Message

From: Almodovar.Lisa@epa.gov [Almodovar.Lisa@epa.gov]
Sent: 6/18/2020 11:38:55 PM
To: Aguirre, Hector [Aguirre.Hector@epa.gov]
Subject: Fwd: USTR to initiate USMCA consultations with Mexico over biotech products after July 1st entry into force

Lisa Almodovar
Deputy Director

Begin forwarded message:

From: "Muehling, Brian" <Muehling.Brian@epa.gov>
Date: June 18, 2020 at 5:42:28 PM EDT
To: "Nelsen, Ashley" <Nelsen.Ashley@epa.gov>, "Almodovar, Lisa" <Almodovar.Lisa@epa.gov>
Cc: "Finman, Hodayah" <Finman.Hodayah@epa.gov>, "Ferrante, Joe" <Ferrante.Joe@epa.gov>, "Dickinson, David" <Dickinson.David@epa.gov>
Subject: RE: USTR to initiate USMCA consultations with Mexico over biotech products after July 1st entry into force

Grassley: Ongoing ag issues with Mexico 'definitely' worth USMCA disputes

June 9, 2020 at 6:36 PM

Lingering agricultural concerns between the U.S. and Mexico -- blocking glyphosate and suspending agricultural biotechnology permits, for example -- are "definitely" worth state-to-state dispute actions under the U.S.-Mexico-Canada Agreement once it goes into effect on July 1, Senate Finance Chairman Chuck Grassley (R-IA) said on Tuesday.

Mexico in recent months has blocked imports of glyphosate -- an herbicide used by some U.S. producers -- and suspended import permits for agriculture biotechnology products. Asked whether the issues are important enough to lead to disputes under USMCA, Grassley said yes.

"Definitely," he told reporters on a conference call. "Because USMCA follows the principle that is the very foundation of our international agreements on trade -- that everything should be science-based. And science shows that Mexico's decision is a political decision and not a scientific decision."

To initiate a dispute under Chapter 31 of USMCA, a country will request consultations with another; if the two cannot reach an agreement, the dispute will be elevated to a panel. While the three countries have not yet agreed to a list of panelists, they have until the entry-into-force date to do so.

Mexico is not the only country to restrict imports of glyphosate. In blocking a major import of the herbicide late last year by denying an importer a permit, Mexico's Ministry of Environment called glyphosate "potentially toxic to human health and the environment."

Mexico's former chief USMCA negotiator, Kenneth Smith Ramos, acknowledged earlier this month that the environment ministry had also been rolling back some regulations, leading to the suspension of import permits for certain agricultural biotechnology products. He told *Inside U.S. Trade* the moves had already sparked "quite an uproar in the U.S. agriculture export community."

USMCA includes a separate biotechnology chapter that covers a broad range of agricultural biotechnologies, like gene editing, and requires cooperation and transparency among the parties.

Mexico also has concerns, including increased border inspections, according to Smith Ramos, who argued that the country is concerned the inspections on tomatoes, allowed by a 2019 suspension agreement, could be expanded. -- *Hannah Monicken* (hmonicken@iwpnews.com)

https://insidetrade.com/daily-news/grassley-ongoing-ag-issues-mexico-%E2%80%98definitely%E2%80%99-worth-usmca-disputes

From: Muehling, Brian
Sent: Thursday, June 18, 2020 5:40 PM
To: Nelsen, Ashley <Nelsen.Ashley@epa.gov>; Almodovar, Lisa <Almodovar.Lisa@epa.gov>
Cc: Finman, Hodayah <Finman.Hodayah@epa.gov>; Ferrante, Joe <Ferrante.Joe@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Subject: USTR to initiate USMCA consultations with Mexico over biotech products after July 1st entry into force

USTR to initiate USMCA consultations with Mexico over biotech products after July 1

June 18, 2020 at 10:36 AM

The U.S. will initiate U.S.-Mexico-Canada Agreement consultations with Mexico over what the Trump administration says is a failure to grant permits for U.S. biotechnology imports, and likely will file a dispute settlement case, U.S. Trade Representative Robert Lighthizer said on Wednesday.

A senior Mexican official, however, said the issue was a temporary consequence of the COVID-19 pandemic.

"One of the issues you mention is biotech. That is a major, major problem. The reality is that Mexico has not approved any biotech products in the last almost two years," Lighthizer said during a House Ways & Means Committee hearing.

Mexico's Environment Department does not make permit denials readily available to the public but communicates them to the individual companies that request the permits, a former Mexican government official told *Inside U.S. Trade*. "Unfortunately, in many cases the Environment Department is simply not responding to the permit requests, which is also a violation of our regulatory process. This is severely affecting, for example, cotton producers in Mexico," the former official added.

