



# ENABLING BETTER FOOD LABELING IN USMCA

## Summary

The upcoming review of the U.S.-Mexico-Canada Agreement (USMCA) is an opportunity to address changes since that agreement was enacted in 2020 and to fix problems that have become apparent during its implementation. Reforming USMCA provisions that limit transparency about food and food systems — including of mandatory Country of Origin and front-of-package nutrition labeling, and disclosure of pre-packaged food additives and genetically modified (GM) ingredients — should be a priority for review. While the interests of consumers, farmers, and the public health community align in strong support for access to information, the USMCA includes a raft of subjective, arbitrary and at times insurmountable rules that block legitimate public policy and encourage commercial interests to pressure governments to override public health and sustainable farming goals.

The response to the current round of on-again off-again tariff threats from the Trump administration must not be a retreat to the old style of neoliberal trade agreements, but instead a new approach that rebalances those opposing interests in favor of healthy food systems, resilient livelihoods, and sustainable economies generally. Central to this objective will be for negotiators of the revised USMCA to:

- Remove in its entirety Annex 3-D to the Agriculture Chapter on “Proprietary Formulas for Prepackaged Foods and Food Additives” dubbed the Junk Food Annex, intended to limit disclosure of chemical additives in prepackaged foods;
- Add a “Peace Clause” Annex on food labels to the Technical Barriers to Trade chapter wherein Canada, Mexico and the U.S. agree not to challenge each other’s labeling policies under trade rules in USMCA and the WTO until a permanent solution can be found.
- Commit to negotiations to permanently carve out measures related to transparency in food labeling from trade disputes based on the necessity clause.

These changes would remove the threat of corporations pressuring governments to use the trade dispute process to undermine Mexico’s ability to move forward with its plans for GM labeling under the new Food Law and the U.S. to find new approaches to Country of Origin Labeling for meat, as well as improved nutrition labels.



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The upcoming review of the U.S.-Mexico-Canada Agreement (USMCA) is an opportunity to reflect on economic, societal and environmental changes since that agreement was enacted, and to respond to those changes where the agreement is lacking. Additionally, with five years' experience interpreting and enforcing the USMCA, there is an opportunity to fix problems that have become apparent during the implementation of the agreement. As a modern trade agreement, the USMCA contains hundreds of pages of provisions that go well beyond tariff-setting, reaching into the nitty-gritty of domestic policy choices and legislation. The review process provides an opportunity to rebalance overly intrusive trade rules that have thwarted implementation of legitimate domestic policy goals.

These dual review goals are reflected in the USMCA's treatment of data and information. The vast expansion of data available to corporations detailing our consumption habits and economic decisions, and the rapid deployment of powerful artificial intelligence tools across all sectors of the economy, stand out as significant issues that the USMCA failed to adequately address. As the agreement undergoes review, it is imperative to rein in the mad optimism about the digital economy and the disregard for consumer privacy concerns that prevailed during the trade talks leading up to the USMCA.

At the same time, the agreement has overly prescriptive rules that limit consumer and farmer access to information about how and where food is produced. This legitimate interest in greater transparency is undermined by provisions in USMCA and other trade agreements that limit nutrition and Country of Origin Labeling. The review provides an opportunity to protect food labeling provisions from the possibility of trade challenges and instead commit to greater transparency in the North American food system.

## ***Demands for transparency in food and farm systems***

Agricultural production has become extremely concentrated in North America. This is especially true in the U.S. but is a growing problem in Canada and Mexico as well. For example, just four firms control 85% of beef packing in the U.S. In addition to the fact that producers have so few options over where to sell their goods, the markets themselves are extremely opaque. U.S. farm groups have been pushing for years for reforms that would weaken captive supply chains in which buyers essentially dictate the terms of sales. These include campaigns for reforms of the Packers and Stockyards Act and a demand for mandatory Country of Origin Labeling (COOL) for meat. Taken together, these measures could increase transparency in supply chains, contributing to fairer prices for producers.

