

GMA

Representing the Makers of the World's Favorite Food, Beverage and Consumer Products

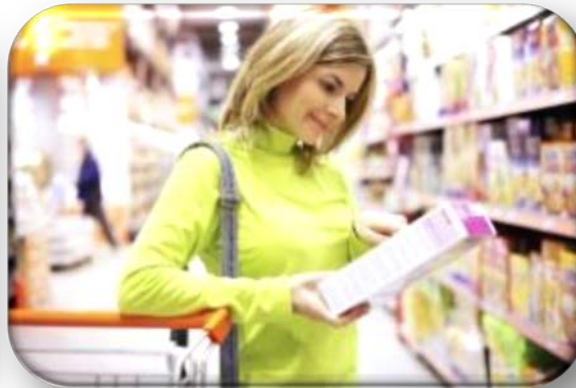


Consumer Perceptions of Food Safety in a Global Supply Chain

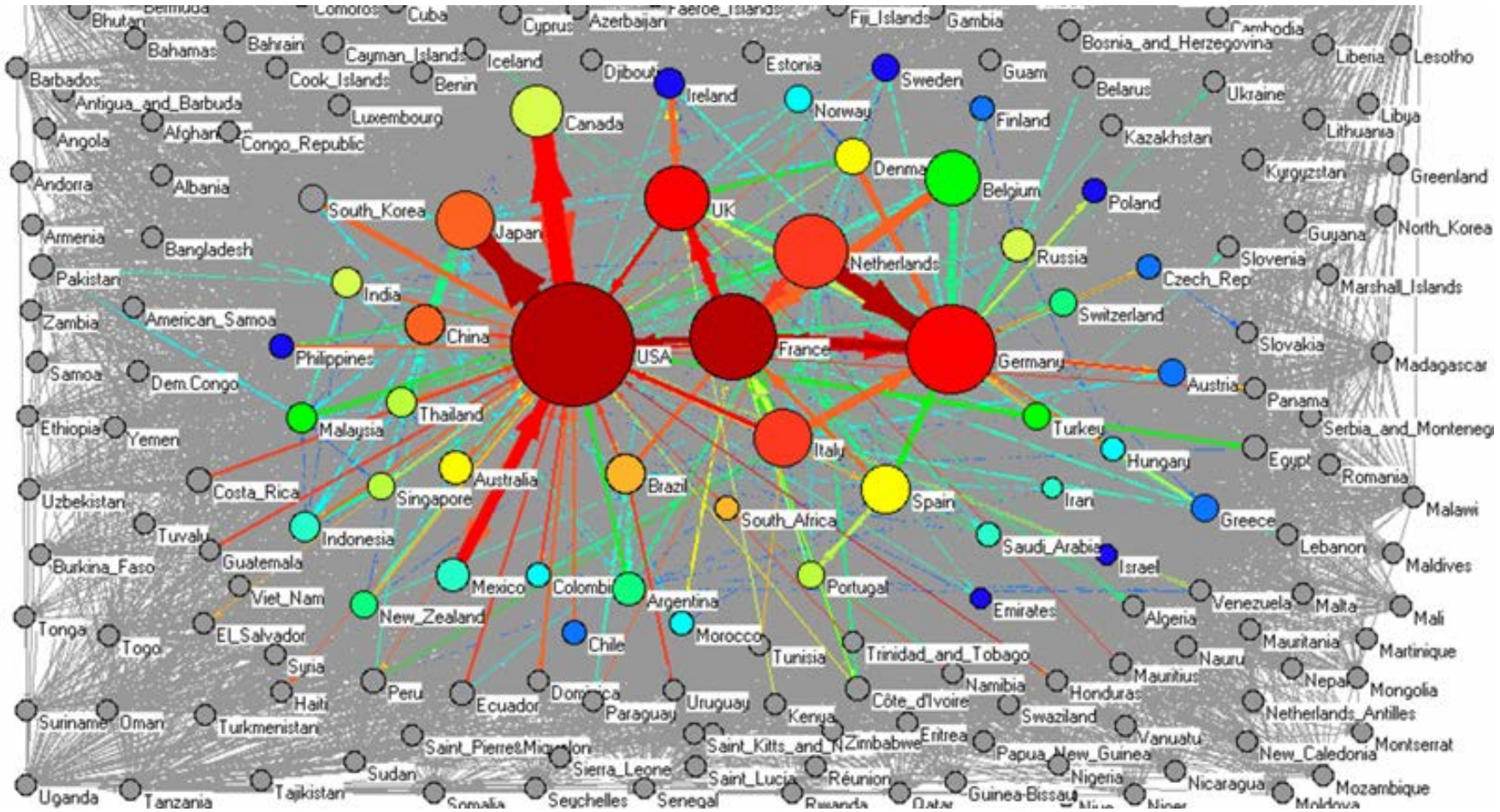
Carmen Stacy, Grocery Manufacturers Association

Conundrum of Defining Food Safety - The Case of the Moving Zero

April 18, 2003



Increasingly Global Food Supply Chain



Institute of Food Research- International Agro-Food Trade

Food Trade Means...

