



June 2, 2009

Dear President Obama:

We are writing to urge you to safeguard Americans' health and the safety of the U.S. food supply by keeping in place the existing ban on the importation of processed poultry products from the People's Republic of China (PRC).

Given the priority you gave in your campaign to improving import safety generally and food safety specifically, we expect that you will support this critical safeguard. However, we are aware that a group of agribusiness industry trade associations have written to you in late April stating their opposition to this important health and safety provision. Thus, we wanted to ensure you were informed of the view of consumer and other public interest groups with respect to this issue. In short, removing the existing ban is not tenable given the continuing limitations with respect to the food safety standards in the PRC.

As repeated incidents of import safety breakdowns have demonstrated, the PRC's food safety standards are neither adequate nor enforced properly. Indeed, in his last official trip to the PRC in September 2008, then-Under Secretary for Food Safety Richard Raymond conceded that the 2008 melamine scandal was going to foster a continuation of the ban on importation of processed poultry products from the PRC.¹ Further, consider the recent comments from the PRC's own Health Ministry, who described the food safety situation in the country as "grim, with high risks and contradictions."² This unusually candid statement makes it clear that the PRC's regulatory system cannot adequately enforce food safety standards for domestic, much less exported, food products.

Last year's melamine scandal is a perfect example of how the PRC's food safety system is unable to prevent even *intentional* contamination of the food supply or detect widespread problems. It is also an example of the PRC government's extreme lack of transparency with respect to its food safety regulatory system and that system's frequent failings. Indeed, the PRC systematically suppresses news of major food-borne illness outbreaks, including the extreme steps it took to prevent news of illnesses and infant deaths caused by this mass food adulteration from being made public because it would have conflicted with the staging of the Beijing Olympics in August 2008.

As the world combats the swine flu, consider the PRC's handling of the early H5N1 avian influenza outbreaks in the PRC and the associated human illnesses and deaths from those outbreaks. The PRC government lowered a veil of secrecy, denying critical information to its own citizens and the world

¹ Dune Lawrence and Stephen Engle, "China Milk Crisis May Delay U.S. Meat Import Approval," Bloomberg News Service, September 24, 2008, see

<http://www.bloomberg.com/apps/news?pid=20601080&sid=azjwzAw2IQAA&refer=asia>

² Shanghai Daily, "New Law Fights Grim Situation in Food Safety," March 3, 2009, see

http://www.shanghaidaily.com/sp/article/2009/200903/20090303/article_392914.htm

at large. While the agribusinesses who wrote to you seek support for lifting the current ban on U.S. imports of chicken from China, we ask you to consider that the PRC has been one of the epicenters for H5N1 avian influenza that has impacted both poultry and humans. According to the World Health Organization, there have been twenty-three H5N1 avian influenza outbreaks in the PRC that have afflicted birds and poultry since 1996,³ with 38 reported human cases and 25 deaths.⁴ Obviously, this is a significant animal health issue that impacts public health, which needs to be addressed before the United States can even consider importing any poultry products from the PRC.

The PRC's food safety problems are well documented. With respect to the products that already are imported from the PRC that fall under the jurisdiction of the Food and Drug Administration (FDA), 12 of the 18 current Import Alerts listed for the PRC are for food items with the most recent alert covering products that contain dairy powder that might be adulterated with melamine.⁵ In just the past four months, 467 different human food items imported from the PRC – from seafood to candy – were refused entry by the FDA. The reasons cited included: filth; illegal animal/veterinary drugs used; suspected contamination with melamine; unsafe food additives; unsafe color additives; lack of labeling; salmonella contamination; packed in unsanitary conditions; unsafe pesticide residue; poisonous; unfit for food; and failure to register process.

Unlike the FDA, the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) is required to have a system in place that evaluates an exporting country's food safety regulatory system *before* it is allowed to ship meat, poultry and egg products to the United States. In 2004, the PRC requested that it be allowed to export processed poultry products of domestic Chinese origin to the United States. USDA conducted an 'equivalency evaluation' of the PRC food safety system for processed poultry products in 2006 and – shockingly – determined the PRC's safety and inspection system to be equivalent to that of the United States. Considering the USDA's own report of findings, to say that the USDA's FSIS did not exercise due diligence in making this determination is a major understatement.

After it conducted a document review of the PRC food safety system, FSIS dispatched auditors to the PRC in December 2004 to visit government offices, laboratories and a sample of poultry plants (three slaughter and four processing facilities) that could be eligible to export to the United States. Among the deficiencies that the auditors found included:

- 1) The PRC's food safety agency – the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) – did not exercise control over all of the food processing establishments under its jurisdiction;
- 2) AQSIQ veterinarians did not consistently enforce FSIS food safety standards;
- 3) Residue testing methodologies differed from those used by FSIS and in one laboratory, the sampling procedures could lead to cross-contamination;
- 4) Testing for salmonella was not being consistently performed;
- 5) Not all documents had been translated into English;

³ See http://www.who.int/csr/disease/avian_influenza/ai_timeline/en/index.html

⁴ See http://www.who.int/csr/disease/avian_influenza/country/cases_table_2009_04_23/en/index.html

⁵ http://www.fda.gov/ora/fiars/ora_import_country.html

- 6) Food safety deficiencies were found five of the seven food establishments visited. The sanitation issues were so egregious in two of the facilities that FSIS auditors would have recommended that they be delisted or made ineligible to export to the United States.⁶

FSIS auditors returned to the PRC in July 2005 to visit four slaughter facilities. In all cases, the FSIS auditors found that the PRC had not stationed government veterinarians to perform ante-mortem and post-mortem inspections of poultry. In one establishment, FSIS not only discovered a deficient Hazard Analysis Critical Control Point (HACCP) plan, but also encountered serious sanitation issues. The FSIS auditors remarked that had these four plants been eligible to export to the United States, they would have been delisted for failing to meet critical requirements of U.S. food safety standards.

