

## The Forces Driving Change in Food Safety, Comments

An invited presentation at the Annual Conference of the American Council on Consumer Interests. Comments are a reaction to the presentation of Carol Tucker Foreman's address at the Esther Peterson Consumer Policy Forum.

**Bruce Silverglade, Center for Science in the Public Interest<sup>1</sup>**

The title of this year's conference, and I think we can all agree that it has been an excellent conference, is "Global Policy: Local Issues." Carol Foreman has just described to you several ways in which global policy is affecting us in one very important area -- the food we depend on for life sustaining nourishment. I would like to make a few additional points on this subject and provide some closing observations regarding global policy and consumer protection.

International food marketers can have a hard time selling overseas. In fact, a lot can be lost in the translation of even the name of a product. As *Newsweek* magazine reported, some brands sold over there just wouldn't make it over here. Take for example the brand of Italian Yogurt called "Mukk," -- not very appetizing. The makers of the Japanese soft drink called "Sweat" may face similar marketing problems. Then, there is the French breakfast cereal called "Craspy Fruit," or the popular brand of Portuguese Tuna called "Atum Bom."

As you can see, food companies can face great difficulties selling their products overseas. Governments, however, are trying to make it easier on manufacturers by supporting free trade agreements that call for international standards setting and harmonization. While brand names may always lose something in the translation, attempts to internationally harmonize government standards for food additives, pesticides, contaminants, vitamin and mineral content, and even labeling requirements are being made in order to facilitate trade.

Since 1994, the U.S. has been bound by an international agreement called the Agreement on the Application of Sanitary and Phytosanitary Measures, commonly referred to as the "SPS Agreement." The thrust of the SPS Agreement in the area of food regulation is to encourage nations to support the development of international food safety and labeling standards and to adopt those standards as domestic requirements in order to ease the flow of food products across borders. The SPS Agreement designates the Codex Alimentarius Commission (Codex), a subsidiary body of the United Nations' Food and Agriculture Organization and World Health Organization, as one of the primary sources of recognized international food standards. Domestic regulatory requirements that are based on Codex standards are presumed to be consistent with the SPS Agreement. Regulatory requirements that exceed Codex standards, however, may be challenged as trade barriers. In such cases, a complaint can be brought before the World Trade Organization (WTO), which decides whether health and safety regulations that exceed Codex standards are scientifically justified or constitute an illegal trade barrier. Member nations must abide by the WTO's decision or face trade sanctions.

Codex standards have therefore assumed a new importance since any regulation issued by the Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA) that exceeds them can be challenged as a trade barrier. In recognition of the new global regulatory framework, the FDA has asked for public comment on how and when the agency should adopt Codex standards as U.S. regulatory requirements.

To the extent that international harmonization of regulatory requirements elevates health and safety regulations to a consistent level of excellence, consumers worldwide are well served. However, if harmonization tends to reduce standards to a lower common denominator, then consumer health and safety may be jeopardized regardless of the economic benefits brought by increased trade.

And so we have to ask ourselves the question: what is the true price of free trade?

CSPI is concerned that the answer to this question has not been adequately researched. For example, we need to determine if the SPS Agreement is resulting in "downward harmonization" of health and safety standards and, if so, what will the impact be on the American consumer?

In the last year, the U.S. has repeatedly failed in persuading Codex to adopt positions favored by the Administration. For example, Codex has adopted, or advanced over strenuous objections by the U.S., standards and guidelines sanctioning:

- Inspection systems operated by company employees rather than by government-paid officials;
- Nutrient content claims not permitted by FDA food labeling regulations;

- Food additives not approved by FDA; and
- Levels of lead in fruit juices, milk, and other foods consumed by children that exceed U.S. standards.

These standards will carry a presumption of validity in trade disputes, and it may be just a matter of time before the U.S. government must decide whether to accept imports of these products or face trade sanctions. Ultimately, we fear that Congress and the Administration may capitulate and accept imports of food products currently not permitted to be sold here in deference to the interests of U.S. agricultural exporters who do not want to see the U.S. government rock the boat and suffer retaliatory trade measures from abroad. Worse yet, domestic producers may then argue, not unreasonably, that FDA and USDA regulatory requirements should be lowered to similar levels so as to not discriminate against domestic producers. What will be the impact on consumers? We really don't know. What will be the true price of free trade? That is yet to be determined.

Fortunately, the SPS agreement is up for review this year by member nations. Negotiators from around the world have scheduled a series of four meetings in Geneva to decide whether the agreement should be modified. The U.S. food industry believes that the SPS agreement helps compel other nations to accept U.S. agricultural exports and does not want to see the agreement changed. But in light of the problems that are occurring with Codex, we believe that the U.S. should support amendments to the SPS Agreement, and we urge those active in the consumer movement to join with us. The global economy is here to stay, and there is little question that regulatory requirements will be harmonized internationally. However, the question remains as to whether harmonization will lead to an upgrading of health standards to world class levels or the downgrading of standards to the lowest common denominator.

In the past year, CSPI has committed itself to becoming active on international issues that affect domestic consumer laws and regulations. As part of this effort, we have successfully petitioned the Codex Alimentarius for recognition so that we will be able to participate in international proceedings. We have formed a coalition with consumer groups overseas called the International Association of Food and Consumer Organizations, which we intend to work with on global issues. We are developing an international media list. We have opened an office in Canada.

I encourage each of you to expand your efforts internationally as well. If I can leave you with just one thought, it is that the American consumer community must become active on a global level. This is no longer just work for international affairs specialists, but rather for each of us to integrate into our everyday activities as consumer advocates and researchers. By working together, we can help determine the true price of free trade and ensure that our common mission to advance the consumer's interest is fulfilled.

#### Endnotes

1. Director of Legal Affairs.