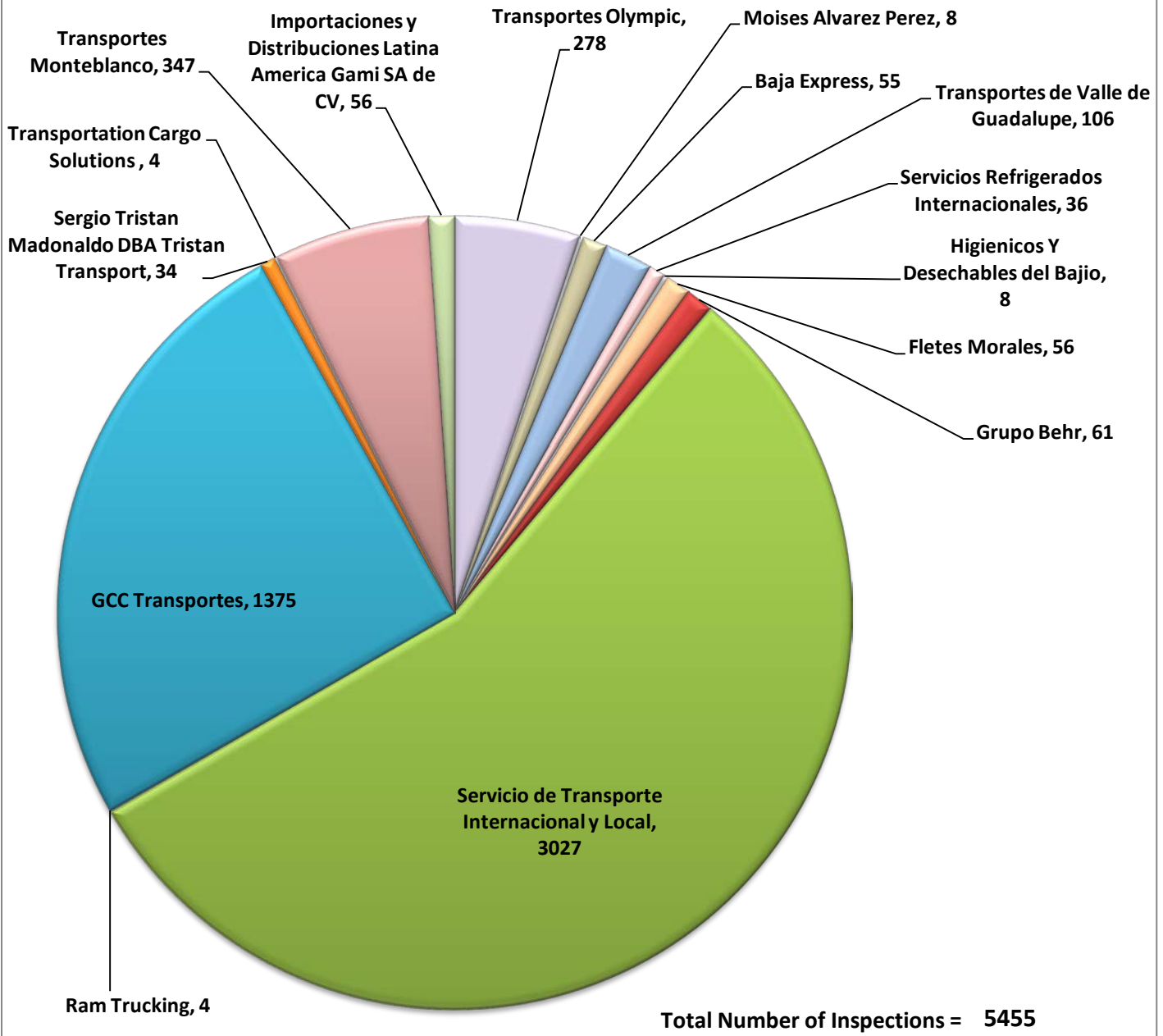
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Carrier	Reportable Crashes
Importaciones y Distribuciones Latina America	0
Transportation and Cargo Solutions dba TRACSO	0

