

US and China Economic and Security Review Commission Hearing

How can food safety in China be improved through efforts in China by U.S. agencies and stakeholders and how the United States can improve its food safety regime for imports?

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April 26, 2018

Chairman Cleveland, Vice Chairman Bartholomew and members of the Commission, thank you for the opportunity to testify today. I am here to provide insight on food safety in China from the perspective of both Cargill and the Global Food Safety Institute. I am the Cargill Vice President of Corporate Food Safety, Quality and Regulatory. Cargill began doing business in China in the early 1970's. We now have a thriving presence in virtually every part of mainland China, with over 50 locations and over 7,000 employees. Our operations include 5 oilseed crush plants, over 31 animal nutrition factories, and an integrated poultry complex. Cargill China is also a supplier and trader of cotton, cocoa and chocolate, starches and sweeteners and refined oil.

I am also the current chairman of the board of the Global Food Safety Initiative (GFSI). GFSI is a unique, global multi-stakeholder non-profit organization, bringing together some of the world's leading food safety experts from agricultural, retail, manufacturer and food service companies, certification and accreditation bodies, government, academia and international organizations as well as service providers associated with the food supply chain to identify the best food safety management practices across the agri-food supply-chain, and then to encourage the auditing and certification of those practices at food facilities worldwide to provide "Safe Food for Consumers, Everywhere." The Initiative is governed by a Board of Directors made up of 20 executives drawn from major retailers, manufacturers, producers, and food service operators, among others. The Consumer Goods Forum (CGF), a global food industry network, is the parent organization that supported the creation of GFSI in the year 2000. Today, GFSI's global partners audit and certify more than 100,000 food operations and facilities in 160 countries annually and the numbers continue to grow. These include fish processing plants in Norway, avocado operations in Mexico, poultry processing plants in the United States, spice producers in India, and others throughout the world. Certification to a GFSI-recognized food safety management certification program facilitates market access and growth within the highly competitive food marketplace as well as compliance with government food safety requirements.

Governments and regulators benefit from third party certification in as much as oversight is achieved without the use of additional publicly-funded financial and human resources, because it is funded by private industry. Certification results may thus be used by regulatory agencies as a tool to optimize the use of budgeted resources and to determine not only the frequency of their own audits, but also the areas

to concentrate on during these audits. GFSI allows for consultation and access for representatives from the academic, institutional and governmental world, all actively participating and providing input into GFSI activities in their role as advisors to the GFSI Board. For each one of the GFSI recognized certification programs (formerly known as “schemes”), there are upon request, provisions for access by regulatory bodies to audit information and the certification results. Access by regulatory bodies may also provide additional private-sector benefits as described in selected government guidelines for improved access.

Third party certification provides compliance with the requirements for a certification process in the areas of facility application, certification, the recertification process and the withdrawal of certification. It also allows for compliance with generic government requirements for the attributes of a certification process.

Third party certification also has the benefit of transparency and, as driven by GFSI, aims at continuous improvement and flexibility in response to rapidly evolving market demands with the added advantage of audits being carried out on an annual basis and with the ability to modify contracts as a function of changes to the scope of production in a given facility. All GFSI recognized certification programs also require corrective action plans as a follow up on non-compliances and require a systems-based approach built on the HACCP principles, thus relying on prevention rather than reaction. Accreditation under ISO 17065 or ISO 17021/ISO22003 exists as a further safeguard for regulatory bodies.

Reducing the audit burden and improving food safety management systems implemented in food production operations allows for greater cost efficiencies throughout the supply chain. Manufacturers can then devote more resources and time to implementing benchmarked food safety and food quality principles and controls rather than spending it on preparations for repetitive and duplicative audits.

GFSI has collaborated closely with the Chinese market going back to 2008, and by 2013 formed a Local Group (LG) based in China, composed of approximately 40 companies, and organized into six task force groups working on multiple objectives. On January 2, 2018, the GFSI China LG, under the auspices of the Consumer Goods Forum China Representative Office, was officially registered in accordance with the new overseas NGO Administration law in China, and thus is in an even stronger position for GFSI to continue to collaborate with the Chinese government.

