Tony Corbo, Food and Water Watch

Remarks for the FSRC Workshop: "Assuring Safety of Imported Food"

February 1, 2010

Thank you very much for inviting us to participate today. My name is Tony Corbo and I am a lobbyist for the non-profit consumer advocacy organization Food & Water Watch. Our main office next door in the RFF Building on the third floor. We also have several other offices including one in Brussels, Belgium. We were founded in November 2005 and the organization is a spin-off of the consumer advocacy organization, Public Citizen.

From our inception, Food & Water Watch has taken a keen interest in the safety of imported food. In fact, one of the first official actions taken by the organization in late 2005 was to oppose the granting of equivalency status to the People's Republic of China by the United States Department of Agriculture for the import of processed poultry products under limited conditions. We have continued that opposition as Ron Jones well knows.

We have become increasingly concerned with the impact that the various trade agreements the United States has negotiated over the past two decades has had on our farmers and ranchers and on our food safety system. While the United States Department of Agriculture has developed a procedure to regulate the number of countries and establishments eligible to export meat, poultry and egg products to the U.S. through its food safety equivalency determination process that it put into place in 1999, the Food and Drug Administration has become totally overwhelmed by the volume of imports reaching our shores. At the present time, there are 34 countries with approximately 1000 establishments eligible to export meat, poultry and egg products to the U.S. that are regulated by USDA, and over 150 countries and if we are to assume all of them are legitimate 226,000 foreign establishments that have registered to export food products to the U.S. that fall under FDA jurisdiction. The volume of imported food products that fall under FDA jurisdiction has experienced an exponential increase over the past two decades. In 1992 –

right before the ratification of the North American Free Trade Agreement, there were 1.1 million imported food line items that were presented at U.S. ports of entry; in 2009, that had grown to an estimated 9.5 million line items – a nearly nine-fold increase. During that same time period, the proportion of an average American's diet made up of imported food has grown from 9.4% to about 15% according to the USDA's Economic Research Service. We are now importing over 80% of the seafood we consume in the U.S. I remember sitting in a March 2004 House Agriculture Appropriations Subcommittee hearing in which then-Acting FDA Commissioner Lester Crawford was being criticized by subcommittee members for the lack of inspections for food imports and he very candidly responded that because of the trade agreements negotiated in the 1990's, the volume of food imports had grown at such a pace that FDA could not keep up.

Because of insufficient resources provided to the agency, FDA has not be able to inspect foreign food facilities and has relied on an antiquated port-of-entry inspection system that has resulted in recent years of only 1 to 2 percent of imported food products receiving any sort of inspection. Food & Water Watch released three reports in 2007 and 2008 that further shed light on how woeful the imported food inspection program has been at the FDA. With laboratory data that we secured through Freedom of Information Act requests, we discovered that FDA conducted tests on only 0.59% of the 1.3 billion pounds of shrimp - the most popular seafood consumed in the U.S. -- which we imported in 2006; and one test for every one million pounds of all seafood imported in 2006. Much of our imported seafood comes from Asia where the aquaculture practices are generally unregulated and the seafood is often times contaminated with pesticides, illegal antibiotics and other food additives in addition to pathogens. For fresh produce, only 0.23% shipments of fresh produce imports received laboratory testing by the FDA between 2005 and 2007. FDA data show that imported fresh produce is three times more likely to be contaminated with food borne pathogens such as salmonella and shigella than domestic produce and four times as likely to have pesticide levels that exceed U.S. standards.

We are heartened to hear that in the FY 2011 proposed budget to be released today, FDA intends to increase the number of on-site inspections of foreign food establishments from the 600 during this fiscal year to 1000 next year. Again, this is a drop in the bucket compared to the number of imported food establishments that are eligible to export, but the trend is in the right direction. I am interested to learn how FDA intends to prioritize those inspections.

Food & Water Watch has been part of the Make Our Food Safe Coalition that is made up of consumer and public health advocacy organizations lobbying on the FDA food safety legislation that is pending in Congress. We began our journey last year strong supporters of H.R. 875, the Food Safety Modernization Act that was introduced by Congresswoman Rosa DeLauro. That bill set up a five-tiered inspection regime for both domestic and imported food based on risk. The risk levels were clearly prescribed in the bill along with the inspection frequencies. For example, those facilities that slaughter animals that do not fall under the jurisdiction of USDA were classified as having the highest risk and would receive daily inspection. Warehouses were classified as having the lowest risk and they would receive an annual inspection. For foreign establishments, the foreign government would certify that the establishment could meet U.S. food safety standards and the foreign government would need to conduct inspections at the same frequency as comparable U.S. establishments, especially for those establishments in the first three risk categories. We preferred this approach because it gave FDA clear guidance as to the assignment of risk.

As the process evolved in the House of Representatives, the DeLauro inspection frequency was telescoped into three tiers and the bill eventually adopted by the House – H.R. 2749 – gave FDA the latitude to assign a risk level to food establishments that determined the frequency of inspections. The legislation requires that FDA conduct inspections of foreign facilities at the same rate as it conducts inspections for domestic facilities that are assigned the same risk level. While we would prefer this

approach, the cost of administering such a program could prove to be prohibitive.

The Senate version of the bill – S. 510 – the FDA Food Safety Modernization Act – would permit third party certifications for the safety of exported products to the U.S. The bill provides for FDA recognition of foreign government food safety systems that could meet U.S. standards, it also allows for private third party certifiers. Our organization is adamantly opposed to private third party certifications, especially for higher risk foods. We believe that food safety is a public health function and the recognition of food safety standards should be based on a government to government relationship.

On both the domestic and import side, FDA has a daunting task. We are not sure how accurate the registrations are under the Bio-Terrorism Act. The pending legislation would help the agency clean that up. The agency says that it currently assigns its inspection sources based on risk, but those criteria are not readily transparent to stakeholders. Officials at the Food Safety and Inspection Service at USDA in 2006 and 2007 tried very hard to implement a risk-based inspection system for domestic processing facilities and discovered – primarily through concerns raised by the consumer groups – that it did not have the data to assign risk either by product or by establishment. The concerns raised the consumer groups were recently corroborated by a committee of the National Academies of Science. So, the FSIS process that has been delayed. I believe that FDA has similar problems, if not larger, because the agency has a dearth of food safety data that it currently collects – both domestically and for imported food products. The agency needs to invest in information technology to collect such data and analyze it so that risk determinations can be made. Without that, the agency is going to be hard-pressed to develop a risk-based inspection strategy either for domestic or imported food products.

Thank you.