

**BEFORE  
THE UNITED STATES DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE**

**In the matter of: *ELIGIBILITY OF THE PEOPLE'S REPUBLIC OF CHINA (PRC) TO EXPORT TO THE UNITED STATES POULTRY PRODUCTS FROM BIRDS SLAUGHTERED IN THE PRC, 82 Fed. Reg. 27625 (June 16, 2017)*  
Docket No. FSIS-2017-0002-0002**

**JOINT COMMENTS  
OF  
THE NATIONAL CHICKEN COUNCIL,  
THE NATIONAL TURKEY FEDERATION, AND  
THE USA POULTRY & EGG EXPORT COUNCIL**

The National Chicken Council (NCC), the National Turkey Federation (NTF), and the USA Poultry & Egg Export Council (USAPEEC) hereby submit their joint comments in support of the proposed rule issued by the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture to list the People's Republic of China (PRC) as a country eligible to export to the United States processed cooked poultry products from birds slaughtered in certified establishments in the PRC.

NCC is the national association based in Washington D.C. that represents the broiler chicken production industry of the United States. NCC member companies include chicken producer/processors, poultry distributors, and allied industry businesses that account for approximately 95 percent of the chicken produced in the United States.

NTF, also headquartered in Washington, D.C., represents nearly 100 percent of all turkey processors, growers, breeders, hatchery owners and allied companies. It is the only national trade association representing the turkey industry exclusively.

USAPEEC is the national association based in Stone Mountain, Ga., that represents the export interests of the U.S. chicken, turkey, egg and duck industries. USAPEEC has more than 200 member companies – poultry producers, processors, export trading companies, cold storage operators, freight forwarders and other associated businesses – that account for approximately 95% of the very significant U.S. poultry and egg export trade. The United States exports poultry products to more than 100 foreign countries.

The United States poultry industry is the largest and most efficient poultry production country in the world, and the most successful exporter of poultry and egg products. The U.S. accounts for approximately 20% of the world's production of poultry meat (China is second with approximately 17%). In 2015, the U.S. industry produced almost 9 billion broiler chickens, weighing 53 billion pounds, live weight; and marketed more than 40 billion pounds of chicken products. In addition, U.S. poultry production

includes nearly 5.63 billion pounds of turkey, approximately 100 billion eggs, and nearly 220 million pounds of duck.

The U.S. is also one of the two most successful poultry exporting nations. The United States and Brazil each account for about one-third of world poultry exports.

The United States has a comparative advantage in producing and marketing these products that enables it to lead in world poultry production and exports. America enjoys abundant production of high-quality corn and soybeans for poultry feed; and is the technological leader in poultry genetics and breeding, feed-compounding, and animal health practices.

The other great advantage that the U.S. poultry industry enjoys is the fact that all U.S. poultry production and export is regulated by the Food Safety and Inspection Service (FSIS), the most respected and capable government agency in the world in this area. Since its inception more than 40 years ago as the Food Safety and Quality Service, FSIS has been the world-recognized leader in both meat and poultry inspection, guaranteeing both the quality and the safety of the meat and poultry products that more than 300 million Americans eat every day.

In addition, FSIS applies the same standards for health and safety to meat and poultry products exported from the United States that it applies to products sold in our domestic market. As a result, an FSIS certificate for our poultry products is the guarantee of healthy and safe product accepted by most of the 100 countries to which we currently export. The U.S. poultry industry has great respect for, and places great reliance on, the work that FSIS inspectors do each day.

Our specific comments are as follows:

**(1) The Proposed Rule is the Result of Years of Careful Assessment by FSIS, and is Based on Sound Science and Appropriate Risk Assessment.**

The rule that FSIS is proposing that would permit China to export processed cooked poultry products to the United States using poultry slaughtered in China is the result of a long and careful regulatory process. FSIS began this process 13 years ago after the government of China initially requested permission to export poultry to the United States. After on-site audits in 2004, and follow-up audits in 2005, FSIS determined that the Chinese system was equivalent to that of the United States in terms of procedures, but that it had deficiencies in its implementation. China was not permitted to export until it addressed those deficiencies, which it did in late 2005.

In 2006, FSIS published a final rule permitting China to export processed cooked poultry products to the United States, but only if those products were derived from birds slaughtered either in the United States, or in a country (such as Canada) that was approved to ship fresh poultry to the United States. However, shortly after that rule was published, Congress prohibited FSIS from using any appropriated funds to implement the

rule. With support from the Obama administration, Congress subsequently lifted that ban in 2009, and since that time, FSIS scientists and technical experts have been able to renew their efforts to assess the sufficiency of the Chinese system. In 2010, an FSIS team went to China to collect all information necessary for a comprehensive review of the applicable Chinese food safety laws and regulations. Since that time, FSIS has conducted a series of on-site audits – in 2010, 2013 and 2015.

The U.S. poultry industry has carefully followed this process from the beginning and is convinced that FSIS has conducted careful and systematic reviews and audits in compliance with U.S. law, and in a manner consistent with international norms. FSIS's work in this instance, like its work in its daily oversight of the U.S. poultry processing system, has been based on sound science and appropriate risk assessment. Unfortunately, FSIS has at times received criticisms that its proposals to permit China to export to the U.S. market do not adequately protect the safety of U.S. consumers. Those criticisms are not, in our view, based on any scientific evidence or risk assessment; they are often political rhetoric, and typically advance stereotypical characterizations, not scientific fact.

