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FDA Failing to Check Safety of Imported Foods
Congress Should Seek Equivalency with International Food Safety Standards

Tarpon Springs, FL—More documentation of the Food and Drug Administration's (FDA) inability to protect American consumers from contaminated food imports was presented to Congress last Thursday, October 11, 2007. According to testimony from House Energy and Commerce Committee investigators, the FDA has not been able or willing to pursue the vigorous program of inspection and laboratory testing that is needed to assure the safety and security of the nation's food supply.

In response, the Southern Shrimp Alliance (SSA) called on Congress to raise U.S. food safety enforcement to international standards. SSA's reform proposals are based upon the more comprehensive food safety mechanisms found in the European Union (EU), Japan and Canada.

"Compared to the EU, Japan, and Canada, the FDA is the least effective seafood safety regime," explained John Williams, executive director of the SSA. "FDA tests a minute proportion of imports, lacks strong penalties for violations, and has severe delays in enforcement compared to its international counterparts. Since FDA is less stringent than other major markets, the United States has become a dumping ground for contaminated seafood."

Reform proposals include requiring that exporting countries administer food safety laws that are at least equivalent to U.S. laws; verifying that individual exporters adhere to such laws; mandatory minimum inspection and testing rates; significant penalties for noncompliance with U.S. safety standards; and, increased cooperation with major seafood importing countries.

For example, where FDA tests around one percent of all shrimp imports, the EU tests twenty percent and as much as 100 percent if problems arise, Japan between 25 percent and 100 percent, and Canada between 5 percent and 100 percent. The law mandates minimum inspection rates in Canada and Japan.

When problems are found, the other countries take action much sooner than the FDA. The time between rejection of product and enforcement is 45 days in Canada and 60 days in the EU compared to more than 348 days by FDA. The U.S. Department of Agriculture (USDA), which oversees 20 percent of the U.S. food supply, takes action in 45 days.

The EU, Japan, and the USDA also have the authority to ban products from countries after repeated violations. FDA lacks this authority. The FDA also does not require food safety equivalence with supplying countries like the EU, Japan, Canada and USDA.

"SSA is grateful for the attention Congress is dedicating to seafood safety. In support of the numerous efforts to improve the FDA, we have developed recommendations that would bring the agency's enforcement standards closer to those of the EU, Japan, Canada and the U.S.

Department of Agriculture," said Williams. "We look forward to working with our elected officials to reach parity with international food safety enforcement standards."

SSA is an alliance of the U.S. warmwater wild shrimp fishery from eight states: North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas. For more information on the SSA, please visit www.shrimpalliance.com.

Imported Seafood Safety Standards

	EU	Japan	Canada	USDA	FDA
Equivalence Required	✓	✓	✓	✓	
Country Certification	✓	Partial		✓	
Producer Certification	✓	✓		✓	
Designated Ports of Entry	✓	✓	✓	✓	
Percentage of Testing (Shrimp)	20-100%	25-100%	5-100%	N/A	1%
Absolute Ban on Imports from a Non-Compliant Country	✓	✓		✓	
Marking of Rejected Shipments	✓			✓	
Time Between Rejection and Enforcement	60 days		45 days	45 days	>348 days
Mandated Inspection Rates	✓	✓	✓		

Recommended Elements of FDA Seafood Safety Legislation

To bring the FDA's enforcement mechanisms in line with international counterparts or the performance level of the U.S. Department of Agriculture, the Southern Shrimp Alliance recommends the following reforms as part of any FDA seafood safety legislation:

1. Require equivalence agreements
   - An exporting country may not export to the United States unless it establishes and certifies that its food safety laws and procedures are equivalent to U.S. standards.
   - Individual exporters within approved countries must certify equivalence with the United States' standards on critical control points in the manufacturing process, monitoring and sampling requirements, and recordkeeping obligations.
   - The FDA would conduct periodic on-site inspections -- at least annually -- of foreign production facilities.

2. Mandate Inspection and Testing Rates
   - At a minimum, the United States should mandate a 20 percent inspection and testing rate for all seafood imports.
   - New exporters to the United States should be subject to 100 percent testing for the first fifteen (15) shipments into the United States.
   - If an importer fails an inspection or test, all subsequent imports are subject to 100 percent testing until fifteen (15) consecutive shipments pass inspection.
   - Repeated failure may lead to the imposition of producer and country bans.

3. Fund FDA Oversight of Private and Public Laboratory Facilities
   - FDA should bolster its own inspection and testing capabilities with sufficient funding for qualified staff and testing equipment.
   - Importers would be required to pay an import inspection fee to help offset the cost of inspection and testing.
   - Testing should be conducted primarily by the FDA. If test results are issued by private laboratories, then these laboratories must be fully accredited, certified and licensed by the FDA. Such accreditations and licenses must be renewed annually.
   - All FDA and private laboratories must test each class of imports based on a standardized list of controlled substances.

4. Limit Imports to Designated Ports of Entry
   - Imported seafood are allowed entry only through designated ports of entry staffed with trained inspectors and equipped with proper technical resources for testing and evaluating imported merchandise.

5. Require an Annual Report and Prospective Enforcement Plan
   - The FDA should publish an annual report describing significant incidents of import noncompliance and other areas of concern, as well as summary statistics. The report would describe the FDA's plans for addressing these issues in the coming year.
   - The FDA would be mandated to implement its enforcement plan within 3 months of publication of the annual report.

6. Authorize Seizure and Destruction of Contaminated Imports

- If an import is found to violate U.S. food safety standards (i.e., contains banned substances), the FDA must seize and destroy the import unless the importer can meet the requirements for re-export.
- The FDA must establish an expedited system of notification between the FDA and port-of-entry officials that a shipment has been rejected and must be destroyed.

7. Limit Re-export of Rejected Shipments
   - Rejected shipments will only be released to importers under controlled circumstances within 45 days of notification. Otherwise, the shipment will be destroyed.
   - If the rejected shipment is bound for a third country, the importer must first notify that country's food safety agency. The third-country destination must notify the FDA of its acceptance before the rejected shipment is released.
   - Rejected shipments must be conspicuously marked "United States Refused Entry."

8. Increase Penalties for Purposeful Deception
   - Knowingly mislabeling, and other knowing violations of U.S. food safety laws, such as "port shopping," will result in significant civil and possible criminal penalties. An importer must certify the product's country-of-origin and the producer and exporter's identities.
   - Knowingly falsifying these certification would result in mandatory monetary penalties and denial of trading privileges.

9. Authorize Country Bans Until Demonstrated Improvement
   - Systemic detection of prohibited substances would result in a complete ban of a particular product, or all products, from the exporting country.
   - The country ban would only be lifted when the foreign government proves to the satisfaction of the U.S. government that they have met U.S. imported food safety standards.

10. Authorize Producer Ban Until Demonstrated Improvement
    - Systemic detection of prohibited substances may result in a complete ban of a particular product from the exporter.
    - The particular product is denied entry to the U.S. market altogether rather than issued an import alert that subjects the exporter to 100 percent consignment testing.

11. Mandate International Coordination for Cooperative Agreement and Information Exchange
    - The FDA would monitor and recognize foreign findings and bans issued by certain countries and regional organizations, including the European Union, Japan and Canada.
    - Discussion between exporting and importing countries provides opportunities for importing countries to raise safety concerns and for exporting countries to address their compliance abilities. The objective is for the FDA to achieve parity, or "no less stringent" requirements than other large importing countries.

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