**Motor Carriers with Active Operating Authority – Insurance Status**

Carrier	Insurance Status
Transportes Olympic	Active
Moises Alvarez Perez	Active
Transportes del Valle de Guadalupe	Active
Higienicos Y Deschables del Bajio	Active
Servicios Refrigerados Internacional	Active
Jose Guadalupe Morales Guevara DBA Fletes Morales	Active
Grupo Behr	Active
GCC Transporte	Active
Transportes Monteblanco	Active
Ram Trucking SA de CV	Active
Servicio de Transporte Internacional y Local	Active
Transportation and Cargo Solutions dba TRACSO	Active
Importaciones y Distribuciones Latina America	Active

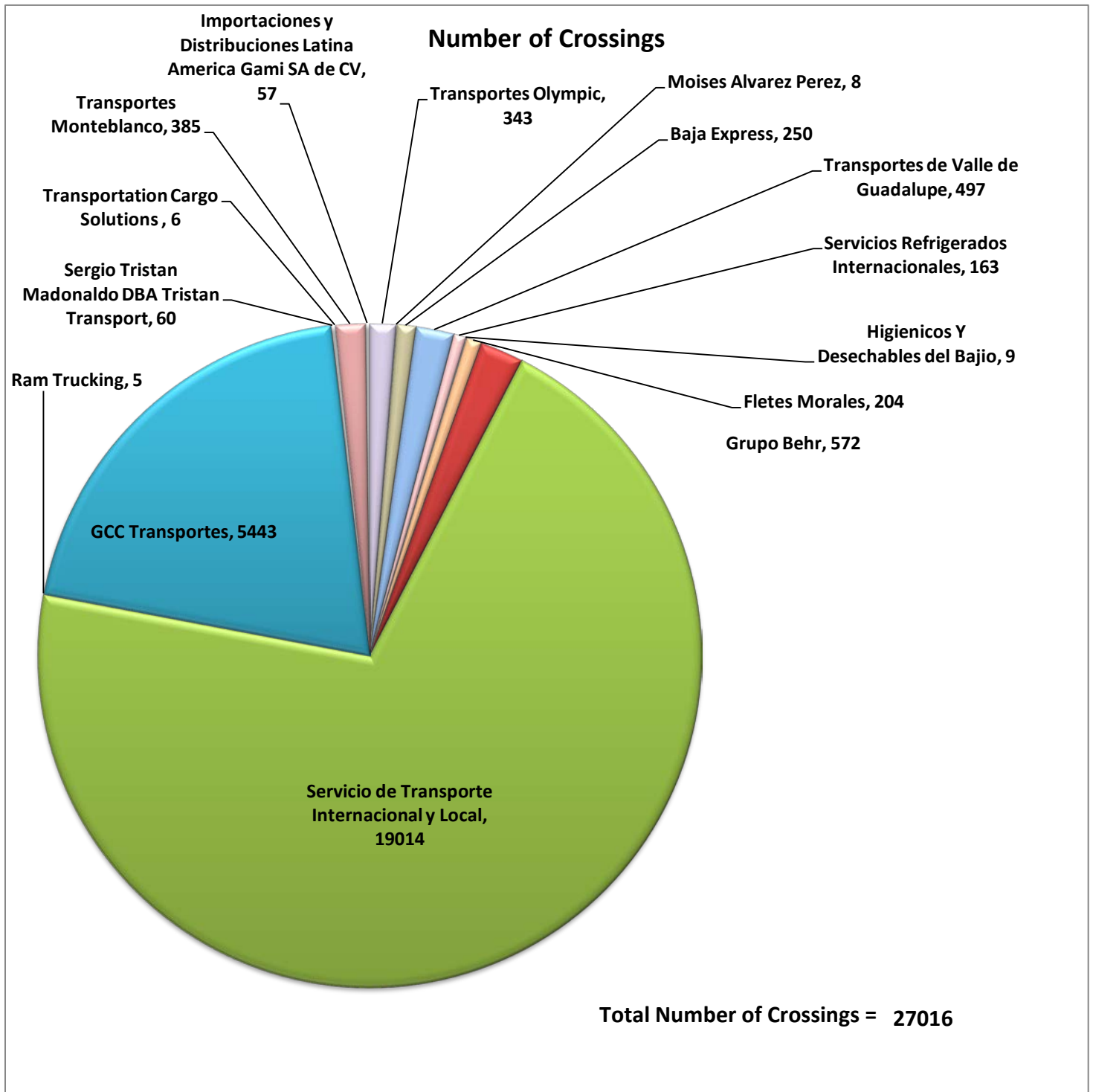
# Number of Inspections



**\*Aggregate Data thru September 21, 2014**

Carrier Name	Number of Inspections
Transportes Olympic	278
Moises Alvarez Perez	8
Baja Express	55
Transportes de Valle de Guadalupe	106
Servicios Refrigerados Internacionales	36
Higienicos Y Desechables del Bajio	8
Fletes Morales	56
Grupo Behr	61
Servicio de Transporte Internacional y Local	3027
Ram Trucking	4
GCC Transportes	1375
Sergio Tristan Madonaldo DBA Tristan Transport	34
Transportation Cargo Solutions	4

Transportes Monteblanco	347
Importaciones y Distribuciones Latina America Gami SA de CV	56
<b>Total Number of Inspections</b>	<b>5,455</b>

