

April 16, 2021

The Honorable Katherine Tai
U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, D.C. 20508

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Ave. SW
Washington, D.C. 20250

TRANSMITTED ELECTRONICALLY

Dear Ambassador Tai and Secretary Vilsack:

Congratulations on your recent confirmations. We are organizations representing family-scale farmers, ranchers and fishermen, farm workers, rural communities and producer advocates that promote fair trade and agroecological, sustainable farming practices. We appreciate statements by both of you recognizing the need for greater equity and a balancing of public interests in the policies of the Department of Agriculture and in our trade agreements. Ambassador Tai's acknowledgement in her confirmation hearing that trade has failed to "bring up standards with respect to workers and environmental protection," instead often producing "a race to the bottom," and her work to improve the environmental, labor and public health provisions of the U.S.-Mexico-Canada Agreement (USMCA) are an important frame on which to build this future policy.¹

Thus, we read with concern the March 22, 2021 letter to you from food and agricultural trade associations raising objections to health, consumer and farmer protections and agricultural policies of the government of Mexico and seeking your intervention. Among other complaints, which appear to be based on unspecified provisions governing trade, the letter objected to front of package nutrition warning labels (NOM-051) that came into force on October 1, 2020, and policies to reduce and gradually phase out the use and importation of glyphosate and genetically modified corn.

These nutrition, glyphosate and GM policies are supported by science and fully within the scope of Mexico's authority to regulate to "protect legitimate public welfare objectives, such as health, safety, environmental protection, conservation of living or non-living exhaustible natural resources."² These policies advance important objectives including reversing the obesity crisis that has hit Mexico hard as diets changed following the implementation of the original North American Free Trade Agreement, with greater access to cheap ultra-processed foods and sugary drinks.³ They also encourage more sustainable agricultural policies that support small

scale and family farms, food security, ecological biodiversity, and the continued cultivation of heritage crops. The measures have strong support within Mexican civil society including farmer, campesino, and consumer organizations.⁴

We strongly object to the industry groups' characterization of these policies as protectionist. Just as federal and state governments in the U.S. must have the policy space to address threats to the environment and public health as well as the economic viability of our farms, so too should our trading partners.

Nutritional labeling and sugary drinks. In 2016, Mexico's Ministry of Health declared an epidemiological emergency due to obesity and diabetes. Diabetes is the leading cause of death in Mexico at about 100,000 cases annually. Overweight and obesity already affect 33% of the child population and 72.5% of the adult population, among the highest levels worldwide.⁵ Front of package nutritional warning labels using symbols are an effective means of educating consumers about healthy food choices and preventing diet-related diseases. These labels are increasingly being adopted by governments around the world, including in Canada. Mexico's NOM-051 labeling regulation, which also sets standards for industry nutritional claims on packaging, is informed by experience over many years with more limited regulation that proved ineffective. These policies are all supported by science.⁶ Mexico has also sought to limit consumption of sugary drinks with policies including targeted taxes. These policies, too, are effective; and arise from public health concerns, not as the industry letter claims, "corn product disparagement."⁷

The USMCA countries, Canada, Mexico and the United States, are each experiencing public health crises linked to some of the highest obesity rates in the world—rates that continue to rise.⁸ The U.S. has been slow to respond to this crisis, which has taken a dangerous turn during the pandemic, as obesity is a chief co-morbidity for COVID-19.⁹ Our public health failings cannot justify attempts by agribusiness to prevent our trade partners from implementing their own public health measures.

Glyphosate and genetic modification. Mexican President Andrés Manuel López Obrador's decree phasing out glyphosate use over three years is likewise based on public health and environmental concerns, and a review of the science.¹⁰ The Mexican government had stopped imports of glyphosate since late 2019, citing the World Health Organization's warning that the chemical is a "probable carcinogen." The recently announced ban on permits for cultivation of GM corn formalizes current restrictions, ordered by Mexican courts in 2013 after a citizen lawsuit challenged government permitting of experimental GM corn planting by Monsanto and other multinational seed companies on the grounds that cross-pollination would contaminate Mexico's significant native corn varieties.¹¹ These policies support Mexico's commitments in the Convention of Biodiversity Cartagena Protocol on Biosafety, and are consistent with recommendations made in 2004 by the North American Commission on Environmental Cooperation. That independent expert commission, formed under NAFTA's environmental provisions, confirmed gene flow of transgenes to native corn and recommended precautionary policies.¹²

Although the U.S. has yet to take significant steps to regulate glyphosate to protect public health and plant pollination, three dozen states and localities have restrictions or partial bans on glyphosate use, and additional measures including moratoria and bans are currently pending in state legislatures across the country.¹³ Glyphosate has been the subject of thousands of lawsuits in the U.S. over health impacts, with Bayer setting aside more than \$11 billion for settlements.¹⁴ These measures – whether in the U.S. or in Mexico - are not trade restrictions but rather, nondiscriminatory public health and environmental protections well within a government’s public welfare powers.