The U.S. poultry industry is, of course, concerned about any potential threat to public health that might be linked to poultry. If poultry products, of whatever origin, were shown to have caused illness, it would have a negative effect on the entire market. The U.S. poultry industry's stake in the safety of imported products is as big as anyone's. But Americans have invested heavily in food safety, and one of our biggest and best investments has been FSIS. Every day we rely on FSIS – and on the cooperation and commitment of the companies that FSIS regulates – to ensure the safety of our meat and poultry products. U.S. meat and poultry products are safely sold each day in this country, and FSIS has earned our trust through many years of effective and rigorous regulation. If FSIS has determined after 13 years of careful consideration that these products from China are safe, we accept that judgment.

**(2) FSIS's Approach is Consistent with U.S. International Obligations, and in Particular, U.S. Obligations under the World Trade Organization's Agreement on Sanitary and Phytosanitary Measures.**

For many decades, U.S. exports of agricultural products, including U.S. chicken, turkey and egg products, were unfairly excluded from some foreign markets through the application of bogus and unscientific "health regulations," which were essentially non-tariff trade barriers presented as alleged health regulations. At the time, however, no international rules or disciplines prevented countries from unfairly blocking or limiting U.S. market access.

In the 1980s during the Reagan administration, the United States drove the process that led to the GATT Uruguay Round negotiations (1986-1992) and the evolution of the GATT Trading System into the World Trade Organization ("WTO"). The U.S. government was determined that our great comparative advantage in agricultural production and exporting should not be disadvantaged by protectionism and unwarranted regulation. One of the key elements of those negotiations was the U.S. government's

insistence on the development of international rules to prevent countries from erecting non-tariff barriers in the guise of health regulations, and to require each WTO member to base any measures on sound science. The result was the WTO agreement on Sanitary and Phytosanitary Measures (“WTO-SPS”) to which the United States is a signatory.

In particular, WTO-SPS Article 2.2 provides:

*Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence....*

WTO-SPS Article 5.1 further provides:

*Members shall ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health....*

In addition, WTO-SPS Article 4.1 provides:

*Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection.*

Suggestions that the United States should, as a blanket policy, prevent Chinese products from entering the U.S. market because of general, but unsubstantiated concerns about the safety of the specific products at issue, ignore these rules and are clearly inconsistent with U.S. obligations. The provision put into the 2009 Agriculture Appropriations Act to prevent FSIS from conducting its investigation and risk assessment on China’s request was, in our view, highly susceptible to challenge under the above-quoted WTO provisions. It is crucial in the larger sense for U.S. credibility as a world leader, but also for our own export interests, that we faithfully fulfill the international obligations we have undertaken. We support the determination by FSIS to make decisions on the basis of sound science, and in accordance with U.S. international obligations.

In addition, the United States should take great care in meeting its WTO obligations because we expect that China will also do so. For example, when localized incidents of poultry diseases such as avian influenza occur, the U.S. has the capacity and the system to identify those incidents promptly and to take steps to ensure that the risk is controlled and that the virus does not spread. Under WTO rules, importing countries are obliged to recognize this and to permit imports from the disease-free regions of countries that can control diseases and limit their spread.

WTO-SPS, Article 6.2 provides:

*Members shall, in particular, recognize the concepts of pest- or disease-free areas and areas of low pest or disease prevalence.*

Many countries already recognize U.S. regionalization for diseases such as avian influenza, and it is our expectation that the U.S. government will insist that China, which does not currently allow for regionalization, will meet its WTO obligation in the future. We expect China to live up to its WTO obligations and, of course, we must set the example and do so ourselves.

**(3) Trade is a Two-Way Street; if We Expect our Trading Partners to Accept FSIS Decisions, We Must Also.**

Each year, millions of tons of American beef, pork and poultry products are exported from the United States all over the world. The U.S. poultry industry alone exports products to more than 100 countries. In most, although not all cases, our products are accepted by those countries as safe for importation on the basis of certification by FSIS that the products have been inspected in accordance with U.S. laws and regulations, and meet U.S. standards of safety. For American meat and poultry products, an FSIS certificate is a passport to most of the rest of the world.

The United States expects our foreign trading partners to accept FSIS certification as our guarantee of food safety for meat and poultry products, and has been greatly successful in this effort. U.S. meat and poultry products enter most markets without having to undergo unnecessary and redundant inspection. FSIS has, in fact, become the most respected of all national regulators of meat and poultry products.

Suggestions that we cannot trust the decisions of FSIS with regard to the importation of Chinese processed cooked poultry products undermine that hard-earned and highly valued respect. Americans accept FSIS decisions with regard to safeguarding the meat and poultry products that most of our citizens eat every day. Most countries accept FSIS decisions as the basis for importing and consuming millions of metric tons of U.S. meat and poultry products each year. The suggestion that FSIS has not done its job with respect to its risk analysis of Chinese processed cooked poultry products is not only unsupported by any scientific or factual evidence; it also damages the reputation of our national food safety inspection system, and devalues our position as a world leader in food safety and a world leader in the export of these products.

In conclusion, the U.S. poultry industry supports the decision made by FSIS to permit importation of China's processed cooked poultry products, and supports adoption of the final rule proposed by FSIS. Our industry's ability to meet and exceed both domestic and international standards has granted us unparalleled access to foreign markets and solidified our ability to compete effectively and efficiently on a global scale. Therefore, we believe any country that is able to meet the stringent safety standards set by FSIS

should be able to compete in a marketplace free of protectionism and artificial trade barriers.