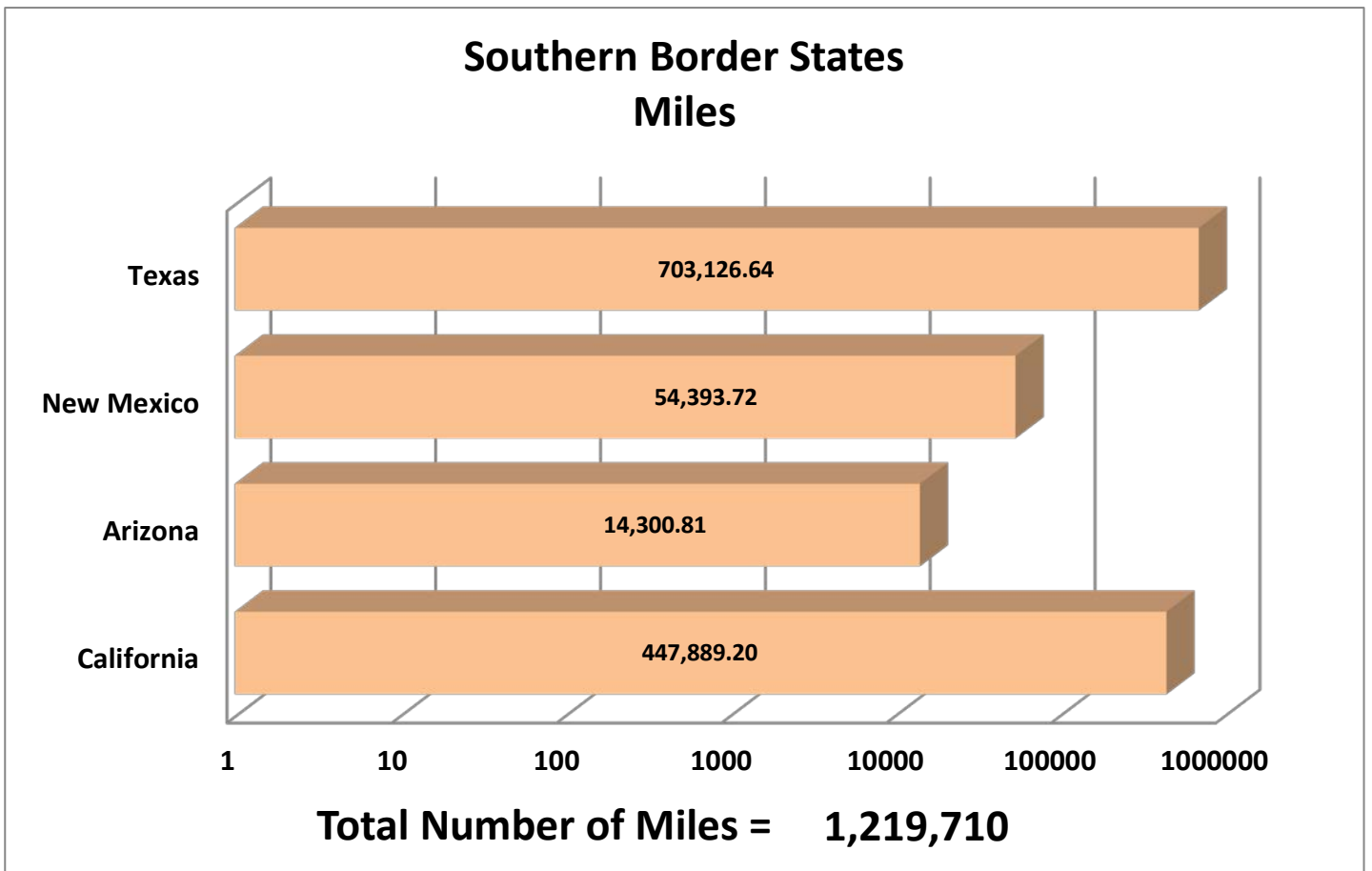


\*Aggregate Data thru September 21, 2014

Carrier Name	Number of Crossings
TRANSPORTES OLYMPIC	343
MOISES ALVAREZ PEREZ	8
BAJA EXPRESS TRANSPORTES SA DE CV	250
TRANSPORTES DEL VALLE DE GUADALUPE SA DE CV	497
SERVICIOS REFRIGERADOS INTERNACIONALES SA DE CV	163
HIGIENICOS Y DESECHABLES DEL BAJIO SA DE CV	9
JOSE GUADALUPE MORALES GUEVARA DBA FLETES MORALES	204



