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Chinese Seafood Imports: Safety and Trade Issues

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Thank you for inviting me to testify here today. My name is Jean Halloran, and I am Director of Food Policy Initiatives at Consumers Union, publisher of Consumer Reports magazine.

Consumer Reports has approximately 4 million subscribers, and we have another 3 million paid subscribers to our website. We are non-profit and independent, and take no funding from business or industry.

The safety of seafood is an extremely important issue for consumers, and import safety is paramount. Fish consumption is growing, and it is estimated that 83 percent of the seafood we eat is imported. Of that, 21 percent comes from China, and much of the rest from other developing countries in Asia and Latin America.¹ By comparison, of all the food we consume, only 13 percent is imported.²

We have considerable evidence that seafood imports from China pose significant safety risks. In June, 2007, the FDA put five types of farmed-raised fish and seafood from China under a “detain and test” order, due to repeated findings that the fish contained chemicals banned from

¹ Food and Water Watch, *Import Alert*, July 2007, available at www.foodandwaterwatch.org.

² Bridges, A. “Imported food rarely inspected,” *USA Today*, April 16, 2007.

seafood in the United States.³ .We commend FDA for that action, but believe it has only begun to address the problem.

FDA is actually very limited in what it can do to insure the safety of imports from China or anywhere else. Today, it inspects less than one percent of food imports entering the country. There are over 300 ports (many landlocked) where food can enter. At the peak of its funding, there were FDA inspectors stationed at only 90 of them, and the number of inspectors has dropped since then.⁴ This has led to a phenomenon known as “port shopping.” Indeed, if a shipment of seafood from China is rejected by FDA inspectors at one port because it has begun to decompose, there is nothing at all to prevent the importer from trying another port where FDA simply may not be present.

The US government does not protect the public from unsafe imports as well as governments of other developed countries do. While the FDA inspects just 2 percent of seafood imports, the European Union physically inspects 20 percent of fresh, frozen, dried and salted fish and 50 percent of clams and similar shellfish. Japan physically inspected 12 percent of fresh seafood and 21 percent of processed seafood in 2005.⁵

If a problem with an import is discovered as a result of people getting sick, the FDA does not have the power to issue a mandatory recall of the food—it must ask the distributor to recall the product.

Country of origin labeling was mandated by the 2002 Farm Bill, and it was allowed to go into effect for fish in 2004. However there is an unfortunate loophole in the law which limits its

³ FDA News, “FDA Detains Imports of Farm-Raised Chinese Seafood; Products Have Repeatedly Contained Potentially Harmful Residues,” June 28, 2007.

⁴ Testimony of Caroline Smith DeWaal, House Energy and Commerce Committee, Subcommittee on Oversight and Investigations, *Import Inspection Failures and What Must Be Done*, July 17, 2007.

effectiveness: due to how the Farm Bill language was drafted, COOL only applies to fish sold in supermarkets and other stores that do a large volume of business in vegetables. Fish markets, where about 10 percent of the nation's fish is sold, are therefore exempt from COOL, and consumers who shop there are left in the dark about where a product comes from.

Major changes are in fact needed to assure that seafood imports are safe. Consumers Union recommends at least the following:

1. Seafood from China, and imported seafood in general, should be subject to safety regulation similar to that applied to beef and poultry by USDA. Under USDA rules, before a country can export beef or poultry to the US, the USDA must determine that it has an equivalent regulatory system. If it does, then that country must certify that facilities that want to export to the US actually meet US safety standards. We see no reason why these rules should not apply to fish farming and processing facilities, just as they do to meat and poultry facilities. Fish is equally capable of carrying bacteria that can make people sick, being contaminated with excessive residues of pesticides or antibiotics, or decaying due to lack of refrigeration. Either FDA or a national authority designated by FDA should pre-inspect any facility exporting seafood to the US, and FDA should inspect every seafood growing and processing facility annually. Refusal to allow access for inspection should mean that the facility's output cannot be exported.
2. We need a major increase in FDA border inspection capacity. Surely we can afford levels of inspection comparable to those in Europe and Japan, or even levels of inspection comparable to those carried out by USDA on beef, which currently inspect imported seafood ten times as frequently as FDA does. A major question is how such an enhanced

⁵ Food and Water Watch, *Import Alert*, July 2007, p. 6.

food safety presence would be funded. The Grocery Manufacturers Association believes that increased inspection should be funded out of the general tax base, and we would agree that that is the best solution. However we believe that registration fees for facilities that grow or process fish would also be an appropriate way to fund increased inspection. Registration fees of \$2000 per facility, both domestic and foreign, are proposed in a discussion draft of a Dingell food safety bill issued last week. Such fees would raise \$600 million for increased food safety efforts at FDA, approximately doubling its current capability. We believe such an increase is urgently needed.