Consumers also want to know where and how their food is produced. Some labels are voluntary, such as organic labels. Food companies do not have to label their products as organic — but if they do, the claims must be true. Organic labeling is regulated by U.S. Department of Agriculture (USDA), which requires adherence to standards on production methods established by the National Organic Standards Board. Fraud in organic labeling has happened, both in domestic production and in imports, but when those allegations emerge, there is a legal process to address it. Other kinds of voluntary labeling, such as non-GMO and fair-trade labels, are certified by private certification boards. A new rule on [voluntary Country of Origin Labeling for meat](#) set to go into effect in 2026 will allow companies to label beef as “Product of USA” only if it is born, raised, and processed in the U.S. In each of these cases, consumers can choose if these issues matter to them, and companies can choose if they want to carry out and promote these production methods, but if they do, the claims are subject to verification.

Mandatory standards such as nutrition labeling require companies to disclose ingredients and their potential impacts on human health. As scientific knowledge emerges about the health impacts of chemical additives and levels of fats and sodium, [particularly in ultra-processed foods](#), there is increasing demand for

food labels that are both more comprehensive and more accessible. Many countries, including Mexico, have moved to front-of-package nutrition labels that allow consumers to see information on calories, sodium, and fats at a glance, with more detailed information on the back.

Proposals in the U.S. Congress for mandatory COOL would require all meat to be labeled as to where the animal was born, raised, and processed. Mandatory COOL has been a priority for U.S. farm groups including the National Farmers Union, National Family Farm Coalition and the Western Organization of Resource Councils for many years. “It is very simple,” states Gilles Stockton, a leader of the Livestock Competition Team and member of the Northern Plains Resource Council. “Consumers want to know where their beef comes from. We cattle ranchers should have the right to a competitive and transparent market. The global corporations make excessive profits by defrauding consumers and stealing from American cattle ranchers. If leaders in Washington truly share our priorities of supporting independent family livestock producers, then they should support mandatory COOL.”

### *Limiting transparency through trade agreements*

For the most part, issues around labeling are included in trade agreements within chapters called Technical Barriers to Trade (TBT). [According to the World Trade Organization](#) (WTO), these provisions are designed to prevent technical regulations and standards from creating “unnecessary obstacles to trade” while recognizing each country’s “right to implement measures to achieve legitimate policy objectives, such as the protection of human health and safety, or protection of the environment.” Those obstacles to trade include measures deemed to unfairly discriminate against imports. The agreements reached among countries in bilateral or regional agreements like the USMCA can add additional definitions and restrictions to the underlying World Trade Organization (WTO) rules. In practice, these provisions have created obstacles for several kinds of food labeling programs:

#### **1. Country of Origin Labeling for meat**

[Mandatory Country of Origin Labeling](#) for fresh fruits and vegetables, beef, pork, lamb, seafood, and peanuts was introduced under the 2002 Farm Bill. The 2008 Farm Bill made some modifications to the rule designed to reduce compliance costs (as well as adding coverage of chicken, goat meat and certain nuts). Under the 2009 rule, beef from cattle born, raised, and harvested in the U.S. would be labeled “Product of the U.S.” Beef resulting from cattle born in one country and raised or slaughtered in another would have labels reflecting that fact, e.g., “Product of the U.S. and Mexico.”

Canada and Mexico brought a trade dispute over Country of Origin Labeling for meat to the WTO in 2009, arguing that the rules violated commitments to treat imports no less favorably than like products of domestic origin. Those rules are intended to ensure that requirements are not more trade-restrictive than necessary and that they don’t unreasonably increase costs. In 2011, a WTO dispute settlement panel ruled that some aspects of the program treated imported meat and cattle less favorably than U.S. production and that the program failed to meet the legitimate objective of providing useful information to consumers.

The U.S. appealed the decision a few months later. In June 2012, while acknowledging the legitimacy of providing consumers with information about the origin of meat, the appellate body upheld the original decision, in large part due to the rule’s record-keeping and verification requirements. Based on extensive consultations with stakeholders, USDA issued a revised rule in 2013 intended to bring mandatory COOL into compliance with the WTO decision. Canada and Mexico rejected that solution, again invoking the WTO dispute process and moving into discussions on retaliatory tariffs. In 2015, the dispute panel authorized Canada and Mexico to impose retaliatory tariffs valued at \$1 billion. The U.S. Congress repealed the COOL rules a few months later, also removing coverage for chicken, even though that had not been covered in the trade dispute.

There have been several efforts to restore mandatory COOL for meat since that time, both at the state and federal level. A bill introduced in 2024 would direct USDA and USTR to find a way to make a new program compliant with WTO rules. Given the lack of success of the past effort to find that middle ground, it seems the problem is not so much the COOL law as the WTO rules that put undue weight on the burden of record-keeping costs while disregarding the value of greater transparency to consumers and producers.

