

How the Trans-Pacific Partnership (TPP) Unravels U.S. Food Safety Protections

Fact Sheet • July 2016

The Trans-Pacific Partnership (TPP) puts agribusiness and food industry interests ahead of keeping our food safe. The TPP food safety language presumes that protecting consumers from unsafe food can be an “illegitimate trade barrier.” The TPP limits our ability to establish strong food safety standards and makes it easier for foreign countries to successfully challenge food safety rules as illegal trade barriers. The TPP’s tougher rules 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. Food safety oversight would be assessed based not on the extent to which it protected consumers but primarily on the extent that it impacted trade, and the language favors weaker regulatory approaches that put trade before food safety.

The TPP food safety chapter delivered on industry demands with more expansive, powerful language and provisions than are found in previous trade deals.¹ The TPP’s more stringent food safety rules make it easier to successfully challenge U.S. food safety oversight at foreign trade tribunals, ultimately weakening, undermining or eliminating commonsense food safety and agricultural quarantine measures.

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.² The goal of ensuring a safe food supply is subservient to the primary goal of encouraging trade in food. 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, swamping the capacity of 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 2015.³ As imports rose, the Food and Drug Administration (FDA) inspection rate fell from 8 percent in 1992 to only 2 percent of imports in 2012.⁴ 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.⁵

The TPP will only increase food imports more, further overwhelming border inspectors. But the TPP also limits the authority of border inspection to “what is reasonable and necessary,” requires it to be based on “available science” and only allows “appropriate” lab testing — meaning that tough import inspection to prevent unsafe food from entering the food supply could be challenged as an illegal trade barrier.⁶





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.⁷ 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.⁸ 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.⁹

The “sound science” red herring is used to attack the legitimacy of food safety studies and create the false impression of uncertainty.¹⁰ The “sound science” argument has already delayed or derailed regulations over well-understood public health threats including asbestos, tobacco, lead and dioxin.¹¹ The TPP adopts this anti-regulatory approach for food safety, making it easier to challenge food safety standards as illegal trade barriers.

The TPP requires that food safety rules be “based on scientific principles” and on risk assessments that are “appropriate to the circumstances of the risk” and “takes into account reasonably and relevant scientific data.”¹² In addition, food safety standards cannot be “more trade restrictive than necessary” and cannot be stronger than international guidelines.¹³

TPP sound science provisions could trump U.S. bans on importing seafood with unapproved antibiotics.

Some TPP countries like Vietnam produce farmed seafood that can be raised with chemicals and antibiotics that are prohibited in the United States.¹⁴ The FDA is increasingly concerned that U.S. fish imports contain residues of these drugs and chemicals, which can cause cancer and allergic reactions and contribute to the development of antibiotic-resistant bacteria.¹⁵ People who develop antibiotic-resistant infections are sick longer and have greater risks of hospitalization and death.¹⁶ But the FDA’s outright prohibition on some of these drugs, including fluoroquinolones and clenbuterol for aquaculture, is vulnerable to a TPP challenge under the food safety rules (known as the sanitary and phytosanitary chapter — or SPS).

The FDA protection for some of the banned drugs is higher than the international standard, the underlying science is hotly disputed by the food animal industry, and the outright ban is far from the least trade-restrictive policy.¹⁷ If Vietnam were to bring a TPP SPS challenge against the FDA ban on fluoroquinolones, it likely would prevail and it would be more likely to succeed under the TPP SPS rules than under the World Trade Organization (WTO) rules.

The TPP second-guesses border inspection; unsafe food could be pushed into U.S. supermarkets.

The TPP includes a so-called Rapid Response Mechanism that allows exporters to challenge border inspectors that stop suspicious food imports — including detaining suspect shipments pending

laboratory test results.¹⁸ 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.”¹⁹ It second-guesses U.S. border inspectors, and it subjects their independent decisions to trade tribunals that prioritize moving food shipments across borders regardless of the potential safety risks.

This TPP provision could be used by exporters to push unsafe food into the U.S. food supply. The TPP requires border inspectors to notify exporters within seven calendar days of restricting an import shipment.²⁰ But FDA testing can take a week or two — or longer — before dangerous food shipments are identified and safe shipments are released into the food supply.²¹ These lab tests are essential. Between 2003 and 2006, the FDA tested only 1 percent of seafood shipments, but 9 percent of these tests found food safety hazards that justified blocking the imports.²² More than 18 percent of TPP member Vietnam’s seafood shipments failed lab tests. Since TPP exporters could demand a review of FDA decisions that would delay shipments at least one week, every five times that Vietnam were to successfully use the Rapid Response Mechanism to push fish shipments across the border before testing was complete, one unsafe shipment could arrive on supermarket shelves.