Despite these findings, on November 23, 2005, FSIS proposed a rule that would grant the PRC partial equivalency to export processed poultry products to the United States provided that the raw poultry came from either the United States or Canada (70 FR 70746-70749). The comment period closed on January 23, 2006, and the overwhelming majority of the 34 comments the agency received were in opposition to the proposed regulation. In fact, the only positive comments came from entrepreneurs from the PRC who stood to benefit from the rule.

The process that ensued subsequent to the closing of the comment period was astonishing. USDA transmitted the final regulation to the Office of Management and Budget (OMB) for review on April 18, 2006. OMB cleared the rule after only one day of analysis. On April 20, 2006, PRC President Hu Jintao visited President George W. Bush at the White House, where it was announced that the rule had been finalized. The final rule was eventually published in the April 24, 2006 Federal Register (71 FR 20867-20871).

According to an audit report published by the USDA Office of the Inspector General in August 2008, FSIS was prepared to grant the PRC equivalency status for slaughtered poultry.⁷ That determination had not been made public until the release of this particular audit report. For the PRC to be able to export processed poultry products of domestic Chinese origin would require a new rule.

It should be noted that the PRC never certified any plants to export processed poultry products to the United States under the April 24, 2006 rule.⁸ Instead, the PRC government has renewed its effort to be able to export processed poultry of domestic Chinese origin.⁹

In December 2006, then-Under Secretary for Food Safety Richard Raymond reportedly pledged to PRC officials that he would begin the regulatory process to amend the equivalency status for the PRC so that it could start exporting processed poultry of domestic Chinese origin to the United States.¹⁰ This rule never was proposed formally, and then Congress passed a prohibition against the expenditure of any funds to implement regulations that would permit the importation of processed

⁶ See <http://www.fsis.usda.gov/OPPDE/FAR/China/China2004.pdf>

⁷ See <http://www.usda.gov/oig/webdocs/24601-08-Hy.pdf>, see p. 14.

⁸ http://www.fsis.usda.gov/PDF/China_establishments.pdf

⁹ USDA Foreign Agricultural Service. GAIN Report: China, People's Republic of, Poultry and Products, Semi-Annual Report 2007, March 1, 2007, pp. 6-7.

¹⁰ Newswiretoday.com, New Delhi, India, "United States to Allow Imports of Chinese Processed Chicken, Jan. 4, 2007.

poultry products from the PRC.¹¹ We applauded this action by Congress to safeguard the American public's health and safety. And, we continue to support this policy.

Finally, decisions about the importation of food products from the PRC are public health issue that must not be entangled in trade discussions. We understand that PRC officials have tried in the past to make the exportation of poultry products to the United States a quid pro quo for re-opening U.S. beef exports to the PRC.¹² Those talks should be separate and distinct. Further, we understand that the 2006 FSIS declaration that the PRC's safety and inspection system was 'equivalent' to the U.S. system for processed poultry products was based on trade goals. As described above, from a public health and safety perspective, that equivalence determination was deeply flawed and cannot be relied upon to protect U.S. consumers' safety, and thus the existing ban on chicken imports from the PRC must be maintained.

We stand ready to help you in your efforts to improve our food safety system so that it can effectively regulate both domestic and imported food products. Consequently, we urge a continuation of the ban on processed poultry products from the PRC until there is complete confidence that its food safety system can provide the same level of consumer protection as the U.S. food safety and inspection system and U.S. border food safety inspection system is greatly improved.

Sincerely,



Lori Wallach
Director
Public Citizen's Global Trade Watch



Jean Halloran
Director of Food Policy Initiatives
Consumers Union

cc:

The Honorable Rahm Emanuel
The Honorable Hilary Rodham Clinton
The Honorable Timothy F. Geithner
The Honorable Lawrence H. Summers
The Honorable Daniel K. Inouye
The Honorable Herbert H. Kohl
The Honorable Max Baucus
The Honorable Ron Wyden
The Honorable David R. Obey
The Honorable Jack Kingston
The Honorable Dave Camp

The Honorable Ronald Kirk
The Honorable Thomas J. Vilsack
The Honorable Gary F. Locke
Gen. James L. Jones, Jr., UMSC (Ret.)
The Honorable Thad Cochran
The Honorable Sam Brownback
The Honorable Charles E. Grassley
The Honorable Mike Crapo
The Honorable Jerry Lewis
The Honorable Charles B. Rangel
The Honorable Rosa DeLauro

¹¹ See Section 733, Division A, Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations, P.L.110-161; Section 727 Division A, Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations, P.L. 111-8.

¹² Sally Schuff, "U.S.-China Talks Raise Hope for Beef Trade," Feedstuffs, April 17, 2006.