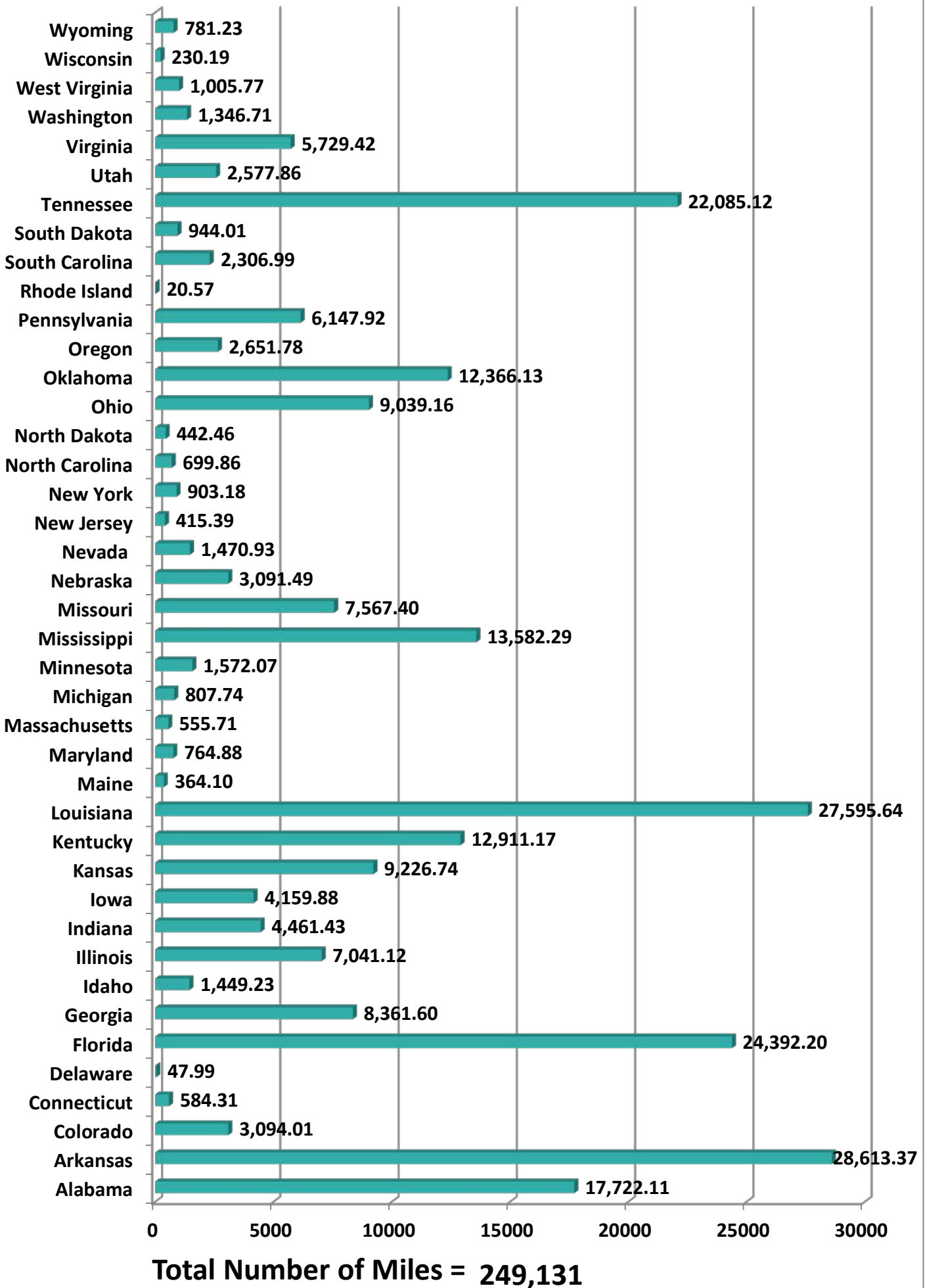
GRUPO BEHR	572
SERVICIOS DE TRANSPORTE INTERNACIONAL Y LOCAL	19014
RAM TRUCKING	5
GCC TRANSPORTE SA DE CV	5443
SERGIO TRISTAN MADONALDO DBA TRISTAN TRANSPORT	60
TRANSPORTATION AND CARGO SOLUTIONS	6
TRANSPORTES MONTEBLANCO	385
Importaciones y Distribuciones Latina America Gami SA de CV	57
<b>Total Number of Crossings</b>	<b>27,016</b>



