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Congress of the United States
House of Representatives
JIMMY GOMEZ
34TH DISTRICT, CALIFORNIA

COMMITTEE ON WAYS AND MEANS
Subcommittee on Tax
Subcommittee on Oversight
Subcommittee on Worker and Family
Support

ASSISTANT WHIP
118th Congress, Democratic Caucus

CONGRESSIONAL DADS CAUCUS
Founder & Chair

CONGRESSIONAL RENTERS CAUCUS
Founder & Chair

July 1, 2024

The Honorable Pete Buttigieg
Secretary
Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

The Honorable Katherine Tai
United States Trade Representative
Office of the US Trade Representative
600 17th Street NW
Washington, DC 20006

The Honorable Julie Su
Acting Secretary of Labor
United States Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Secretary Buttigieg, Ambassador Tai, and Acting Secretary Su,

I write because numerous constituents, including several workers at Smart and Final currently represented by Teamsters Local 630, have raised concerns with my office regarding Smart and Final's alleged unfair labor practices and refusals to bargain in good faith.

These constituents have shared troubling reports of a supply chain rife with labor and safety violations, raising questions about the operations of both Smart and Final and its parent company Grupo Comercial Chedraui. I write to convey their concerns and allegations to your respective agencies, and to better understand whether your departments believe enforcement actions or legislative oversight or reform may be necessary.

I have long been concerned that regulatory and legal gaps in our existing trade framework could be exploited by powerful firms, resulting in downward pressure on wages and working conditions in our communities, and the subversion of our laws. The United States-Mexico-Canada Agreement (USMCA) included state of the art labor provisions to ensure that trade between our two countries would lift workers up, rather than enable their exploitation. However, beyond the scope of the Rapid Response Mechanism, more work is required to protect the fundamental rights of workers on either side of the border to organize and collectively bargain for improvements in their wages and working conditions.

In recent months, for example, constituents have raised complaints surrounding Smart and Final operations including alleged:

- Violations of key safety regulations intended to prevent driver fatigue and dangerous driving. This includes Federal Motor Carrier Safety Administration Hours of Service rules, which dictate how long a driver can operate, as well as failure to use and/or proper usage of mandated electronic logging devices, in which drivers create records of their drive time which can be reviewed by law enforcement.
- Compliance with Department of Transportation drug and alcohol testing requirements for safety-sensitive personnel, including drivers.
- Cabotage violations. Federal law restricts a foreign carrier from performing point-to-point trucking operations within the United States. A driver may drop off a load, and pick up a new load bound for Mexico, but cannot deliver the new load to another domestic location.
- Violations of domestic labor laws including wage and hour violations, dozens of unfair labor practices, time off, and overtime pay violations, whereby the company subcontracts Mexican truck drivers who enter the U.S. on salaries and benefits vastly inferior to those of U.S. operators.
- Unlawful mass termination of and retaliation against workers who chose to exercise their right to unionize under federal labor law.

Considering these workers' ongoing fight for fair working conditions here in the United States, and the broader significance of their struggle to US trade and labor priorities, I request your departments and agencies determine whether the facts of this situation warrant additional scrutiny and enforcement action.

Especially as Congress prepares for potential review and term extension of the USMCA in 2026, I am committed to understanding what this concerning case study may teach us about unfair practices that operate outside the existing labor and cross-border trucking provisions of USMCA. It is my hope that information we learn from this case will help my colleagues and I consider potential solutions to strengthen protections for workers on both sides of the border.

In furtherance of that goal, I would appreciate if your agencies could provide appropriate answers to the following questions, based on the specific jurisdictions of your agencies:

1. Are your agencies aware of any existing, pending, or anticipated studies or reports that shed light on the state of labor conditions and/or cross-border long-haul trucking services as utilized by firms engaged in the grocery warehouse sub-market in particular?
 - a. If so, please provide details on these studies/reports.
 - b. If not, please provide your brief assessment of how such studies or reports might ideally be commissioned to facilitate greater regulatory and legislative research into this important sub-market.
2. In August of 2023, the Department of Transportation Office of Inspector General released an audit which found that 63.9 percent of OP-1(MX) authority carriers did not receive a compliance review within 18 months of receiving provisional operating authority, as required by regulation. What steps has FMCSA taken since this report to improve its oversight over these carriers?

- a. Regardless of specific operating authority, through what process may FMCSA initiate a review of a specific carrier or carriers following the discovery of evidence of unsafe or illegal behavior?
- b. Using form MCS-150 information or other cargo data, is DOT/FMCSA able to identify trends in the industries or subindustries that OP-1(MX) or enterprise carriers are participating in?

Thank you for your attention to this matter, I look forward to your response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jimmy Gomez", with a long horizontal flourish extending to the right.

Jimmy Gomez
Member of Congress

cc: NLRB General Counsel Jennifer Abruzzo