



# The TPP Assault on Food Safety

Fact Sheet • April 2016

**The Trans-Pacific Partnership (TPP) puts agribusiness and food industry interests ahead of keeping our food safe. The TPP’s food safety language presumes that protecting consumers from unsafe food can be an “illegitimate trade barrier.” The TPP limits our government’s ability to establish strong food safety standards and makes it easier for foreign countries to successfully challenge food safety rules as trade barriers. The TPP could be used to challenge our domestic food safety laws and regulations, including border inspection, laboratory testing and standards on chemicals, additives and pesticides.**

Trade deals like the TPP establish a yardstick to determine whether food safety standards are illegal trade barriers. The TPP has the most stringent food safety rules of any trade deal, making it easier to successfully challenge U.S. food safety oversight at foreign trade tribunals. The TPP only permits food safety standards that “facilitate and expand trade” — meaning that rules that interfere with the speedy shipment of suspicious or unsafe food could be called illegal trade barriers.<sup>1</sup> These threats to U.S. food safety will come in several areas.

**The TPP will overwhelm already overtaxed border inspectors:** Two decades of free trade deals have increased the flow of imported food into the United States, swamping the capacity of government inspectors to ensure that these imports are safe. The volume of imported food has more than doubled from about 52 billion pounds every year in the early 1990s to 124 billion pounds in 2015.<sup>2</sup> As imports rose, the Food and Drug Administration (FDA) inspection rate fell from 8 percent of imports in 1992 to only 2 percent in 2012.<sup>3</sup> Since the late 1990s, the volume of imported meat doubled, but the number of U.S. Department of Agriculture (USDA) border inspectors declined 10 percent.<sup>4</sup> The TPP will only increase food imports more, further overwhelming border inspectors.

**The TPP will make it easier to attack U.S. food safety standards at foreign trade tribunals:** The TPP limits the level of food safety protections that are acceptable under the trade agreement. Standards must meet tough burdens of scientific proof and be designed primarily to facilitate trade, not protect the safety of the food supply.<sup>5</sup> Most U.S. health, safety and environmental laws do not require absolute scientific certainty to protect the public from known risks; they simply require sufficient scientific evidence to

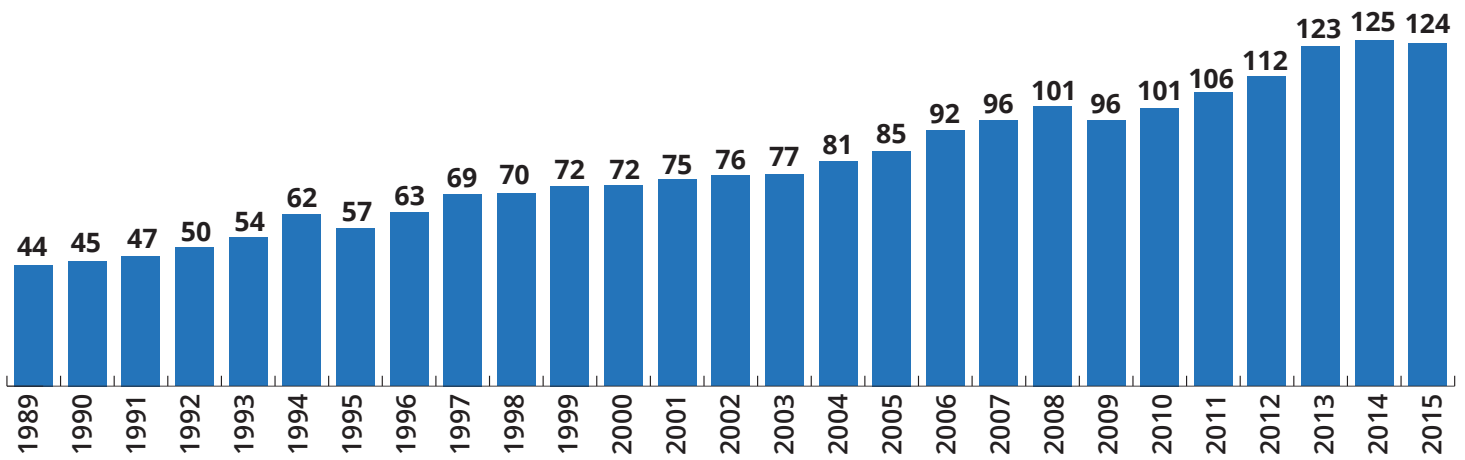
take action.<sup>6</sup> Agencies can protect against these risks based on the preponderance of available evidence. The TPP includes so-called sound science requirements that limit the food safety protections — provisions pushed by the food and agribusiness industries.<sup>7</sup>

The “sound science” red herring is used to attack the legitimacy of food safety standards and create the false impression of uncertainty.<sup>8</sup> The “sound science” argument has already delayed or derailed regulations over well-understood public health threats including asbestos, tobacco, lead and dioxin.<sup>9</sup> The TPP adopts this anti-regulatory approach for food safety, making it easier for foreign governments to challenge food safety standards as illegal trade barriers.

**The TPP second-guesses border inspection:** The TPP includes a so-called Rapid Response Mechanism that allows exporters to challenge border inspectors who stop suspicious food imports — including detaining suspect shipments pending laboratory test results.<sup>10</sup> This gives exporters a new mechanism to challenge food safety oversight. The U.S. trade ambassador described the new TPP tool as a way for trade experts to “clear up the problem and allow the shipments to move forward.”<sup>11</sup> It second-guesses U.S. border inspectors, and it subjects their independent decisions to trade tribunals that prioritize moving food shipments across borders no matter the potential safety risks.

