

FOR IMMEDIATE RELEASE
September 7, 2011

CONTACT: Kaelan Richards
(202) 225-3661

DELAURO: FOOD SAFETY CRITICAL ISSUE IN UPCOMING TRADE TALKS

New Haven, CT — Congresswoman Rosa DeLauro (CT-3), Ranking Member of the Appropriations Subcommittee on Labor, Health and Human Services, Education, called upon the United States Trade Representative, Ambassador Ron Kirk, the U.S. leader of the ongoing negotiations of the proposed Trans-Pacific Partnership (TPP) Free Trade Agreement (FTA), today to ensure that meaningful food safety measures are included as part of the final agreement.

With 84 percent of the seafood consumed by Americans imported, including a substantial amount from TPP countries, Congresswoman DeLauro urged Ambassador Kirk to make food safety a top priority in the negotiations, specifically calling for American food safety standards to be maintained for all imported foods.

“The food safety issues raised by the TPP FTA negotiations are expansive and in many instances already controversial. Failure to deal with these issues during the negotiations will only create more opposition to a prospective agreement,” said Congresswoman DeLauro. “I therefore urge you to act in the interest of public health and maintain the United States’ strong leadership on food safety by making the health of Americans our top priority in this week’s negotiations in Chicago and beyond.”

The text of the letter is below.

September 7, 2011

The Honorable Ron Kirk
Ambassador
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Kirk:

As you lead another round of negotiations over the proposed Trans-Pacific Partnership (TPP) Free Trade Agreement (FTA), I write to urge you to ensure that the safety of food consumed by Americans is a top priority in any concluded agreement. I believe this issue is of critical importance, particularly as certain TPP countries have major seafood export industries with whom significant food safety issues have already arisen.

As the Food and Drug Administration's (FDA) recent report on the safety of imported food emphasizes, the increasing globalization of America's food supply is posing difficult challenges to both our regulatory system and public health. In 1994, the year Congress voted for United States membership in the World Trade Organization (WTO), half of the seafood consumed by Americans was imported. Today that figure is 84 percent.

Yet, our regulatory capacity has not kept up with the Government Accountability Office (GAO) recently concluding in a report that the FDA currently has only limited oversight, a reliance on the review of paper and not actual production facilities, and an "ineffectively implemented" sampling program that looks for only 16 drugs, compared to other countries that look for up to 57 drug residues. According to the GAO, FDA tests only 0.1 percent of all imported seafood products for only a few drug residues. Simultaneously, the food-safety related provisions of past U.S. trade agreements have imposed constraints on signatory countries' domestic food safety standards and import protocols.

Accordingly, a TPP FTA has the potential to undermine the broadly supported public health goal that the food Americans consume must be safe. The FDA, for example, has already issued 25 import alerts for Vietnam this year with Vietnamese seafood detained for misbranding, E. coli and more. Seafood imports from Vietnam are plagued by unusually high levels of antibiotic residues, microbial contamination, and other serious food safety concerns confirmed by FDA laboratory testing. Between 2003 and 2006, more than one-fifth of all veterinary drug residues that FDA identified in imported seafood were in imports from Vietnam even as less than 4 percent of all imported seafood in the time period was shipped from that country.

At the same time, another TPP country, Malaysia is now the seventh largest exporter of fresh shrimp and sixth largest of prepared shrimp to the United States. The concern with Malaysia rests with the growing illegal transshipment schemes that avoid U.S. food safety and trade laws occurring in that country. Specifically, following the imposition of antidumping duties in 2005 and an FDA Import Alert on Chinese shrimp in 2007, the volume of frozen shrimp imported from China to the United States dropped significantly. Chinese shrimp exports to Malaysia, however, jumped from an annual average of 2.3 million pounds to 66 million pounds in 2008 while imports to the United States of frozen shrimp from Malaysia skyrocketed from an annual average of 1.9 million pounds to 66.2 million in 2008 suggesting that Chinese shrimp is being transshipped through Malaysia to avoid U.S. antidumping duties.

