



February 24, 2020

Ambassador Robert Lighthizer
United States Trade Representative
Winder Building
600 17th St. NW
Washington, D.C. 20508

Dear Ambassador Lighthizer,

As members of the Food and Beverage Issue Alliance (FBIA), a coalition of food and beverage industry organizations, we write you to express our gratitude for the considerable outreach efforts that you and your staff have undertaken with regard to Mexico's proposed labeling standard for prepackaged foods and non-alcoholic beverages ("labeling proposal")¹. We appreciate the strong support and guidance that your team has provided, including in-person meetings with key Mexican officials to promote policies based on sound-science. We understand that on January 24, 2020 Mexico's Ministry of Economy and the Federal Commission for the Protection Against Sanitary Risks (COFEPRIS) approved this labeling proposal, and that it may be published and finalized shortly.

The US government and domestic food and beverage industry supports efforts to reduce obesity and diet-related non-communicable diseases (NCDs) and improve public health. That being said, the proposed Mexican regulation intended to address these issues is more trade restrictive than necessary to meet Mexico's legitimate objective. FBIA members maintain our strong concerns that this labeling proposal was not based on robust scientific evidence, does not appear to consider the relevant international trade agreements, and may contribute to consumer confusion. We therefore request your continued support in encouraging Mexican authorities to pursue evidence-based approaches to improving public health. For your consideration, we have outlined below some specific requests with regard to the labeling proposal:

- We ask that Mexico not base its labeling scheme on the Pan-American Health Organization (PAHO)'s nutrient profile model, which lacks appropriate scientific substantiation and does not reflect international standards and guidelines. We

¹ notified to the WTO TBT Committee as G/TBT/N/MEX/178/Add.9

encourage Mexico to instead rely on the Codex Alimentarius Commission's body of work regarding food labeling; in particular the Codex Guidelines for Use of Nutrition and Health Claims, and the ongoing work of the Codex Committee for Food Labeling's working group on front of package (FOP) labels.

- We ask that Mexico, to the extent possible, align definitions within the labeling proposal with those from Codex Alimentarius and common definitions set by countries around the world. For example, the current definition of dietary fiber in Mexico aligns with most other countries around the world, including the U.S., as well as the Codex Alimentarius definition². Significant revisions to this definition have the potential to impact trade and eliminate widely used ingredients. We therefore ask Mexico to reconsider any potential amendments to definitions, such as dietary fiber, that are not aligned to international standards.
- We ask that Mexico allow a suitable timeframe for implementation of new labeling requirements and urge the US to encourage Mexico to follow a similar timeframe (three to four years) that the US FDA granted industry in the recent revisions to the US Nutrition Facts Panel.
- We ask that Mexico provide a response to the thousands of comments submitted on this labeling proposal and answer key questions, including how it believes this new proposed regulation will accomplish this objective. Furthermore, industry has estimated that the proposed FOP scheme would affect over 80 percent of food products on store shelves in Mexico, requiring those products to bear one or more stop sign warning labels. It will be important to have the Mexican Government explain to stakeholders how the new labeling scheme will effectively address consumer diet patterns if the overwhelming majority of products have warning labels. To ensure transparency in this process, the Mexican government should also share with stakeholders the consumer behavior studies on the perception of these proposed warning labels that were conducted prior to the development of this proposal.

This regulatory approach in Mexico's labeling proposal is not scientifically based and violates the principle that food and beverages should be considered in relation to their holistic role to overall health and a balanced daily diet. The proposal does not accurately inform the consumer and could prevent Mexican consumers from making informed decisions when comparing products since most prepackaged products would be branded with warning labels as compared to the proliferation of unpackaged food.

FBIA supports labeling that empowers consumers to make informed dietary choices that are grounded in strong sound science Domestically, FBIA members are partnering the US Food and

² The current definition of dietary fiber in Mexico recognizes non-digestible carbohydrates with three or more degrees of polymerization (DP) as dietary fibers, aligning with most countries around the world. A revised definition of dietary fiber, limiting the classification of carbohydrates to DP of ten or more, has the potential to impose significant barriers.

Drug Administration (FDA) and the US Department of Agriculture (USDA) to promote clear, factual, and effective consumer nutrition labeling education outreach.

The labeling proposal's ban on trademarked characters on packaging or in advertisements infringes on industry's freedom to market and undermines our intellectual property rights. It also would cause significant supply-chain issues. Moreover, it runs counter to Mexico's obligations in trade agreements, including World Health Organization (WTO)/ Technical Barriers to Trade (TBT) Article 2.22, WTO/TRIPS Article 203, and US-Mexico-Canada Agreement (USMCA), that seeks to ensure that technical regulations do not create unnecessary trade barriers and requires that they be no more restrictive than necessary to achieve the objective.

Lastly, the labeling proposal will hurt U.S. exports and domestic jobs. In 2018, U.S. exports to Mexico of consumer food and nonalcoholic beverages totaled ~\$5.8 billion. These exports would undoubtedly decline with the implementation of the labeling proposal, threatening U.S. jobs and harming major U.S. investments in Mexico.

FBIA respectfully requests that USTR continue its strong engagement with your Mexican government counterparts to ensure that the international trade agreements Mexico has committed to are duly respected and enforced. We would welcome the opportunity to meet with you and your team to discuss our concerns further.

Thank you in advance for your consideration and assistance on behalf of the US food and beverage industry.

Sincerely,

**American Bakers Association
American Beverage Association
American Frozen Food Institute
Calorie Control Council
Corn Refiners Association
Food Marketing Institute
Independent Bakers Association
Institute of Shortening and Edible
Oils**

**International Dairy Foods
Association
International Food Additives Council
Juice Products Association
National Confectioners Association
North American Millers' Association
SNAC International
The Association for Dressings &
Sauces
The Sugar Association
Vinegar Institute**

Proposed Labeling



Current Labeling

In force since 2016, complies with the principles established by the *Codex Alimentarius* and provides consumers data that enables them to make informed decisions.

