

CABC- Food safety bills (H.R. 3610 & S.1776)

US FOOD SAFETY BILL THREATENS TO UNFAIRLY TAX NORTH AMERICAN FOOD PRODUCERS AND CREATE BORDER BACK-UPS “ALL THE WAY TO HUDSON BAY.”

Food Industry Proposes Alternatives To Keep Food Products Safe From “Farm to Fork” and the Border Open

North American food processors and consumers will get caught in crippling backlash if Congress goes ahead with legislation designed to improve inspections of consumer products from China.

Despite vast improvements in food safety, a highly publicized series of outbreaks in food products -- ranging from salmonella in peanut butter to e.coli in spinach and meat as well as melamine in pet food – has eroded U.S. consumer confidence in food products. A recent U.S. Food Market Institute survey found that confidence in food safety has dropped to 66% from 82% in the past 12 months.

Both the House of Representatives and the Senate responded to consumer worries by introducing similar legislation last fall designed to increase inspections of food products coming into the U.S. market. About 13% of U.S. food is now imported from 180 countries, the largest of which is Canada. The U.S. Food and Drug Administration, one of two U.S. agencies responsible for food safety, says it inspects about 1.3% of foreign food imports.

Rep. John Dingell, chairman of the House Committee on Energy and Commerce, introduced his food safety bill (H.R. 3610) on Sept. 20, 2007. Among other things, the bill demands two things both U.S. and Canadian food producers believe would bring the border to a standstill and unfairly penalize Canadian food imports to a massive extent.

First, the House bill – officially an amendment to the Federal Good, Drug and Cosmetic Act – would demand that a border fee be collected on every shipment of food coming into the U.S. market. The fee proposed by Rep.

Dingell would be US\$50 for every product line, no matter how small the shipment is. A similar bill in the Senate introduced by Sen. Richard Durbin on July 12, 2007 would demand that a user fee of US\$20 be collected. The funds would be used to fund the Food and Drug Administration's inspections.

Because of the huge volume of food crossing the U.S.-Canada border, the Canadian government estimates the proposed Dingell fee would cost Canadian companies \$125 million a year. Fees collected on food shipped from China, in comparison, would only be \$10.3 million and just \$57.4 million from the European Union.

Secondly, the Dingell bill would insist that all food imported to the U.S. would have to go through a border crossing where there is an FDA laboratory. On the Canada-U.S. border, there is only one FDA laboratory at Detroit- Windsor, already one of the busiest in the world.

"That would back up commercial traffic all the way to Hudson's Bay," says Kelly Johnston, vice-president of government affairs for Campbell Soup Co. Campbell processes food on both sides of the border.

The Senate bill (S. 1776), with the same title, was introduced by Sen. Richard Durbin on July 12, 2007. It is virtually identical except that it gives the Secretary of Agriculture additional power to unilaterally block imports of food products.

The two bills are expected to be debated and then "marked up" – essentially be made the same – this March before being sent to President George W. Bush for signing. The administration has not yet formally indicated its position on the bills.

The North American food industry is offering another approach.

"These bills are enforcement heavy but intervention light," says Jesse Sevcik, vice-president of legislative affairs at the American Meat Institute.

The North American food industry has invested heavily in technology and systems designed to catch problems before they happen – at the factory rather than at the border.

As an example, one approach is the Four Pillars, proposed by the Association of Food, Beverage and Consumer Products Companies.

Not only does it call for dramatically expanding resources of the Food and Drug Administration, but encourage FDA safety and quality requirements at food processors outside the country. As well, it would encourage FDA access to foreign plants rather than relying on inspections at the border.

THE INDUSTRY:

The North American food industry is massive and complex. Just to start, the average grocery store alone carries 15,000 items.

The US\$2.1 trillion food, beverage and consumer packaged goods industry employs 14 million workers, according to the U.S. Grocery Manufacturing Association (which recently merged with the Food Products Association.)

The U.S. meat and poultry industry produces over 88 billion pounds a year worth about US\$100 billion, according to the American Meat Institute. It employs 270,000 workers in processing plants.

In Canada, Statistics Canada estimates that the Canadian food industry employs 238,000, representing about 12% of total manufacturing employment. It is Canada's third largest manufacturing industry.

Canada's meat processing industry is the largest sector of the food industry and has annual shipments of about C\$20 billion and has exports of about C\$2.5 billion in pork to 130 countries and C\$1.3 billion in beef to 110 countries. The industry, according to the Canadian Meat Council, also employs about 67,000 workers.

THE ISSUE:

Food safety and consumer confidence are the two top issues for the food industry. The GMA estimates food and consumer product companies invest hundreds of millions of dollars a year into safety and security every year.

A loss of consumer confidence in a branded product can destroy a company.

In 2007, the FDA noted that contaminated peanut butter with salmonella led to illnesses in more than 300 people while and at least 50 hospitalizations. Contaminated spinach from e.coli resulted in 206 illnesses, three deaths, and more than 100 people hospitalized. Reports of kidney failure and deaths in cats and dogs prompted a recall of more than 100 brands of pet food because of melamine found in products from China.

Besides destroying consumer confidence, recalls of tainted or suspect products can be hugely expensive. The recall of peanut butter cost the company US\$66 million, the spinach recall another \$50 million while the melamine-tainted dog food from China last year cost over \$40 million.