"Our view is that's not right," Lighthizer said.

"My own sense is that this is one of those issues where the administration down there has a very strong view and I think the only way we're going to get that to change is first by consultations and then via an action," he continued. "I think personally that's going to be one of those things where we're going to have to file a state-to-state dispute settlement. But it is something we have talked about. We will have formal consultations once this agreement goes into effect [on July 1]. It's a serious problem and it seems almost like a philosophical problem with the new government down there."

Senate Finance Committee Chairman Chuck Grassley said last week that Mexico's blocking of glyphosate imports and failure to grant biotechnology permits were "definitely" worth a USMCA dispute. Late last year, the department barred a 1,000-ton shipment of the pesticide glyphosate into Mexico because "its use can cause serious environmental damage and irreversible health damage," according to reports.

Mexican Ambassador to the U.S. Martha Bárcena said biotech products are not "forbidden in Mexico." Rather, the coronavirus pandemic has slowed operations at Mexico's Environment Department and affected its ability to grant permits in a timely manner, she said on Wednesday during a webinar hosted by the Minnesota AgriGrowth Council.

"It's just that basically some of the permits that have to be issued have been taking longer than expected because of COVID, because some of our institutions have been closed for one or two months and we are just starting to reopen," Bárcena said when asked to comment on Lighthizer's remarks at the hearing.

The Mexican Embassy did not respond to a request for comment on Lighthizer's claim that Mexico has not approved any biotech products in the last two years, well before the coronavirus crisis began. The Office of the U.S. Trade Representative did not respond to a request for comment on Bárcena's claim that Mexico has not been approving permits because of the pandemic.

"This is something that we have been discussing and taking into account. We have it very well in mind that we will comply and we have to comply with the commitments that we took with USMCA," Bárcena added during the webinar.

The agriculture chapter in USMCA includes language that encourages trade in biotech products but does "not require a Party to mandate an authorization for a product of agricultural biotechnology to be on the market."

"The Parties confirm the importance of encouraging agricultural innovation and facilitating trade in products of agricultural biotechnology, while fulfilling legitimate objectives, including by promoting transparency and cooperation, and exchanging information related to the trade in products of agricultural biotechnology," Article 3.A.3 states. "To reduce the likelihood of disruptions to trade in products of agricultural biotechnology: each Party shall continue to encourage applicants to submit timely and concurrent applications to the Parties for authorization, if required, of products of agricultural Biotechnology."

Kirsten Hillman, Canada's ambassador to the U.S., said during the webinar that USMCA would help effect a reduction of red tape on biotech and other barriers to trade and help North America "not only recover but frankly take off in a much more competitive way" after the pandemic subsides.

While USMCA will present agricultural opportunities for North America, Bárcena said Mexico remained concerned that the U.S. would impose measures to protect seasonal growers.

"What is at stake if we take measures on seasonality? Simply, that the U.S. will stop receiving more than $14 billion in fruits and vegetables that have contributed enormously to a healthy diet in the U.S. And, of course, that would put us in a very difficult situation because we will have to take some measures also regarding seasonality," Bárcena said.

Lighthizer in January told Georgia and Florida lawmakers he was committed to releasing a seasonal produce plan within 60 days of USMCA's entry into force. The plan is intended to address the complaints of the lawmakers and the

seasonal growers they represent, who say less expensive produce being imported from Mexico is harming U.S. producers of seasonal and perishable goods. They have long sought to limit seasonal imports to the U.S. and make it easier to bring trade remedy cases against Mexico.

Lighthizer committed to holding field hearings in Florida and Georgia within 90 days of USMCA's passage in Congress. The field hearings were scheduled for April but the pandemic forced USTR to postpone them.

During the Ways & Means hearing, Rep. Stephanie Murphy (D-FL) asked Lighthizer whether the agency had any plans to hold a virtual hearing or an in-person one later this year. Lighthizer said that after consulting with Rep. Vern Buchanan (R-FL) and others, "our preference would be to have a live hearing. I think that's what most members want."

The Mexican government is following the seasonality hearings in the U.S. and will hold its own parallel hearings on the matter, Bárcena said.

Asked whether Mexico intended to use USMCA's dispute settlement system to address its seasonality concerns, Bárcena said "Not now because seasonality … was not accepted in the USMCA."

"We hope that everyone understands that we need to work together for having a solution and that seasonality will not help anyone. So I do not think we will need to go into the dispute settlement mechanism. I hope we will not go," she said. -- *Maria Curi* (mcuri@iwpnews.com)

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