We know from available data on past U.S. trade agreements that a TPP FTA would result in further increases in U.S. imports of seafood. Although most seafood is already duty-free under the WTO's Most Favored Nation tariff bindings, FTAs have led to further increases in U.S. seafood imports. For instance, in 2006 the U.S. International Trade Commission predicted only a 1.5 percent increase in U.S. seafood imports from Peru once our FTA with that country

was fully-phased in, a 20 year process. Yet, seafood imports to the United States from Peru have surged 16 percent each year since the 2009 implementation of that deal. Under a TPP FTA, the same trend should be expected with countries with which the United States current has no FTA and that are already major seafood producers, namely Vietnam and Malaysia.

I am therefore deeply concerned that you may be using the North American Free Trade Agreement (NAFTA) template, which overlaps with problematic principles from WTO agreements with respect to imported food safety standards and inspection protocols, in negotiations over the TPP FTA. I believe such an approach is misguided and that it is in the best U.S. public health interest to use the current negotiations as an opportunity to remedy the food safety-related shortcoming identified by the GAO and numerous others. Absent changes to past FTA provisions on food safety standards and inspection, the foreseeable increase in seafood imports under a TPP FTA will lead to more unsafe imports reaching American consumers.

First, past FTAs incorporate the WTO's sanitary and phytosanitary (SPS) and technical barriers to trade rules, which are deeply problematic. These rules set ceilings on signatory countries' domestic food safety standards. As a result, WTO panels have ruled against the U.S. meat country-of-origin labeling requirements and voluntary dolphin-safe tuna labels in challenges brought by other WTO countries. We must learn from the record of WTO implementation and modify the food safety-related rules of U.S. trade pacts to best protect the public health, starting with a TPP FTA.

The FDA has also engaged in extensive harmonization of food safety standards, as required by the WTO SPS rules and our past FTAs. If a TPP FTA is to include food safety harmonization, then it must ensure existing U.S. standards are not weakened. I believe this should include requiring that harmonization may only be conducted on the basis of raising standards toward the best standards of any signatory country and that, with respect to the United States, such international-standard setting should provide the public an opportunity to comment while maintaining an open and transparent process.

In addition, the past FTA model includes the establishment of new SPS committees to speed up implementation of mechanisms to facilitate increased trade volumes, including "equivalence" determinations. The equivalence rule requires the United States to permit imports of meat, poultry and now possibly seafood products that do not necessarily meet U.S. food safety standards. I firmly believe that all food sold to American consumers must be required to meet U.S. safety standards, and that a TPP FTA should not include equivalence rules as the basis for the United States accepting food imports.

Finally, past FTAs allow for private enforcement of extensive foreign investor rights. Under these rules, foreign food corporations operating within the United States are empowered to demand compensation from the U.S. government in foreign tribunals established under the United Nations and World Bank if U.S. regulatory actions undermine their expected future profits. Even when the United States successfully defends against such attacks, such as in the NAFTA investor-state case brought by the Canadian Cattlemen for Fair Trade over the U.S. ban on imports of live Canadian cattle after the discovery of a case of mad cow disease in Canada, the initial filing of the challenge has a chilling effect on policymaking and the U.S. government

must spend millions on a legal defense. Accordingly, I believe a TPP FTA must not include investor-state rules that would allow corporations to weaken U.S. food safety in foreign tribunals thereby unnecessarily placing American consumers at risk.

The food safety issues raised by the TPP FTA negotiations are expansive and in many instances already controversial. Failure to deal with these issues during the negotiations will only create more opposition to a prospective agreement. I therefore urge you to act in the interest of public health and maintain the United States' strong leadership on food safety by making the health of Americans our top priority in this week's negotiations in Chicago and beyond.

Thank you for your consideration. I look forward to your response and working with you on these critical issues as the TPP FTA negotiations continue.

Sincerely,

ROSA L. DELAURO
Member of Congress

###

DeLauro.House.Gov

Kaelan Richards
Communications Director
Office of Congresswoman Rosa L. DeLauro (CT-03)
(202) 225-3661 office
(202) 225-1599 cell