A 2017 survey conducted by the [Consumer Federation of America](#) found that 89% of U.S. consumers want to know where their meat comes from, a figure that has likely increased given the [growing public interest in local foods](#). Farm groups hope that U.S. meat will command a premium at the grocery store, but their interests go beyond the retail price. COOL is part of a suite of proposals being advanced to counter corporate concentration in agriculture.

“Independent farmers and ranchers have been fighting captive supply chains and corporate consolidation in the livestock sector for more than century,” says Jordan Treakle, policy and programs director at the National Family Farm Coalition. “But efforts to defend open markets that deliver fair prices to ranchers and livestock growers depend on consumers having the fundamental right to know where their food comes from and agency to invest in their local food system. Mandatory Country of Origin Labeling for meat, and all foods, provides that basic market transparency. This is why Mandatory Country of Origin Labeling, together with foundational market competition policies like the Packers and Stockyards Act, livestock spot market reform efforts, and anti-trust law are jointly needed to make the livestock sector and our food system more fair and resilient for family farmers and consumers.”

Given the vast expansion of data about all aspects of our economy in recent years, the argument that record-keeping is too costly now seems disingenuous. As of 2024, virtually all cattle are required to have Radio Frequency Identification ([RFID ear tags](#)) as part of a USDA effort to “strengthen its traceability system to protect the long-term health, marketability and economic viability of the U.S. livestock industry.” It is hard to believe that the companies moving cattle back and forth across borders at various stages of their lives from birth to processing don’t already track every aspect of that production, including its location. The problem is not so much the cost of compliance as the trade rules that provide excuses not to comply.

## 2. Nutrition labeling

Trade rules have also been used to challenge regulations to improve nutrition labeling. USMCA includes new language that [Professor Ronald Labonté](#) of the University of Ottawa’s School of Epidemiology and Public Health said would exert “considerable pressure on Canada and Mexico to adopt standards preferred by the U.S. food industry and likely less influential in shaping healthier food choices.” Provisions in the [USMCA’s TBT chapter](#) calls on regulators to ensure that “technical regulations concerning labels ... do not create unnecessary obstacles to trade.” The question of when a regulation goes beyond what is judged as necessary to achieve a legitimate policy aim has been subject to numerous conflicts.

During the USMCA negotiations, [the New York Times published confidential details](#) on a proposal relating to prepackaged food and beverage labeling. The Times reported that the U.S. wanted to prevent any warning symbol, shape or color that “inappropriately denotes that a hazard exists from consumption of the food or nonalcoholic beverages.” At a Congressional hearing sparked by the leak, U.S Trade Representative [Robert Lighthizer](#) defended the policy, saying while the U.S. wants to find solutions to obesity, the food label warnings could be used to “create a protectionist environment.” In large part because of the resulting public debate, [that specific provision was eventually dropped](#) from the agreement, but ambiguity in the text on exactly what is allowable continues.

Since then, the [Codex Alimentarius Commission](#) (an international standards-setting body referenced in WTO and USMCA TBT texts) has debated what kinds of front-of-package food labels could be justified, but the resulting decision is vague, opening the door to future industry challenges. U.S. legislators and regulatory agencies have been debating improved nutrition labeling laws for decades, with pushback from

the food industry. In comments to the Food and Drug Administration and the Department of Health and Human Services on proposals for “Ensuring Lawful Regulation and Unleashing Innovation To Make America Healthy Again”, the [Food Industry Association urges the current administration to reconsider](#) proposals for mandatory front-of-package nutrition labeling which it asserts are “oversimplified and could lead to consumer confusion” as well as adding to costs.

Ambiguity over what measures are “necessary” to achieve public health goals opens the door to trade pressures. While such challenges might not result in high-profile dispute settlement cases, they could still be the subject of even less transparent efforts behind the scenes. For example, the U.S. exerted [pressure on Chile](#) to weaken its ambitious proposals for front-of-package labels with traffic light symbols to denote unhealthy foods. It applied pressure both through diplomatic channels and the WTO TBT committee meetings, where it demanded that Chile justify the new labels. Chile eventually toned down proposed red “stoplight” labels to less dramatic — and potentially less effective — black and white symbols.

