

Congress of the United States
Washington, DC 20515

November 29, 2012

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

Dear Ambassador Kirk:

We write to express our concerns with the potentially negative ramifications the proposed Trans-Pacific Partnership (TPP) Free Trade Agreement (FTA) may have on the public health. Specifically, we are concerned that if precautions are not taken the FTA could result in an increase in the amount of contaminated shrimp and other seafood that is imported into the United States. We urge you to pursue bilateral agreements with two key countries, Vietnam and Malaysia, to address these concerns.

The Food and Drug Administration (FDA) currently maintains 16 Import Alerts addressing specific contamination concerns for seafood products entering the United States from Vietnam. In Fiscal Year 2012, imported seafood products from Vietnam, the fifth largest exporter of shrimp to the United States, were refused entry 206 times because of concerns including filth, decomposition, drug residues, unapproved food additives and *Salmonella*.

We believe that past U.S. trade agreements demonstrate that a TPP FTA would likely result in further increases in U.S. imports of shrimp and other seafood from Vietnam, and we understand that representatives from your office recognize the public health concerns that would result. They have suggested that through improved science-based risk assessments in partner countries as included in the SPS Chapter of the TPP FTA, the risk associated with imported seafood will decrease. However, in the case of Vietnam, it is our understanding that a number of legally enforceable regulations, including a Ministry of Fisheries Decision (No. 29/2005/QD-BTS) that required all consignments of shrimp and other seafood products to be tested before shipment to the United States, have not been extended or have been revoked. This calls into question whether food safety standards are in fact being raised in that country.

Meanwhile, Malaysia is the seventh largest exporter of shrimp to the United States. As you know, U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) officials determined that some exporters in Malaysia have acted as conduits to transship Chinese shrimp to the United States in order to circumvent both FDA Import Alerts and antidumping duties. CBP has tested shipments of suspected Chinese shrimp illegally transshipped through Malaysia and found contamination. Unfortunately, the Malaysian government is not allowing CBP and ICE officials to investigate the facilities of suspected exporting firms. According to a May 2012 Government Accountability Office (GAO) report on

antidumping and countervailing duties, GAO investigators were given approval by the Malaysian government to visit honey and shrimp producers in that country, but that approval was then rescinded without explanation. This makes it very difficult to identify the sources of illegal shrimp and to track possible contaminations.

We strongly believe that these critical food safety issues should be resolved prior to the conclusion of the TPP FTA negotiations in order to best protect the public health from these known health risks. Vietnam has bilateral SPS agreements with a number of countries, including Canada, and we believe a similar U.S.-Vietnam agreement that puts in place a strict inspection and certification regime is in the U.S. public's best interest. Such an agreement can, in fact, build on the three-year Memorandum of Understanding signed by the FDA and Vietnam's Ministry of Health in 2008. Similarly, a cooperative agreement with Malaysia that allows CBP and ICE officials access to exporter facilities in order to end Malaysia's circumvention of U.S. law is critical.

We appreciate your prompt attention and look forward to working with you on this matter.

Sincerely,


MARY L. LANDRIEU
United States Senator


ROSA L. DeLAURO
Member of Congress


WALTER B. JONES
Member of Congress

Cc: Acting Commissioner David V. Aguilar, U.S. Customs and Border Protection
Director John Morton, Immigration and Customs Enforcement
Commissioner Margaret A. Hamburg, Food and Drug Administration