\*Aggregate Data thru September 21, 2014

Southern Border States	Number of Miles
California	447,889.20
Arizona	14,300.81
New Mexico	54,393.72
Texas	703,126.64
<b>Total Southern Border States Miles</b>	<b>1,219,710</b>

## Non-Border States Miles

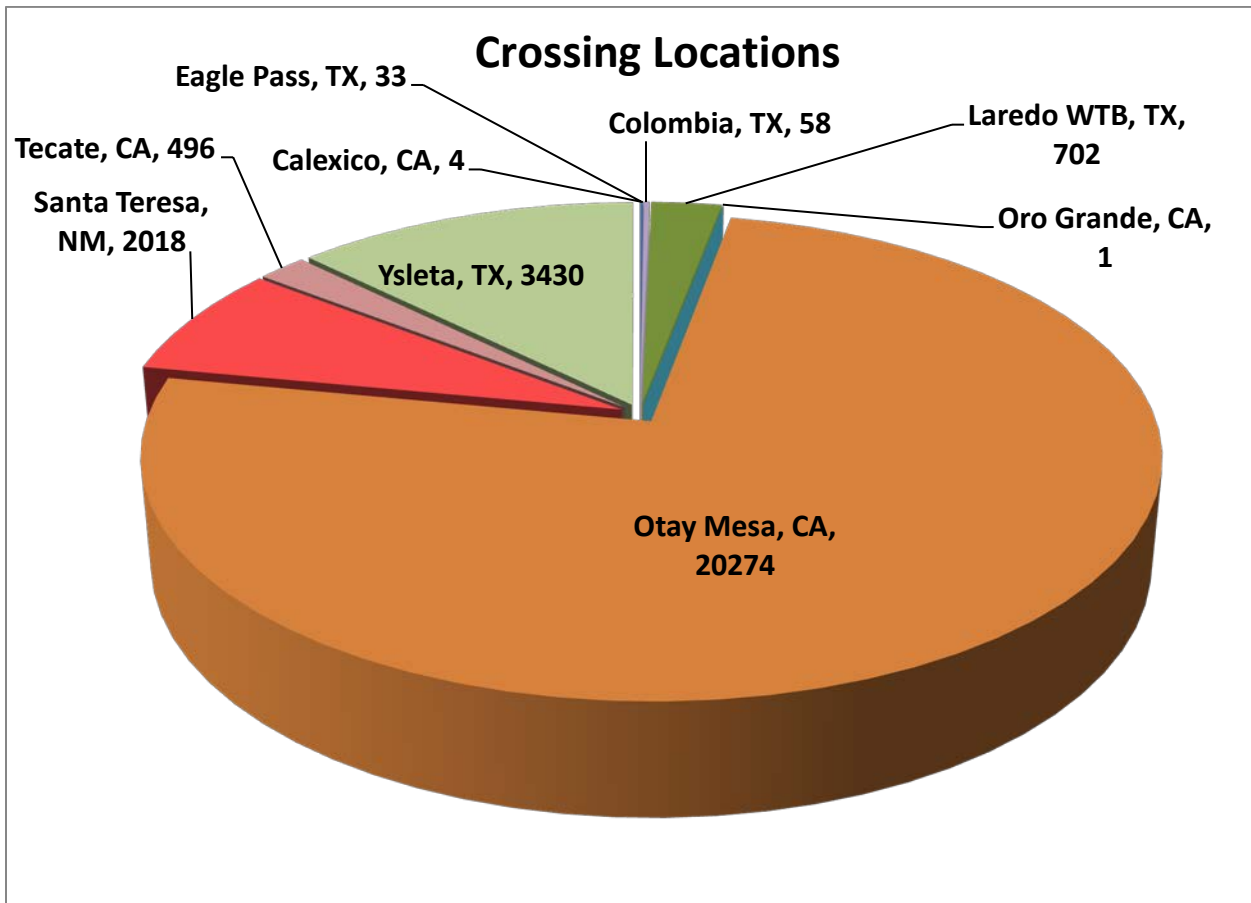


\*Aggregate Data thru September 21, 2014

Non- Border States Miles	Number of Miles
Alabama	17,722.11
Arkansas	28,613.37

Colorado	3,094.01
Connecticut	584.31
Delaware	47.99
Florida	24,392.20
Georgia	8,361.60
Idaho	1,449.23
Illinois	7,041.12
Indiana	4,461.43
Iowa	4,159.88
Kansas	9,226.74
Kentucky	12,911.17
Louisiana	27,595.64
Maine	364.10
Maryland	764.88
Massachusetts	555.71
Michigan	807.74
Minnesota	1,572.07
Mississippi	13,582.29
Missouri	7,567.40
Nebraska	3,091.49
Nevada	1,470.93
New Jersey	415.39
New York	903.18
North Carolina	699.86
North Dakota	442.46
Ohio	9,039.16
Oklahoma	12,366.13
Oregon	2,651.78
Pennsylvania	6,147.92
Rhode Island	20.57
South Carolina	2,306.99
South Dakota	944.01
Tennessee	22,085.12
Utah	2,577.86
Virginia	5,729.42
Washington	1,346.71

West Virginia	1,005.77
Wisconsin	230.19
Wyoming	781.23
<b>Total Non-Border States Miles</b>	<b>249,131</b>



\*Aggregate Data thru September 21, 2014

Crossings Locations	
Eagle Pass, TX	33
Calexico, CA	4
Colombia	58
Laredo WTB, TX	702
Oro Grande, CA	1
Otay Mesa, CA	20,274
Santa Teresa, NM	2,018
Tecate, CA	496
Ysleta, TX	3,430