The overall goal of the China Local Group is to promote China food safety regulations by establishing a platform for communication, exchange and cooperation between government food safety administrative organizations and the food industry. In November 2015, GFSI and the Certification and Accreditation Administration of China (CNCA) announced that Chinese HACCP was “technically equivalent” to the technical requirements of GFSI Version 6. Technical equivalence is a new category specifically for government-owned schemes and is comparable to GFSI recognition for commercial schemes (now called certification programs). “The Chinese government [is] the first government to approach GFSI and submit their national certification scheme to be assessed against the GFSI requirements,” GFSI announced at the time. GFSI has formally signed a Memorandum of Understanding (MOU) with CNCA to further the partnership.

How have food safety conditions in China changed over the past 10 years? What are China's chief food safety challenges? What progress has been made in addressing these challenges and what shortcomings exist? Have China's policies been in accordance with its food safety goals?

China's food safety conditions have considerably improved over the past ten years since the series of highly visible crises in 2008. Since the melamine contamination crisis, food safety has received high level attention from the Chinese central government and remains a top concern of its citizens. In March of 2017, The China State Council issued *The 13th Five-Year Plan on Food Safety*, outlining China's plans to launch a food safety risk alert system and aligning their food safety standards with international standards.

The improvements are largely attributable to updates in China's food safety laws and regulations. With its implementation, food safety has become a major political task for governmental organizations at all levels.

In response to the food safety scandals, China developed the Food Safety Law in 2009 to update policies and regulations from the outdated Food Hygiene Law of 1995. This was an important milestone in Chinese history because it modernizes their food safety approach from reactive to a preventative approach.

China revised their Food Safety law again in 2015. The revision included framework for regulators to follow the "four strict" requirements when supervising facilities: mandatory standards, regulations, punishment and accountability. The law also spreads food safety responsibility to both industry and the government.

In particular, the formation of the China National Center for Food Safety Risk Assessment (CFSA) is a landmark advancement in their food safety system for determining risk assessment. Combined with this risk-based approach, the four principles are in alignment with international best practices and recommended food safety management approaches.

Challenges and Progress:

While the Food Safety Law laid the groundwork for drastic improvements in China's food safety policies, the government has faced challenges in implementing the regulations. At the local level, regulators can sometimes be inconsistent in enforcement. Local policies can be vague and interagency coordination can be inconsistent. This is disruptive as it creates confusion around requirements and ultimately slows down operational processes and improvements. Large scale food producers may benefit from guidance through trade associations and other means, but small-scale food producers in rural areas lack the necessary guidance and direction on government policy, regulations, and standards.

The government is taking steps to address these issues by merging local fragmented food safety administration agencies up into CFDA. During the recent Chinese government re-organization in March 2018, the CFDA merged to a market administration ministry, which regulates both food safety and quality.

The Chinese government has already increased CFDA's funding for testing and monitoring. CFDA is also shifting away from a final product management approach to a more process management approach, thus being more consistent with a preventative approach. Some of the food safety standards are not science-based and related to food safety, such as requiring testing for moisture limits and acid values in certain food categories. The annual increase of the market sampling and testing by the government authorities

is burdensome for food manufacturers and provides a negligible contribution to the safety of the food supply.

Many governments have or are moving toward mandating HACCP because of its proven track record for enhancing the safety of producing food. China has decided to rely on an approach that encourages companies to seek HACCP certification on a voluntary basis using a third-party system, implemented by CNCA. For those companies that have obtained China HACCP certification, the government will rank them as the food producers with lower food safety risk and address inspection accordingly.

China has made significant gains in modernizing their food safety system, but the country's public image has not recovered from the scandals in 2008. The Chinese government and NGOs have conducted outreach to educate their public on improvements in the Country's food safety programs and consumers are recognizing these changes in the marketplace. Unfortunately, the consumer perception in United States has lagged behind that in China through not being informed about the substantial improvements in the food safety system being implemented by the Chinese government.

What vulnerabilities exist in the U.S. food safety regime with respect to food imports from China? How can U.S. food safety measures be improved to mitigate risk from food imports?

In early 2011, the United States enacted sweeping reforms to its system for ensuring safe food. The FDA Food Safety Modernization Act (FSMA) requires food companies, food importers, and the government to take specific measures to prevent foodborne illness in foods regulated by the U.S. Food & Drug Administration. Cargill supported the law's focus on illness prevention and recognizes its critical role in protecting public health. As a trusted industry leader on food safety, Cargill worked with FDA, along with our partners in industry and the public health community, to ensure FDA rules and regulations reflect a science- and risk-based approach to illness prevention. Cargill experts on technical and policy matters were instrumental in providing direction for the development of FSMA training materials, guidance documents, inspection procedures, and other activities needed to modernize the Agency's approach to food safety oversight. For example, we have directly engaged key FDA officials to help educate them in various areas of regulatory modernization, such as the recognition of the value of the 3rd party accredited certification approach endorsed and promoted by the Global Food Safety Initiative.