3. FDA, or another federal agency with appropriate expertise such as NOAA, should establish federally supervised systems for independent third party certification of seafood imports, and require that all seafood imports be certified as meeting U.S. safety standards. The discussion draft of the Dingell bill has proposed a voluntary system of third party certification, whereby exporters who obtain certification that they meet US standards can enter through any port, but that ones who fail to sign up for certification would have to go through one of 13 ports where the FDA has a laboratory. No doubt having freer access to ports will cause some exporters to become certified. But we don't think safety should be a two-tier system. All seafood should be equally safe, and all should be required to be safe. All imported seafood should have to obtain third party certification, similar to the Underwriters Laboratory certification which is overseen by OSHA or the USDA organic program where certifiers are accredited by USDA.
4. FDA should be given explicit authority to recall contaminated food; currently all recalls are voluntary.

5. The exemption from country of origin labeling for seafood sold in fish markets should be eliminated.
6. FDA should be able to condemn and destroy food that poses a serious safety hazard at the border.

The second major cause of the import problems we are currently seeing lies with our trade policy. I also sit on the State Department Advisory Committee on International Economic Policy and Trade, and work closely with sister consumer organizations who belong to Consumers International in other countries. For many years, U.S. trade policy, at the direction of Congress and the Executive Branch, has proceeded with blinders on towards just one goal—that of gaining U.S. companies access to markets in other countries—with little consideration to the impact on the domestic economy or marketplace. Safety standards are typically viewed as potential barriers to US exports, rather than measure that assure the quality of imports and assure a level playing field for domestic and foreign producers. That approach to trade policy needs to change.

Congress has begun to think about looking at the impact of trade agreements on labor standards and the environment. We must also, however, look at how trade agreements affect the safety of consumer products. Unless we look more closely at the impact our trade policy has on safety issues, our quality and standard of living will decrease, rather than increase as it can and should do with increased trade.

We simply cannot grant blanket access to our markets for products that we know are produced in completely unregulated economies and that do not meet US standards. Not only will those imports pose a threat to consumers, but domestic producers will be driven to lower their standards in order to compete.

Consumers Union would like to make several recommendations as a way to begin to improve our trade policy. A simple, yet important change would be to broaden the many advisory committees that provide the marching instructions to the US Trade Representative, to include representatives of consumer, environment, and labor organizations and the general public. Currently those advisory committees include only representatives of the business community.

Congress should also examine pending, past, and any new trade agreements negotiated in the future to determine whether they adequately protect the right of federal, state and local governments to protect the safety of their citizens. For example, it is important that all trade agreements, and our trade policy in general, allows for targeted, risk-based enforcement actions against products from particular countries when warranted. WTO trade rules in general provide that one country cannot impose stricter, or differing safety standards on products of other countries than it imposes on its domestic production. In the area of food safety, this may pose a number of dilemmas. As noted previously, our agencies are seriously understaffed. If agencies see a greater incidence of violations in products from a particular area—as they recently did with seafood from China—it is important that they continue to be able to target such problem areas for increased inspection and testing. The ability to target enforcement should be made clear in all trade agreements.

In addition, many US food regulations are actually in the form of guidance, which is not mandatory, but which is widely followed by US industry nevertheless. It may be necessary for such guidance to become regulation, so that other countries are obligated to conform under WTO rules.

It is also an issue that foreign food producers can seek compensation if domestic regulation negatively affects their access to US markets. Canadian cattle producers filed such a challenge when the US closed our border to Canadian beef after several cases of mad cow disease were discovered in Canadian cattle.

Thank you very much for the opportunity to express our views. We cannot assume that seafood from China meets US standards, and we must find mechanisms that if we do allow its import, it is held to the same standards as the domestic seafood industry. This will require a much more proactive approach by our food safety agencies, and much more effort to identify and exclude substandard products.