Encourage acceptance of “close enough” foreign food safety standards that cannot be reversed.

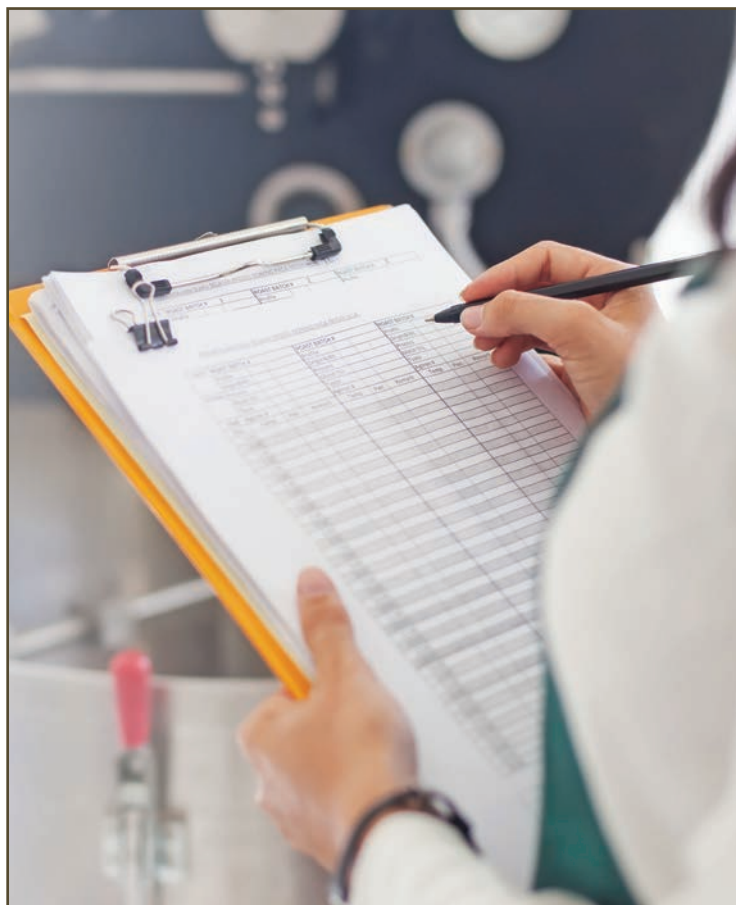
The TPP requires the United States to accept other nations’ food safety systems as “equivalent,” or essentially “close enough,” to our standards to allow accelerated food imports.²³ The TPP equivalency directives are designed to maximize international food trade by making everyone’s food safety standards converge to a global race-to-the-bottom in food safety standards.²⁴

The rush to approve foreign food safety systems as equivalent to accelerate food imports from potentially less-protective food safety regimes could pose risks for consumers. Currently, only 40 countries are approved to export meat, poultry or processed eggs to the United States.²⁵ Four TPP members (Singapore, Peru, Mexico and Australia) and three potential future TPP members (South Korea, the Philippines and Thailand) have asked to export meat or poultry products to the United States.²⁶

The United States has already lost two WTO cases for refusing to grant equivalency to countries that had questionable food safety and animal health practices.²⁷ The stronger TPP rules would make it easier for TPP members to win trade disputes against the United States for failing to promptly approve these imports — even if there are significant safety concerns.

The TPP is a race-to-the-bottom for global food safety deregulation.

The equivalency process also has become a one-way ratchet downward for food safety oversight. The U.S. shift toward privatized food safety inspection — where company employees replaced



independent government inspectors — became a model for other countries that were granted equivalency to export to the United States, with dangerous results.²⁸

The equivalent, privatized inspection systems in Canada and Australia have already been exporting unsafe meat to the United States. A Canadian slaughterhouse with company inspectors shipped 2.5 million pounds of *E.coli*-tainted ground beef to the United States in 2006.²⁹ The USDA border inspectors found that the number of fecal and other contaminant violations rose dramatically at Australia’s plants that had company inspectors.³⁰ The European Union and Japan blocked imports from these Australian slaughterhouses because of food safety concerns, but the United States keeps importing from these plants.³¹ The primary reason that more of this tainted meat has not entered the United States is the more robust inspection process at the USDA, but that might be challenged as well under the TPP.

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

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