Food import trends over the past decade or so indicate an exponential growth of imported consumer-ready foods, such as fruit, vegetables, meats, seafood, and processed food products. Although the United States imports most bulk food commodities and perishable consumer-ready products, such as fruit and vegetables, from neighboring countries in the Western Hemisphere, the U.S. imports processed foods, spices, and other tropical products from more remote sources, with rising import shares for many countries in Asia. While the globalization of the food industry offers U.S. consumers a more affordable array of diverse food products year-round, it also increases access to markets for developing countries, such as China, India, and countries in Central America and Southeast Asia, which have registered rapid export growth to U.S. importers.

Over 200 countries and territories export food to the U.S. through about 300 land, sea, and airports. About 20 percent of the food consumed in the U.S. is imported, and for certain commodity types, a

much higher percent. For example, 80 percent of the seafood consumed in the U.S. is from foreign countries, and about 35 percent of the produce.

Perhaps one of the greatest concerns is that significant amount of imported food products is coming from countries with less well-developed regulatory systems or inadequate food safety oversight systems. Although the FDA has inspectors at both foreign and U.S. ports, it is well recognized that the minute level of inspection (<2%) and testing (<1%) can't be the first line of defense against keeping unwholesome, substandard and unsafe food from reaching food manufacturers and ultimately consumers.

With the huge volume of imported foods into the U.S. and the expanding number of registered facilities, the FDA cannot provide food safety assurances at the border. Due to this ever-increasing volume of imported food, the Food Safety Modernization Act of 2011 (FSMA) has mandated a risk-based preventive control mechanism to assist FDA in leveraging their resources with industry and with international partners who possess comparable food safety systems. The key premise of the import strategy is that foreign governments, growers, manufacturers, holders, distributors, and transporters of foods, as well as U.S. importers, will be expected to take proactive responsibility for assuring that safe foods are exported into the U.S. The burden of inspection and verification under FSMA is shifted mainly to include importing entities to take the responsibility for assuring safe foods under a program called the Foreign Supplier Verification Program (FSVP).

FSVP requires each importer to verify that its imported food is produced in accordance with U.S. food safety regulatory requirements, is not adulterated, and does not contain an undeclared allergen. The regulations specify that supplier verification activities are identified as risk-based measures and should be managed as such. This includes the activities of monitoring records for shipments, lot-by-lot certification of compliance, annual on-site inspections, checking the hazard analysis and risk-based preventive control plan of the foreign supplier, and periodically testing and sampling shipments.

To be effective, the FSVP program must be organized and implemented in a manner that will assure that it will be operating correctly and maintained appropriately by food business operators. An inspection process should be developed by the FDA to include defined inspection frequencies based on risk. Inspection frequency of products or ingredients supplied from a source for which there is no or known poor compliance history may be set at a higher rate than for products with a good compliance history. Similarly, food from suppliers with a known poor compliance history should be sampled at higher intensity. The inspection process should enable a compliance history to be created to help drive the inspection program.

In these cases, every plant may need to be physically inspected, until a defined number of consecutive plants meet requirements. Alternatively, inspection procedures can be developed to automatically detain product shipped from suppliers with a known poor compliance history and the importer may test to prove the fitness of each plant. Regardless how the FDA implements the FSVP, it is essential that is risk-based and enables the effective use of the third-party certification system.

Have Chinese food safety policies impeded U.S. food exports to China?

China's policies have improved over the past ten years to overall raise the bar for the safety of food products produced in country, but we still see barriers for US food exported to China. In particular, we see challenges in China's sanitary and phyto-sanitary (SPS) requirements and use of non-technical trade barriers.

For example, China lags behind other countries (e.g. U.S., Canada, Japan) in approving genetically modified (GM) events and has a zero tolerance on yet to be approved GM agricultural imports. If just one seed of a non-approved GM event is in a shipment of 50,000 tons, the entire shipment can be rejected. In today's world of global food trade and need for risk-based decisions, there is no such thing as zero risk. With crops being inadvertently mixed at silos, train cars, barges, ports and boats, it is an impossible expectation to have zero occurrence of unintentionally mixed grains, which is known as Low-Level-Presence (LLP).