## **INTERVIEW QUESTIONS FOR TRANSPORTATION ATTORNEYS AND MEDIATORS**

1. Name
2. Attorney or Arbitrator?
3. What is your area of practice?
4. Location
5. Do you have any experience dealing with transportation disputes?
6. Do you have any experience dealing with international transportation disputes?
7. What countries are generally involved in these disputes?
8. Most common reason that gives rise to these disputes?
9. ADR methods most commonly used?
10. What law is generally applied?
11. How much time is typically required to resolve a dispute?
12. Did the arbitrator/mediator (in case dealing with attorney) provide his/her reasons for decision?
13. What kinds of costs are involved?
14. Are you aware of any institution or group that specializes in handling international transportation disputes?
15. How does this group receive clients?
16. Based on your experience, do you think an arbitrator with special knowledge of the transportation industry would be useful?
17. Based on your experience, do you see a need for an arbitration institution that specializes in international transportation between Canada, Mexico and the United States?
18. Please explain your answer to the question above.

**TRANSPORTATION ATTORNEY INTERVIEWS  
SUMMARY TABLE**

	<b>Attorneys</b>					
	<b>Stephen M. Uthoff</b>	<b>Paul D. Angenend</b>	<b>Marc Isaacs</b>	<b>Edwina V. Kessler</b>	<b>H.N. Cunningham III</b>	<b>Carlos Sesma</b>
1. - Attorney or Arbitrator?	Attorney / Mediator	Attorney	Attorney	Attorney	Attorney	Attorney
2. - Area of Practice?	Maritime / Inter-modal Transportation	Fright laws and damages	International transportation	Mediation, Transportation (CARMAC)	Litigation – Transportation disputes (freight claims).	Mexican Corporate and Admin Law with an emphasis in cargo transport
3. - Location?	Long Beach, CA	Austin, TX	Canada	Florida	Dallas, TX	Mexico
4. - Do you have any experience dealing with transportation disputes?	Yes	Yes	Yes, it is pretty much all I do	Yes	Yes, involved less than 10,000 but more than 1,000 disputes. Practicing Law since 1976.	Yes
5. - Do you have any experience dealing with international transportation disputes?	Yes	Yes. Transportation of a printing press from Minnesota to Mexico. Damages were found after the printing press was delivered in Mexico. Damages occurred in Mexico or in the United States. Which law controls? Factual issue (whether CARMAC applies or not). This case would have been ideal for arbitration because of the type of factual issue. (15 cases in entire life involving disputes between Mexico and US)	Yes	Yes. Examples: 1) Cargo was lost (stolen property). Shipment initiated in Mexico. Mediation was initiated in the U.S.  2) Shipments initiated in Mexico, loss occurred in the U.S. Claims filed in the U.S.	Yes, most common issues: 1) Where did damages occur in order to determine what law applies to the dispute?  2) Insurance related issues	Disputes between Mexican, USA and Canadian transportation enterprises (mostly corporate law)

6. - What countries are generally involved in these disputes?	U.S., Canada and Mexico	U.S. and Mexico	My practice is primarily international transportation. Countries involved US – Canada/ Canada-South American, European, and Asian countries.	U.S.	U.S., Mexico and Canada	U.S., Canada and Mexico
7. - Most common reason that gives rise to these disputes?	Cargo problem (damages) or freight collection issue.	Cargo Damage	Cargo damage	Stolen property or damages	The shippers always want to make US carriers liable. Liability of carriers under U.S. law is broader than under Mexican Law. The cargo was damaged. The question is where did damages occurred?	Corporate Disputes and Cargo Damages
8. - ADR methods most commonly used?	Mediation	None	Litigation and arbitration	Mediation	Yes. In most courts in Texas you have to go to mediation. In other instances, there have been contracts that require arbitration.	No ADR method used
9. - What law is generally applied?	Usually U.S. Law or an International Cargo Convention (WARSAW, Hague Convention on Ocean Cargo, etc.)	U.S. law described in the case	Typically Canadian law, occasionally English law	CARMAC, this law is very gray with regards to shipments that originate in Mexico.	All sorts of laws	Varies, depending on the law selected by the parties. Mostly Mexican Law.
10. - In how much time is a dispute resolved?	Case could last between 1 and 2 years. Mediation session, less than one day.	Case went on over two years because the plaintiffs sue the wrong people. Once lawyers knowledgeable in transportation industry were involved, the dispute was resolved in 8 mo.	Arbitration varies, anywhere between 18 months to 2 years	Mediation, 9 months	Arbitration, depending on how complex the dispute is, it takes around 6 months. Mediation can go very quickly, sometimes even in one day.	Corporate disputes, less than one year. Cargo damage claims, between 2 – 3 months.

