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USDA Stands Firm on Consumer Meat Labels; Will the WTO Continue Its Anti-Consumer Legacy and Authorize Trade Sanctions?

Reporters Memo on Today's U.S. Response to WTO Ruling Against Popular Country-of-Origin (COOL) Meat Labeling Policy

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Today, on the deadline for the United States to comply with the World Trade Organization's (WTO) 2012 ruling against the popular U.S. country-of-origin labeling (COOL) meat labeling program, the U.S. Department of Agriculture (USDA) [announced](#) it will strengthen rather than eliminate or weaken the consumer label. This welcome decision raises the critical question: Will the WTO accept the COOL labeling [supported by 87 percent of the U.S. public](#) or continue its legacy of undermining consumer safeguards?

Mexico and Canada, the countries that won a final [June 2012 WTO ruling against COOL](#), stated that they opposed the proposed U.S. resolution to the case released in March, which closely aligns with today's final rule, and would challenge it as a WTO violation. Under WTO rules, if the countries contest the new U.S. regulations, the WTO will decide whether the new U.S. policy complies with WTO requirements, or whether Mexico and Canada may impose trade sanctions against the United States.

[Public Citizen and other consumer groups have applauded the USDA approach](#), which stands in stark contrast to past U.S. responses to WTO rulings, which have involved weakening public interest safeguards rejected by the WTO. The new USDA rule eliminates the WTO violations identified in this case and complies with the WTO ruling, but does so by *strengthening* the consumer labels.

The WTO ruling against the COOL meat labels, which inform U.S. consumers where their meat comes from and assist regulators in tracking food-borne illness outbreaks, followed WTO rulings against two other popular U.S. consumer policies. In May 2012, [the WTO ruled against voluntary "dolphin-safe" tuna labels](#) that, by allowing consumers to choose to buy tuna caught without dolphin-killing fishing practices, have helped to dramatically reduce dolphin deaths. In April 2012, [the WTO ruled against a U.S. ban on clove-, candy- and cola-flavored cigarettes](#), enacted to curb youth smoking.

For the COOL case, USDA found a way to [rectify the specific WTO rule violations identified in the WTO's final ruling by giving consumers even more information](#) about the country of origin of the beef and pork they consume. The WTO ruling had identified ambiguities in the labels that limited consumer information as a reason why the policy violated WTO rules. In filing the case, Mexico and Canada had sought an elimination of mandatory U.S. country-of-origin labeling.

If the WTO accepts the strengthening of COOL as compliance with its final ruling, it will mark a stark departure from precedent. WTO lawyers are accustomed to seeing governments scuttle constituent interests and roll back domestic policies in an attempt to comply with WTO directives. If the WTO does not accept the USDA's new policy and instead authorizes trade sanctions against the United States, it will reinforce the anti-WTO public sentiment spurred by last year's spate of anti-consumer rulings.

Mexico and Canada Openly Threaten Retaliation

The question of the WTO's determination of U.S. compliance is relevant because Mexico and Canada may well challenge the USDA's final rule, shifting the decision back to a WTO panel. When the USDA released its rule change proposal in March, Canada's Agriculture Minister Gerry Ritz minced no words in stating: "[Our Government is extremely disappointed](#) with the proposed regulatory changes put forward by the United States today with respect to Country of Origin Labeling. We do not believe that the proposed changes will bring the United States into compliance with its WTO obligations." A letter from the Mexican Embassy identically stated that the regulatory change "[will not bring the United States into compliance](#) with its WTO obligations."

Both Canada and Mexico have already threatened retaliatory action, which the WTO will authorize if it deems that the USDA's new rule to provide consumers with further information about their food does not satisfy WTO rules. The list of punishments that the WTO could impose on the United States for maintenance of country-of-origin meat labels include U.S. taxpayer compensation to Mexico and Canada, or authorization of trade sanctions by those countries against the United States. Mexico has already voiced its support for the latter, stating in March that if USDA would not abandon its proposed strengthening of COOL, "[Mexico would be forced to pursue the available mechanisms for withdrawing trade benefits from the United States.](#)"

The open threats of retaliation from Mexico and Canada come while both countries are engaged in negotiations with the United States on the Trans-Pacific Partnership (TPP), the sweeping "free trade" agreement (FTA) that the Obama administration is negotiating with 10 Pacific Rim countries. The hard line that Mexico and Canada appear ready to take against the United States on COOL will at least significantly complicate the TPP negotiations. Most observers, including TPP proponents, have already given up hope that the negotiating governments will meet their goal of concluding negotiations by this October's Asia-Pacific

Economic Cooperation summit. Fresh tension from the COOL dispute will only further encumber TPP negotiations.

Background on COOL, the WTO Dispute and the USDA Rule

After 50 years of U.S. government experimentation with voluntary country-of-origin meat labeling and efforts by U.S. consumer groups to institute a mandatory program, Congress enacted mandatory labeling for meat in the 2008 farm bill. The policy requires American retailers to label certain foods with the country (or countries) in which animals were born, raised and slaughtered. Polls indicate that [90 percent of the U.S. public approves of COOL](#).

In their successful WTO challenge, Mexico and Canada argued that the mandatory program violated the limits that the WTO sets on what sorts of product-related “technical regulations” WTO countries are permitted to apply. Canada and Mexico suggested that the United States should eliminate mandatory labeling and return to voluntary COOL, or to standards suggested by the Codex Alimentarius, which is an international food standards body at which numerous international food firms play a central role. Neither option would provide U.S. consumers with the same level of information as the current U.S. labels.

Instead of pursuing such a watering-down of the popular program, the USDA proposed a COOL rule change in March 2013 that would strengthen the labeling regime to address the problems identified in the WTO’s ruling. Today’s final rule from the USDA maintains that approach. The WTO’s Appellate Body ruled that the program’s requirement that meat producers gather a greater amount of information about meat origins than is ultimately conveyed to consumers downstream violated WTO requirements. To address this concern, the USDA’s new rule will offer consumers more precise labels that specify the country in which each step in the meat production process occurred. The change will better fulfill COOL’s policy objective and consumers’ rising demand for greater transparency regarding the production of their food, while also satisfying the issues raised in the WTO’s final ruling.

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