

NAFTA 2022 COMMITTEE

2017 ANNUAL REPORT OF THE TASK FORCE ON SECTORAL ADR FOR THE TRANSPORTATION INDUSTRY

During the XXVI Meeting of the NAFTA 2022 Committee in Washington, D.C. in August 2016, the Task Force on Sectoral ADR for the Transportation Industry (“Task Force”) presented its 2016 annual report. This report focused on the creation of a collaborative partnership with the Transportation Lawyers Association (TLA).

The full Committee approved the Task Force proposal of partnering with the TLA at the XXVI Meeting. Upon the Committee’s request for a strategy to reach out to the TLA, the Task Force presented at the XXVI Meeting a draft letter from the NAFTA 2022 Committee to the TLA to start this conversation. The full Committee approved this letter in principle, with the final text to be approved intersessionally. The intersessional changes to the letter were approved by the Governmental Co-Chairs, and the Task Force proceed to send the final version of the letter to the TLA on March 28, 2017. The final version of the letter to the TLA can be found as an attachment to this Report.

1. TLA Initial Response

On March 30, 2017, the Task Force was contacted by Steven B. Novy, then President of the TLA. Mr. Novy communicated his interest in the proposed partnership, mentioning that he perceived it as a win-win situation for both organizations since it will help TLA increase membership and strengthen TLA’s Alternative Dispute Resolution base. Mr. Novy also mentioned that he needed to present the partnership proposal for discussion at the next TLA’s Executive Meeting, which took place at TLA’s Annual Conference in Santa Fe, New Mexico from April 25-29, 2017. On April 3, 2017, the Task Force was also contacted by Eric R. Benton, Co-Chair, along with Steve Uthoff, of the ADR Committee of the TLA, with the objective of communicating his interest in exploring the benefits of developing a collaborative relationship between both organizations.

2. TLA’s Executive Meeting Reactions

On May 4, 2017, the Task Force followed up with Mr. Novy asking for the results of deliberations that took place at TLA’s Executive Meeting. Mr. Novy replied on May 5th stating that the TLA is very interested in collaborating with the NAFTA 2022 Committee. Per Mr. Novy, there was a consensus at TLA’s Executive Meeting that they would welcome new TLA members who are interested in serving as TLA mediators (and arbitrators), subject to them meeting TLA’s membership requirements as well as the TLA’s standards for mediators (Mediation Report Annex D). Since the Task Force objective is to increase the number of Mexican attorneys on TLA’s approved list of arbitrators/mediators, Mr. Novy suggested that we connect interested Mexican attorneys with the TLA. Mr. Novy mentioned that the ideal contacts within TLA are either Fritz Damm, Co-chair of TLA’s Membership Committee, Stephen Uthoff, Co-chair of our ADR Committee, and Frank Botta, recently appointed as the new TLA President. Mr. Novy also expressed his willingness to sponsor Mexican attorneys.

3. Tentative Next Steps

Proposed next steps include putting together a call to action (e.g. “TLA is searching for Mexican attorneys specialized in transportation law matters as well as in ADR to join their roster”) to locate Mexican arbitrators and mediators interested in joining the TLA’s roster. The Task Force would like suggestions from the full Committee as to the best process to do this.

Mediation Report Annex I

TLA Membership Requirements & Standards for TLA's ADR Approved List

According to the Transportation Lawyer's Association, an attorney/applicant must first undergo a vetting process to become a member of the TLA. This vetting process consists on first satisfying the TLA's membership requirements. After this is achieved, to be included on the TLA's approved list of arbitrators/mediators the applicant must comply with certain ADR/Mediation requirements.

TLA Membership requirements:

- a) applicants must be involved in some type of transportation issues in their law practice;
- b) applicants be licensed attorneys in good standing with their local bar association;
- c) applicants must represent or assist providers and commercial users of logistics and transportation services;
- d) applicants must not hold themselves out as attorneys who regularly engage in the prosecution of plaintiff's personal injury claims against providers of logistics and transportation services;
- e) Payment of a fee of \$225.

TLA's ADR/Mediation requirements:

- a) be a member in good standing of the bar of his or her local jurisdiction and a member of Transportation Lawyers Association or the Canadian Transport Lawyers Association;
- b) has been engaged in the practice of transportation law for a minimum of ten (10) years;
- c) has accurately completed and submitted the mediator's application form to the Administrator;
- d) has agreed to abide by the administrative rules as set forth herein and as may be amended from time to time; and
- e) has obtained and provided proof to the Administrator of a minimum of forty (40) hours of mediation training or shall submit a request that the training requirement is waived. Such request shall be accompanied with requisite background information to support the request. The decision of the Administrator with respect to the evidence of the requirements herein or any relief from that place shall be binding.