“No food company would put its brand at risk,” says Johnston. “It would be suicidal.”

Yet the food industry has gone global to meet changing demand. The growth in fresh and organic foods means food producers have to go outside of the U. S. to get products. Bulk shipments of food products into the U.S. market number nearly 14 million a year.

"Globalization has radically changed our food supply and our food-supply chain," said Andrew von Eschenbach, the FDA Commissioner, said in November 2007 when it outlined its Food Protection Plan. "There was a time when we produced the food ourselves. Now we've noticed that much of this food comes to us 365 days a year, because it is being produced in other parts of the world.

As a result, the U.S. government's food inspection is coming under increasing strain.

Unlike countries like Canada which have a single agency inspection system, the U.S. has two major inspection agencies – the U.S. Department of Agriculture and the Food & Drug Administration.

The USDA is largely responsible for meat, poultry and egg production. The U.S. Meat Institute estimates the USDA is responsible for inspections of 60 cents of each dollar of retail sales.

The food industry in the U.S. says the USDA is active and effective. It has inspectors virtually every day in the 6,000 meat and poultry plants in the U.S.

However, the FDA is under stress. It is responsible for inspecting 52,000 food processing plants in the U.S. as well as increasing imports. It has a limited budget and is losing qualified staff every year through retirement and higher – paying private sector companies.

While there is a general recognition by the North American food industry that the FDA needs more funding, it is the approaches by the Dingell and Durbin bills that threaten to bring the food industry to a standstill.

“The bills are virtually unworkable,” says Johnston.

The legislation is a reaction to less-than-modern food processing and inspection standards in China and other developing economies.

But it overlooks the dramatic difference in scale of imports from other countries, especially Canada. It is the largest exporter of food products to the U.S.

In 2006, Canada shipped 120 million food products to the U.S. Only 20 million products came from China.

To help fund the FDA, the Durbin and Dingell proposals would impose a fee of US\$20 or US\$50 on each product line coming into the U.S. It does not matter where the product comes from, or what that country’s inspection standards are. As well, the same fee would be levied on the product line not the size of the shipment. One case of imported food product would attract the same fee as a truckload.

In its analysis, the Canadian government estimates the Dingell bill would cost Canadian exporters \$125 million a year, compared to \$10.3 million for Chinese exporters and \$57.3 million for EU exporters to the U.S. market. Those are based on 2006 shipments.

Equally troubling, the bills would not discern the origin of food products. Because the North American market is so integrated, it is common for U.S.

grown products to be processed in Canada and then shipped back to the U.S. for retail sales.

Besides inadvertently taxing U.S. production, the user fee – called in trade terms a border measure – would inevitably attract challenges from every one of the U.S.'s food trading partners at the World Trade Organization.

As well, the Dingell bill would demand that all imported food go through a port of entry where there is a FDA laboratory. In Canada's case, there is just one – at the already congested Detroit-Windsor border. Food products now come into the U.S. from Canada at entry points virtually coast to coast.

The Durbin bill would also insist the U.S. government certify inspect systems in foreign countries and give the Secretary of Agriculture the power to unilaterally halt imports of specific food products.

A SOLUTION:

Canadian and U.S. food processor, along with the Canadian-American Business Council, are proposing an alternative that would meet consumer and government concerns about food safety while continuing to deliver top quality products.

The North American food industry believes that intervention – rather than enforcement – is a far more effective tool in preventing problems before they reach the border or the consumer.

One is called “The Four Pillars of Food Safety.” It was developed by The Association of Food, Beverage and Consumer Products Companies (formerly the Grocery Manufacturers Association and the Food Products Association.)

They are:

- I) Mandatory Foreign Supplier Quality Assurance Program
- II) Voluntary Qualified Importer Food Safety Program
- III) Capability Building with Foreign Focus
- IV) Capacity Building US Border Focus

The first pillar's emphasis makes it a mandatory requirement that foreign suppliers adopt FDA safety and quality requirements. Food companies would use FDA guidance to adopt foreign supplier food safety programs.

The second pillar focuses on a voluntary food safety program for importers. Designed to relieve border congestion, it would help the FDA pick out more likely candidates for inspection, such as new, one-time or small importers. The flip side would be to allow those importers who meet high safety standards and voluntarily share testing and data to be eligible for expedited entry.

The third pillar concentrates largely on encourage foreign governments to upgrade their capacity to prevent threats to food safety. As well, it would expanding FDA training to foreign inspection entities and encourage FDA access to foreign data and facilities. It would also try to encourage a global food safety standard.

Finally, the fourth pillar would dramatically expand the FDA's capabilities. There is a wide recognition that the FDA is underfunded and losing key staff. As well, efforts would be made to improve the FDA's analytical testing and information technology.

This type of intervention – rather than enforcement -- approach is one endorsed by the FDA.

In a November 2007 outline of its proposed Food Protection Plan, FDA Commissioner von Eschenbach said:

“By *preventing* most harm before it can occur, enhancing our intervention methods at key points in the food production system, and strengthening our ability to respond immediately when problems are identified, (the) FDA can provide a food protection framework that keeps the American food supply safe.”

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