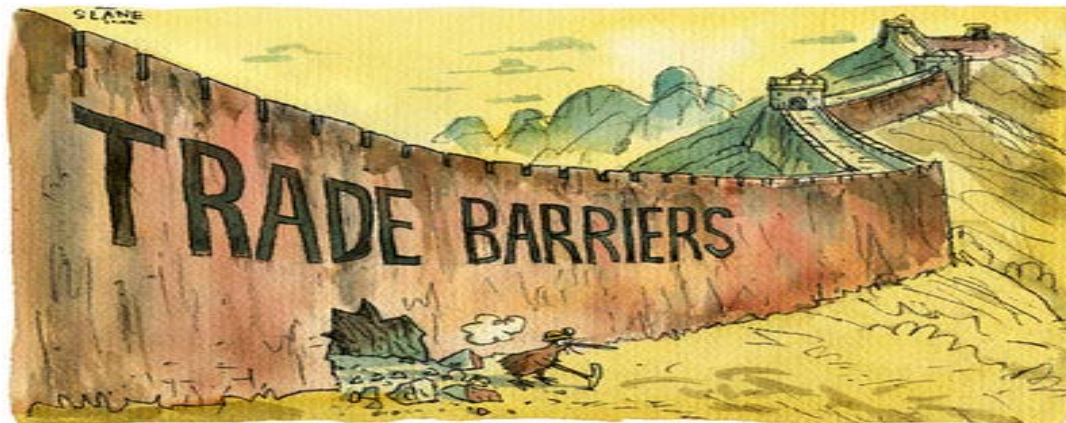
- Increased Need for Consumers to feel safe
- Increased Demand for Countries to Protect Health
- Need for Consumers to have Confidence in companies' safety.



- Varying laws that may or may not provide extra protection.

Current International Issues

- Meat Imports,
- Export Certification,
- Formula Disclosure Requirements,
- Restrictions on Chemical Use,
- Labeling Requirements,
- United States' Food Safety Modernization Act (FSMA) and
- Low Level Presence (LLP)



Applicable WTO Rules



WTO agreements relevant to food regulation

- **GATT 1994:** applies to trade in goods between WTO Members
- **SPS Agreement:** applies to sanitary and phytosanitary measures of WTO Members aimed at the protection of human, animal and plant life and health
- **TBT Agreement:** applies to technical regulations and standards of WTO Members

SPS Agreement (1)

SPS Agreement requires SPS measures to be enacted and maintained:

- on the basis of scientific evidence and a risk assessment, or
- on the basis of a relevant international standard



In addition, SPS measures must be consistent with principles of non-discrimination and national treatment

Important: SPS Agreement can apply irrespective of whether products are regulated under food or drug regulations

SPS Agreement (2)

SPS Agreement urges Members to base measures on international standards such Codex Alimentarius standards


Members can adopt higher level of protection than achieved by Codex standard if

- there is a scientific justification, or
- as a consequence of level of protection deemed appropriate by Member based on scientific risk assessment



SPS Agreement (3)

Example: A government seeks to restrict food supplement sales by establishing maximum levels of nutrient content based on recommended daily allowances (RDAs). Regulation could violate:

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- Articles 2.2, 5.1 and 5.2: if they are not based on risk assessment or maintained with sufficient scientific evidence
 - Articles 2.3 and 5.5: if importers must comply with standards more burdensome than those applied to producers of competitive products with similar qualities
 - Article 3.3: if they exceed level of protection of relevant Codex standard without scientific justification or risk assessment

TBT Agreement (1)

- TBT Agreement disciplines all technical regulations, voluntary standards and conformity assessment procedures, to extent not covered by SPS Agreement
- Objective TBT Agreement: ensure that such measures do not function as **unnecessary obstacles to international trade**
- Claims under SPS and TBT Agreement are **mutually exclusive**, but elements of the same measure could be reviewed under separate agreements.
 - Example: traceability requirements could be subject to SPS Agreement and labeling requirement subject to TBT Agreement

TBT Agreement (2)

Example: RDA-based maximum nutrient content restrictions could violate:

- Article 2.2: if they have the effect of creating unnecessary obstacles to international trade by being more trade-restrictive than necessary to protect consumer health
- Article 2.1: to the extent that imported food supplements are “like” conventional foods of national origin, they accord less favorable treatment to imported food supplements
- Article 2.4: if they are not based on the relevant Codex standard without justification



GATT 1994

Finally, food and drug regulations are also subject to GATT disciplines:

- Article III:4 requires **national treatment**, i.e., government must treat imported products no less favorably than “like” domestic products
- Article XX exempts regulations that are “**necessary**” to **protect human health** as long as they are not applied in a manner that is arbitrarily or unreasonably discriminatory, or that would constitute a disguised restriction on international trade

Current Example: FSMA Import Safety Mandate

Section 301-Foreign Supplier Verification Program – FSVP

- *Importers are required to verify that imported food and ingredients is produced in accordance with U.S. standards.*
- *Records must be maintained documenting risk assessment and verification activities.*
- *Records must be maintained for two years.*

Import Safety Mandates - FSVP

GMA Recommendations

- *Regulations should be outcome based – build a safer supply chain.*
- *Regulations should consider the risk imposed by the import – what are the elements to assess risk?*
- *Requirements must take into account the differences in importers and products.*
- *Verification activities should be goal oriented – not prescriptive.*
- *Regulations should be practical and reasonable to achieve.*
- *Regulations should be consistent with international trade expectations.*

What's Next for these Agreements?