**The TPP will encourage acceptance of “close enough” foreign food safety standards and a race-to-the-bottom deregulation:** The TPP requires the United States to accept other nations’ food safety systems as “equivalent,” or essentially “close enough,” to our standards to allow accelerated food imports.<sup>12</sup> These equivalency directives are designed to maximize international food trade

## U.S. Food Imports (IN BILLIONS OF POUNDS)



SOURCE: USDA Global Agricultural Trade System.

by making everyone's food safety standards converge in a global race-to-the bottom in food safety standards.<sup>13</sup>

The equivalency process has become a one-way ratchet downward for food safety oversight. The United States' shift toward privatized food safety inspection — where company employees replace independent government inspectors — became a model for other countries that were granted equivalency to export to the United States, with dangerous results.<sup>14</sup> An equivalent Canadian slaughterhouse with company inspectors shipped 2.5 million pounds of *E. coli* tainted ground beef to the United States in 2012.<sup>15</sup>

## Stop the TPP

Trade deals should not prevent countries from implementing food safety standards, policies and procedures that maintain a level of food safety protection demanded by their citizenry. The TPP would allow the food and agribusiness industries to attack, weaken and eliminate food safety standards at foreign trade tribunals.

Congress is expected to vote on the TPP in 2016. Ask your Representative and Senators to oppose the TPP. To take action, visit: <http://fwwat.ch/1YkwsKz>.

## Endnotes

- 1 Trans-Pacific Partnership. Chapter 7: Sanitary and Phytosanitary Measures (TPP SPS). Art. 7.2 at para. (a).
- 2 U.S. Department of Agriculture (USDA). Foreign Agriculture Service. Global Agricultural Trade System database. Includes meat/poultry, fish/seafood, dairy, vegetables, fruits/nuts, coffee/tea/spices, milling products, meat/fish preparations, animal/vegetable fats, sugars/confectionary, cocoa products, cereal/flour preparations, vegetable/fruit/nut preparations, miscellaneous edible preparations and beverages. Accessed December 2015.
- 3 For imported foods under U.S. Food and Drug Administration (FDA) jurisdiction, generally, everything except meat, poultry and processed eggs. Robertson, Robert E. General Accounting Office. Testimony before the Permanent Subcommittee on Investigations. Committee on Governmental Affairs. U.S. Senate. May 14, 1998 at 6; FDA. "2013 Annual Report on Food Facilities, Food Imports, and FDA Foreign Offices." November 2013.
- 4 In 1997 there were 75 USDA border inspectors overseeing 2.5 billion pounds of imported meat; by 2015, only 66 USDA border inspectors oversaw 4.4 billion pounds of imported meat. USDA. Food Safety Inspection Service (FSIS). Annual Report. Committee on Agriculture, Nutrition and Forestry. U.S. Senate. November 1999 at 38; USDA FSIS. Quarterly Enforcement Report. July 1, 2015 through September 30, 2015 at Table 3; border inspector numbers from Food & Water Watch communication with USDA.
- 5 TPP SPS. Art. 7.2 at para. (a); Art. 7.9 at para. 6(b); Art. 7.9 at paras. 1, 5 and 7.
- 6 Shapiro, Sidney A. "OMB and the politicization of risk assessment." *Environmental Law*. Vol. 73. November 2007 at 1087.
- 7 U.S. Chamber of Commerce. Global Regulatory Cooperation Project. "TPP Coalition — Regulatory Coherence Working Group." Undated at 2; Food and agricultural coalition letter to Ambassador Mike Froman and Agriculture Secretary Thomas Vilsack. "Statement of core principles for a successful TPP agreement." July 15, 2013.
- 8 Neff, Roni A and Lynn R. Goldman. "Regulatory parallels to *Daubert*: Stakeholder influence, 'sound science,' and delayed adoption of health-protective standards." *American Journal of Public Health*. Vol. 95, No. S1. 2005 at S81, S83 to S84.
- 9 Neff and Goldman (2005) at S82 to S84; Ong, Elisa K. and Stanton A. Glanz. "Constructing 'sound science' and 'good epidemiology': Tobacco, lawyers, and public relations firms." *American Journal of Public Health*. Vol. 91, No. 11. November 2001 at 1749 to 1753.
- 10 TPP SPS. Art. 7.1 and Art. 7.11 at paras. 6 to 8.
- 11 Council of Foreign Relations. [Transcript]. "The U.S. trade agenda and the Trans-Pacific Partnership." October 15, 2015.
- 12 TPP SPS. Art. 7.8 at paras. 1, 5 and 6.
- 13 Winickoff, David E. and Douglas M. Bushey. "Science and power in global food regulation: The rise of the Codex Alimentarius." *Science, Technology & Human Values*. Vol. 35, No. 3. 2010 at 359.
- 14 Kindy, Kimberly. "USDA pilot program fails to stop contaminated meat." *Washington Post*. September 8, 2013.
- 15 *Ibid.*; USDA FSIS. "FSIS expands public health alert for imported Canadian beef from XL Foods." September 28, 2012, updated October 5, 2012.



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