11. - Did arbitrator/mediator (in case dealing with attorney) provide his/her reasons for decision?	Mediators do not issue decisions. They just help the parties negotiate a resolution.	N/A	Always, it is a requirement	No	Both ways, reasoned and non-reasoned decisions. It is a choice of the parties. Reasoned decisions make arbitration more expensive.	N/A
12. - What kinds of costs are involved?	Varies, some local agencies that I use have free mediators. Otherwise private mediators set their own rates which go from USD\$300 - USD\$1000.	N/A	Cost of arbitrator (arbitral tribunal), premises, and regular legal cost (counsel).	N/A	N/A	N/A
13. - Are you aware of any institution of group that specializes in handling international transportation disputes?	Transportation ADR Council sponsored by the Transportation Lawyers Association	Transportation lawyer association – Arbitration panel group (specializes in domestic and international transportation disputes)	Yes. 1) Association of Maritime Arbitrators of Canada; and 2) Society of Maritime Arbitrators	No	1)International Chamber of Commerce 2)American Arbitration Association (AAA)	“There are several,” didn’t specify.
14. - How do these institutions or groups receive clients?	We have our own web presence. For example, in their transportation contract they name our organization (Transportation ADR Council) as the ADR provider.	N/A	N/A	N/A	N/A	N/A
15. - Based on your experience, do you think an arbitrator with special knowledge of the transportation industry would be useful?	Yes. We have a unique industry. The concepts of the transportation industry are hard to understand if you are not familiar with them.	Yes. Transportation law is not necessarily unique, but it has a lot of rules that general lawyers don’t understand and are not familiar with. The case described is a classic example of that. It went almost a	Yes	Yes	Yes	Yes



		year and a half spinning around before lawyers that knew transportation were involved.				
16. - Based on your experience, do you see a need for an arbitration institution that specializes in international transportation between Canada, Mexico and the United States?	No need for a specific arbitration institution. We are already doing this. Not significant enough difference between disputes of these three countries as opposed, for example, to disputes for cargo coming from El Salvador. We have a Canadian version of our organization as well. If you are talking about International transportation usually a lawyer does not deal only with US/Mexico Transport but with a broader range of countries. A more reasonable solution would be collaboration between organizations similar to ours and put potential clients in contact with us. Our org. only makes a couple of hundred dollars per dispute, so it might not be worth it to establish an independent arbitral tribunal only for these three countries.	I don't know. I don't know how that type of a panel will operate. There is no much business to support that. A standalone arbitration panel may not work.	Yes. I think if you had a panel that had a good understanding of the CARMAC amendment, the basic principles of logistics and how cargo moves, the limitations of liability that go hand in hand with transportation, and the nature of transportation claims (bill of lading, good order-bad order, cargo damages) you would certainly have a more efficient and faster way to resolve these disputes.  You would need to have volume of trucking lines and insurers for such a panel to work. If you get trucking company insurers and cargo insurers to agree to submit their disputes to the system in place then there would be a volume of claims sufficient to financially sustain the existence of this system (panel).	Yes. However, we need to look at the volume of cases to determine whether there is actually a need.	Yes. Knowledgeably people that are relative inexpensive, yes, there is a need. The arbitral tribunal will have to establish credibility with trucking associations, shippers associations and insurance companies to work effectively. An appellate mechanism that makes sure that transportation law is being applied correctly could be a good idea. However, this might add additional costs to arbitration. An arbitral tribunal must have the following characteristics: affordable, credible, and their decisions must be enforceable.	Yes. Taking into consideration the fact that Mexican, USA, and Canadian law varies widely, an arbitration tribunal would provide Mexican and Canadian companies an adequate forum for dispute resolution. The extraterritoriality factor of USA's CARMAC generally remits all disputes, regardless of the place in which damages occurred, to USA courts.