

January 23, 2006

Docket Clerk

U.S. Department of Agriculture

Food Safety and Inspection Service

300 12th Street, SW. Room 102

Cotton Annex

Washington, DC 20250

Re: Docket No. 05-012P

Dear or Sir Madam:

On behalf of the consumer group Food & Water Watch, I am writing to oppose granting the People's Republic of China equivalency status and amending 9 CFR 381.196 to include this country as being eligible to export poultry products to the United States.

We are opposing this proposed rule on a number of grounds.

First, we are extremely concerned about the ability of the Food Safety and Inspection Service (FSIS) to enforce this equivalency agreement in light of recent revelations about its inability to take action against food processing establishments in Canada that violated FSIS standards. In a December 2005 audit report released by the Office of Inspector General (OIG) of the United States Department of Agriculture, the Inspector General stated:

Timely actions were not taken because FSIS does not have protocols or guidelines for evaluating deficiencies in a country's inspection system that could jeopardize a country's overall equivalence determination.[\[1\]](#)

The audit report of the Inspector General substantiates findings by the consumer group Public Citizen in a July 2003 report entitled, “ The WTO Comes to Dinner: U.S. Implementation of Trade Rules Bypasses Food Safety Requirements.”^[2] If FSIS is not able to take action against a country on the North American continent, why does it believe it can enforce an equivalence agreement on the other side of the world? Before FSIS enters into any additional equivalence agreements, it needs to correct the deficiencies in its current international program and make sure that it has clear guidelines for its enforcement activities.

Second, we do not believe that annual audits of foreign establishments are frequent enough to judge compliance with equivalency standards, especially with countries that have had substantially different approaches to food safety when compared to the United States. In the case of the People’s Republic of China, FSIS auditors found significant differences in approaches to a whole host of issues as were documented in the “Final Report of an Initial Equivalence Audit Carried Out in China Covering China’s Poultry Inspection System.” As FSIS auditors have frequently found in other countries that have equivalence agreements with the United States, there is no guarantee that FSIS procedures are always adhered to even when there is a mature trading relationship.

Furthermore, there is an animal health issue that has surface since this equivalency determination report was issued. The People’s Republic of China has a serious H5N1 avian influenza outbreak that is impacting animal and human health. At the time of the equivalence audit, there were “no outbreaks of animal diseases with public health significance”^[3] That has since changed. While the Background to the proposed rule specifically states that only poultry from countries that have not had an H5N1 outbreak will be processed in food establishments in the People’s Republic of China for export to the United States, there are no guarantees that is going to happen unless FSIS personnel are stationed at the Chinese establishments every day. There are daily stories appearing in the worldwide press about the seriousness of this disease and the potential of a global pandemic that could kill millions of people. Our domestic poultry industry has undertaken a voluntary testing program to ensure the safety of our flock against this disease. We do not believe it is worth the risk of exposing our poultry animals or our citizens to this very dangerous disease by approving this equivalency agreement at this time unless there is continuous inspection provided by FSIS personnel in the Chinese facilities. Ironically, the United States Border Patrol is not permitting the importation of live or uncooked poultry from Canada as a precaution against spreading avian flu in the United States, even though the H5N1 strain of avian flu has not been confirmed in that country.^[4] And yet, we are ready to give the People’s Republic of China access to our markets even though that virulent strain of avian flu has been well-documented in that country.

Third, the proposed rule is convoluted since the People’s Republic of China will only be able to export processed poultry products to the United States from poultry imported into China from countries that have not had an H5N1 avian influenza outbreak. What is going to be the source of China’s exports to the United States? Will the poultry come from countries that already have equivalence agreements with the United States? How will FSIS verify the source? It is apparent that the United States will not be one of the sources of slaughtered poultry for China because in a recent interview, a representative from the National Chicken Council stated that he did not know of any U.S. company that was interested in shipping frozen chicken to China to be processed and shipped back to the United States.^[5] We suspect that this equivalence agreement will serve as a foot in the door for the People’s Republic of China to be able eventually to process its domestic poultry for export to the United States at which time U.S. producers could face serious competition with cheap imports.

Fourth, the Background to the proposed rule states that twenty-five food establishments in the People's Republic of China will be eligible to export processed poultry products to the United States. We were only able to view site audits of six of these establishments. Where are the other nineteen? Even in the few audits that were supplied, FSIS personnel found major food safety violations in four of the six establishments.

Fifth, the Background to the proposed rule states that there will be an insignificant amount of poultry that will be exported to the United States under this agreement – some 2.5 million pounds annually. The Background also states: “The impact of this proposed rule on U.S. consumers is voluntary in that consumers will not be required to purchase poultry products produced and processed in the People's Republic of China, although they may choose to do so.” Is FSIS going to mandate country-of-origin labeling so that U.S. consumers can distinguish domestic poultry from poultry processed in China? For example, will there be a label on the packaging that reads: “This poultry was raised in Myanmar and processed in the People's Republic of China.”? There is nothing in the proposed rule that makes country-of-origin a requirement; therefore, U.S. consumers will not be able to make an informed choice.

Sixth, the People's Republic of China has a significant food irradiation industry. Nothing in the Background to the proposed rule addresses whether any of the poultry processed under this equivalence agreement will be irradiated and whether it will be labeled as such.

For all of the reasons stated above, we oppose the proposed rule. Should you have any questions regarding our comments, please feel free to contact me at (202) 797-6550.

Sincerely,

Wenonah Hauter

Director

Food & Water Watch

[1] See <http://www.usda.gov/oig/webdocs/24601-05-HY.pdf>, p. i.

[2] See <http://www.citizen.org/documents/EQUIVALENCYFINALREPORT.PDF>

[3] See <http://www.fsis.usda.gov/OPPDE/FAR/China/China2004.pdf>, p 10.

[4] See <http://www.thetimesherald.com/apps/pbcs.dll/article?AID=/20060120/NEWS01/601200302/1002>

[5] “The Long Way Around,” Beltway Notebook, Food Chemical News, December 5, 2005.