

December 20, 2024

Excerpt from the Final Report, Agreement between the United States of America, the United Mexican States, and Canada. Panel established pursuant to Chapter 31. Mexico — measures concerning genetically engineered corn MEX-USA-2023-31-01. December 20, 2024.

<https://ustr.gov/sites/default/files/Final%20Report%20ENG.pdf>

VI. CONCLUSIONS AND RECOMMENDATION

351. For the reasons stated above, the Panel finds that the Measures are SPS measures within the meaning of Article 9.2 of the USMCA and that the Measures are inconsistent with the following provisions of the USMCA:

- a. Article 9.6.3, because the Measures are not based on relevant international standards, guidelines or recommendations, or on an assessment, as appropriate to the circumstances, of the risk to human, animal, or plant life or health;
- b. Article 9.6.8, because Mexico did not conduct a risk assessment taking into account relevant international standards, guidelines, and recommendations of the relevant international organizations;
- c. Article 9.6.7, because Mexico did not conduct a risk assessment or risk management with respect to the Measures in a manner that was documented and provided the other USMCA Parties an opportunity to comment;
- d. Article 9.6.6(b), because the Measures are not based on relevant scientific principles;
- e. Article 9.6.6(a), because the Measures are not applied only to the extent necessary to protect human, animal, or plant life or health;
- f. Article 9.6.10, because Mexico did not select SPS measures not more trade restrictive than required to achieve the level of protection that it determined to be appropriate; and
- g. Article 2.11, because Mexico adopted or maintains a prohibition or restriction on the importation of a good of another Party.

352. With respect to Mexico's defenses, the Panel finds that:

- a. the Measures do not fall within the exceptions under Articles XX(a) and (g) of the GATT 1994 and are consequently not justified pursuant to Article 32.1.1 of the USMCA; and
- b. the Measures are not justified under Article 32.5 of the USMCA.

353. Accordingly, the Panel recommends that Mexico bring its Measures into conformity with its USMCA obligations under Chapters 2 and 9 of the USMCA. The Panel accepts that Mexico is seeking to address genuine concerns in good faith, and suggests that such concerns be channeled into an appropriate risk assessment process, measures based on scientific principles, and in dialogue among all USMCA Parties to facilitate a constructive path forward.