In 2024, Mexico published [implementation rules for an ambitious new food law](#) with provisions for mandatory warning labels for food products that include genetically modified (GM) ingredients. The U.S. has vigorously opposed Mexico’s plans to restrict the consumption of GM white corn and to become self-sufficient in non-GM corn production. GM corn is produced to resist the herbicide glyphosate, which has been deemed a [probable carcinogen](#) by the World Health Organization. Mexico proposed restrictions due to evidence of health risks from the use of glyphosate, as well as other risks to human health and biodiversity. After considerable diplomatic pressure, the U.S. launched a formal trade dispute under the USMCA, asserting that restrictions on GM corn were unscientific and unjustified. The U.S. ultimately won that dispute, leading Mexico to rescind those measures, although it did enshrine a ban on planting GM corn in its constitution. The new provisions on GM labeling are framed in the context of consumers’ right to healthy information and a strong new legal commitment to the precautionary principle.

Given the lengths the first Trump administration went to [prevent consumer labeling of genetically engineered foods in the U.S.](#), trade pressure or even a trade dispute over these measures seems entirely likely. When mandated by law to develop a GMO food label, the administration came up with the [“bioengineered” labeling standard](#), which omits ultra-processed foods from its purview and relies on a cockamamie and ineffective scheme to hide information in QR codes and on industry websites.

### **3. Ultra-processed foods and the Junk Food Annex**

The USMCA took a big step backwards on transparency with a new annex to the [Agriculture chapter](#) on “Proprietary Formulas for Prepackaged Foods and Food Additives,” dubbed the Junk Food Annex. Paragraph 3(a) of Annex 3-D limits regulators’ requests for information relating to proprietary formulas for prepackaged foods or food additives “to what is necessary to achieve its legitimate objective,” thus increasing protections of confidential business information on additives and formulas.

Inserting that necessity test into regulatory decisions could make it much more difficult for the food safety agencies in the three countries to compel companies to provide information on food additives.

As illustrated by the successful trade challenges to COOL, the required showing of “necessity” can be a high bar to meet. Under that test, it is not enough for a measure such as a labeling program to be scientifically justified or economically feasible. It must be the only way possible to achieve a given public policy goal. In addition, Paragraph 5 of this Annex, which on its face appears to preserve the right to require listings of ingredients on food labels, disallows such labeling “when those standards would be an ineffective or inappropriate means for the fulfilment of a legitimate objective.” The term “inappropriate” is even more ambiguous than “necessary,” and this ambiguity practically invites arbitrary trade challenges. This language could limit labeling of prepackaged food to disclose [health-harming chemical additives](#) by allowing challenges on the grounds of effectiveness and appropriateness, raising the bar on the FDA in justifying its regulations.

These restrictions could have significant consequences, because the FDA lacks safety information for hundreds of chemical additives already on the market and in our food. Given the current evisceration of the FDA and other U.S. regulatory and science agencies, there is the potential for pressure utilizing those trade restrictions to further restrict consumers' ability to obtain more useful information on food ingredients, exposing the lack of seriousness of the Making America Healthy Again initiative. On top of that, it empowers U.S. corporate actors to challenge Canadian or Mexican efforts to provide more information on food ingredients and additives.

### ***Building the case for a peace clause on transparency and labeling***

One of the fundamental problems with USMCA and similar agreements is simply over-reach. They extend into far too many aspects of each nation's economies, public policies, and even cultures. The [dispute over Mexico's restrictions on GM corn](#) was not only about food safety or commercial interests. Mexico is the birthplace of corn, with nearly 60 native varieties. The trade dispute affected Mexico's ability to protect an element of its cultural heritage from contamination with GM crops. The lopsided approach to the trade dispute overwhelmingly favored U.S. commercial interests over Mexico's cultural heritage or consumer preferences. Mexico is moving forward with plans for improved GM and other food labels, but they will undoubtedly face trade-based complaints and, potentially, additional challenges facilitated by USMCA overreach.

The response to the current round of on-again off-again tariff threats must not be a retreat to neoliberal trade agreements that primarily benefit multinational corporations, but instead a new approach that prioritizes healthy food systems and resilient livelihoods and sustainable economies generally. In a first step in this rebalancing, the USCMA greatly weakened NAFTA provisions on investor-state dispute resolution, a mechanism that empowers investors to sue governments over measures that undermine their expected profits. There is continuing pressure to completely remove that clause from USCMA, an action that could be agreed to as part of the [USMCA review](#). Similarly, some of the other egregious clauses in USMCA, like the Junk Food Annex, should simply be removed.