Likewise, the fact that the U.S. continues to deregulate genetic engineering -- in the face of evidence of harm to both workers and biodiversity from associated pesticide overuse¹⁵ -- does not justify imposing these policies on other countries under the guise of trade policy. While agribusiness trade groups may demand such policies (which certainly benefit global pesticide and seed companies), they do not benefit family farmers.¹⁶

While it is unclear what action the industry groups are seeking – no violation of the USMCA or World Trade Organization rules is alleged -- we urge both USTR and USDA to respect Mexico’s domestic policy choices and refrain from any action to interfere with policies that support healthy food and diets and that advance sustainable and environmentally sound agroecological practices. Mexico is well within its rights to adopt these provisions, as the U.S. would be if it implemented similar policies.

If the U.S. is to avoid a “race to the bottom” and move towards a more equitable, sustainable and secure food system, our trade policies must change. We look forward to working with you to take the next steps toward this new vision.

Sincerely,

Institute for Agriculture and Trade Policy

National Family Farm Coalition

Rural Coalition/Coalición Rural

¹ <https://truthout.org/articles/bidens-trade-rep-nominee-backs-policies-that-hinder-global-vaccine-distribution/>

² As articulated in the USMCA,
https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/00_Preamble.pdf

³ Sarah E. Clark et al, “Exporting obesity: U.S. farm and trade policy and the transformation of the Mexican consumer food environment,” *International Journal of Occupational and Environmental Health*, Vol. 18:1 pp.53-65.

⁴ See March 26, 2021 civil society letter in support of the Mexican government’s measures and objecting to the U.S. industry letter calling on USTR and USDA to intervene, <http://anec.org.mx/wp-content/uploads/2021/03/PRONUNCIAMIENTO-FINAL-CON-FIRMAS-260321.pdf>, and English translation, <https://www.iatp.org/sites/default/files/2021-03/Mex%20group%20translations.pdf>.

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- ⁵ National Health Survey 2018 (ENSANUT), Instituto Nacional de Salud Pública, Mexico, 2018. See, <https://pubmed.ncbi.nlm.nih.gov/31869555/>
- ⁶ See e.g., Taillie LS, Hall MG, Popkin BM, Ng SW, Murukutla N. Experimental Studies of Front-of-Package Nutrient Warning Labels on Sugar-Sweetened Beverages and Ultra-Processed Foods: A Scoping Review. *Nutrients*. 2020 Feb 22;12(2):569. doi: 10.3390/nu12020569. PMID: 32098363; PMCID: PMC7071470. Also, Estimated effects of the implementation of the Mexican Warning Labels regulation on the use of health and nutrition claims on packaged foods, <https://www.researchsquare.com/article/rs-56289/v1> (undergoing peer review)
- ⁷ Mexico's sugary drinks tax has helped cut consumption after just three years, *British Medical Journal*, May 6, 2020, <https://medicalxpress.com/news/2020-05-mexico-sugary-tax-consumption-years.html>
- ⁸ Organisation for Economic Co-operation and Development (OECD), "Obesity Update 2017", <https://www.oecd.org/els/health-systems/Obesity-Update-2017.pdf> (accessed April 27, 2018).
- ⁹ "Obesity Worsens Outcomes from COVID-19," Centers for Disease Control and Prevention, March 22, 2021. <https://www.cdc.gov/obesity/data/obesity-and-covid-19.html>
- ¹⁰ Repository of Scientific Information, <https://www.conacyt.gob.mx/cibiogem/index.php/sistema-nacional-de-informacion/documentos-y-actividades-en-bioseguridad/repositorio-glifosato>
- ¹¹ <https://kjzz.org/content/9146/mexico-places-temporary-injunction-against-planting-gmo-corn>
- ¹² Maize and Biodiversity- The Effects of Transgenic Maize in Mexico: Key Findings and Recommendations Article 13 report (2004), <http://www3.cec.org/islandora/en/item/2152-maize-and-biodiversity-effects-transgenic-maize-in-mexico-key-findings-and>
- ¹³ Which Countries and U.S. States are Banning Roundup? Carlson Law Firm, February 10, 2021, <https://www.carlsonattorneys.com/news-and-update/banning-roundup>; National Conference of State Legislatures, Environmental Health State Bill Tracking Database, <https://www.ncsl.org/research/environment-and-natural-resources/environmental-health-legislation-database.aspx>
- ¹⁴ Reuters, Bayer takes \$10 billion writedown, flags higher Roundup settlement bill, <https://www.reuters.com/article/bayer-results/bayer-takes-10-billion-writedown-flags-higher-roundup-settlement-bill-idUSKBN27J26A>
- ¹⁵ Charles M. Benbrook, Why Regulators Lost Track and Control of Pesticide Risks: Lessons From the Case of Glyphosate-Based Herbicides and Genetically Engineered-Crop Technology. *Curr Envir Health Rpt* 5, 387–395 (2018). <https://doi.org/10.1007/s40572-018-0207-y>
- ¹⁶ Farm and Environmental Organizations Rebuke New USDA Regulatory Review, May 18, 2020, <https://nffc.net/6169-2/>