CODEX has conducted a risk assessment that determined if a new GMO event/crop that has been approved according to international processes and is consumed at low levels, there is no human or animal health risk. The Codex recommendation is a shipment can contain up to 5% of the new GM event for the entire shipment and yet pose no potential health risk.

Industry would like to see all governments adopt a science-based regulation that allows for a very small percentage of shipments to include crops that contain GM events that have been approved in the country where the crop is grown but have yet to be approved in the destination country.

Recently, the approval for GMO certificate grains in China has markedly slowed down, and occasionally the application is rejected for some unclear reasons.

Many food ingredients such as enzymes, vitamins, amino acids, stevia glycosides and oligosaccharides are derived from genetically modified microorganisms (GMMs), but the GM genes and microorganisms are totally removed from the final products. These food ingredients are not evaluated as GM-crop processes in general and are widely used in the food industry. However, in China, the approval for the food ingredients derived from GMMs has been pending since 2009 because the safety evaluation process for genetically modified organisms employed for food use has not been defined. As a result, the new food ingredients derived from GMMs and the foods made with these ingredients have been in the US market for many years but cannot enter into the China market. The regulatory registration pathway is not available for the food industry in China.

In 2017, China implemented a new policy that required official Sanitary and Phyto-sanitary (SPS) certificates attached to imported food from all other countries. Meeting this requirement can often entail a lengthy process of analysis, registration, and certification. After significant lobbying by the food industry, the Chinese government finally agreed to a transition period of two years before implementation. However, this is only a temporary solution that will require a more permanent, practical solution.

How have the U.S. government, industry, and NGOs attempted to improve food safety conditions in China? Going forward, what is the best approach?

The US government, NGOs and industry have all had a role in improving food safety conditions in China.

NGO's have been incredibly effective partners for enabling meaningful dialogue between industry and the US and Chinese governments. They have facilitated a multitude of programs, seminars and activities to promote sharing best practices in food safety regulations and supervision system and industry best practices.

The US Trade and Development Agency (USTDA) is a government organization that has been effective in promoting dialogue between the two governments and industry. In 2017, USTDA and the U.S. industry sponsored a food safety training and exchange program which brought 23 CFDA officials to both Washington DC and Minneapolis, in which Cargill was a key industry partner. The delegation met with USDA, FDA and FSIS to discuss prevention, risk management, supply chain management, production controls and social governance.

For ten years Cargill also has partnered with the Chinese government to assist regulators in improving their capabilities in supervising food safety inspections at the port and share the best practices of food safety control throughout the whole supply chain in the U.S. and several other European and South American countries. Nearly 150 China officials have participated in this program that has involved many other private and public-sector partners and is built as an experiential food safety learning program.

Several U.S. industry leaders have also sponsored and participated in the development of a food safety capacity building training program with Shanghai Jiao Tong University to help the Chinese small and medium-sized enterprises.

In 2014 several U.S. industry leaders along with AmCham launched a CFDA program to help stakeholders enhance the understanding of food safety risk communication, and sponsored several policy research projects and local CFDA enforcement competency training programs.

The Commission is mandated to make policy recommendations to Congress based on its hearings and other research. What are your recommendations for Congressional action related to the topic of your testimony?

We appreciate the work the Commission has done to study the national security implications of trade and advance the economic ties between the US and China. As two of the world's largest interconnected economies, both countries should have advanced food safety systems that are science and risk based.

The Commission can move the needle forward on food safety measures by encouraging the US government to proactively work with China to eliminate unnecessary non-technical trade barriers, adopt a science-based risk driven approach to food safety, and for China to adopt globally recognized standards, like those found in CODEX.

We encourage the US government to continue to foster ongoing dialogue between the two countries. These discussions have proven to be constructive in moving the needle forward on food safety issues by sharing best practices and addressing key issues, like those associated with biotechnology.

Enhanced communication among corresponding US government agencies, industry associations and American enterprises operating in China, through the organization and execution of seminars and other information sharing venues involving stakeholders with international food safety experience and ability

to share best practices with Chinese government officials have proven very effective in improving the food safety capacity in China and in achieving a harmonization of regulations.

Finally, we encourage the US government to prompt the Chinese government to consider taking steps toward the mandatory implementation of HACCP throughout the food industry, while recognizing the value that the 3rd party certification system plays in achieving food safety improvements. In developing their food safety standards, China should follow suit with many countries and look toward those standards already found in CODEX.