Other issues, including those around transparency in food systems, are more complex. The necessity clause runs through various chapters of the USMCA and imposes an unfair standard that can block innovative approaches to public policy and chill government responses to emerging problems. Recognizing that trade agreements are unable to anticipate all applications of specific rules (such as the necessity clause) and can result in injustices, they include general exceptions intended to shield policies that are in the public interest. Unfortunately, these exceptions have been almost wholly unsuccessful in accomplishing this goal.

Trade rules, both at the WTO and in USMCA, provide for general exceptions in cases where public interest should supersede trade commitments. In the WTO, [Article XX of the General Agreement on Tariffs and Trade \(GATT\)](#) allows for exceptions to "protect human, animal, or plant life or health" or when they are related "to the conservation of exhaustible natural resources," as long as it is clear that protecting the public interest rather than local industry is the main objective. In theory, this should allow for measures to better inform consumers about food safety and nutrition. In practice, it is a hollow promise. [Public Citizen](#) examined the 48 cases in which countries attempted to use the Article XX exceptions to justify environmental or public health measures. Only two of them — both about conservation of natural resources — provided any relief. The authors found that "Attempts to use the other policy objective defenses, such as human health and life and public morals, have been totally shut down. This is largely due to the development of stringent tests and interpretations by the WTO Appellate Body and panels that have created an inflexible framework that is often alien to the realities of domestic policymaking."

USMCA includes a general exception to allow countries to honor their commitments to Indigenous peoples, which Mexico used as part of its defense in the GM corn case. While the panelists agreed that protecting those rights was a worthy goal and in fact an obligation, they asserted that Mexico's policies failed the

necessity test and that other unspecified measures could have been taken to protect the genetic and cultural integrity of native corn.

These experiences demonstrate that it is not enough to provide such exceptions from the trade rules. Instead, to be effectively shielded from challenges, key policy areas must be fully carved out from the trade rules. There are precedents for that kind of action. India has a public stocks program for rice that provides the basis of the country's food safety net. At the 2013 WTO Ministerial Conference in Bali, India negotiated a [Peace Clause](#) for its food stocks program, in which the member countries agreed not to bring disputes over that issue until a permanent solution could be found. This clause, established at the 2013 conference, acts as an interim measure while a permanent solution is sought for public stockholding of food for food security purposes.

India continues to rely on this clause, most recently for rice subsidies in the 2022-23 marketing year. Similarly, there are proposals for a [Climate Peace Clause](#) that would enable countries to take actions to meet their commitments under the Paris Agreement without fear of trade disputes.

As a first step, the three USMCA countries should use the review process to develop a peace clause on transparency and food labels, perhaps as an annex to the TBT chapter. This would enable Mexico to move forward with its plans for GM labeling under the new food law and the U.S. to find new approaches to Country of Origin Labeling for meat, as well as improved nutrition labels, without the threat of corporations pressuring governments to use the trade dispute process to undermine these policies. They should also commit to the negotiation of a permanent carve-out for rules related to food labeling and transparency in agricultural markets.

## ***Conclusions***

The USMCA review process offers an opportunity to rebalance trade rules that limit government policies promoting healthy eating and consumer and farmer access to information about local foods and nutritional content. The successful trade challenge to Mexico's health and cultural policies restricting GM corn brought pursuant to USMCA —and the incompatibility of provisions that limit information about chemical additives in foods with the professed health policies of the current and previous U.S. administrations — highlight significant flaws in the original agreement. After five years of implementation and interpretation, the overreach in several USMCA food-related provisions is clear and must be addressed.

At the same time, the USMCA failed to address known concerns with the application of WTO rules to food policies such as COOL. While the USMCA can't directly revise flawed WTO decisions, a revamped USMCA could address those concerns through a peace clause that limits Canada, Mexico and the U.S. from challenging each other's food and nutrition transparency laws. Adding a peace clause and committing to finding a permanent solution to the use of ambiguous USMCA language, such as the necessity test, would go a long way towards increasing transparency in supply chains, contributing to fairer prices for producers, and providing consumers with the information they need to make healthy choices in the marketplace.