- WTO Committees
- “WTO+”
 - Trans-Pacific Partnership (TPP)
 - Trans-Atlantic Trade and Investment Partnership (US-EU)

Food Safety is a Shared Responsibility

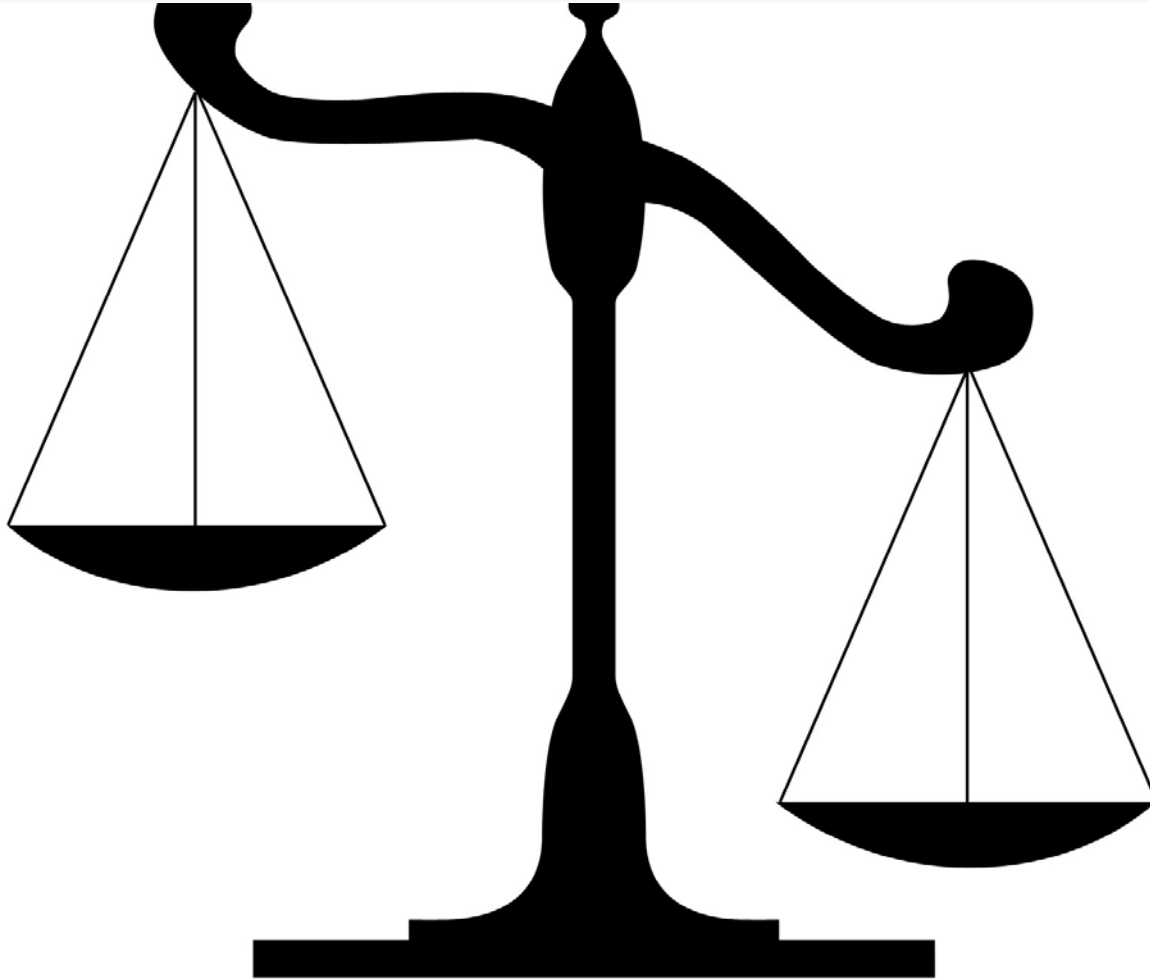


2007 Mandate from APEC Economic Leaders: “the need to develop a more robust approach to strengthening food and consumer product safety standards using scientific risk based approaches and without creating unnecessary impediments to trade”

2008 APEC Ministers “Endorsed the establishment of the FSCF’s Partnership Training Institute Network (PTIN)”

PTIN Challenge: Improve the understanding and application of best practices in a way that ensures long term sustainability” through a public/private partnership

Trade Facilitation / Perceptions of Safety



Thank you!

Carmen Stacy

Director, Global Issues and Multilateral Affairs

Cstacy@gmaonline.org

202-639-5982