

# Spoiled

## Keeping Tainted Food Off America's Tables

*by Jessica Milano*

In today's developed world, few aspects of life are taken so thoroughly for granted as the safety of the food we eat. Yet the task of providing unspoiled, unadulterated food to hundreds of millions of people every day has never been easy—and it is becoming more difficult and more complex all the time.

One reason for this is the simple fact that Americans are eating unprecedented quantities of imported foods. Our current inspection systems are unfit for the challenge of monitoring the growing stream of edible goods from other nations. China—which exported \$4.2 billion worth of food and agriculture products to the United States last year, a more than four-fold increase in little over a decade—poses an especially stern test for our import-regulation system.<sup>1</sup>

This issue is beginning to garner serious attention. The Food and Drug Administration (FDA) said it would confiscate certain categories of Chinese seafood after tests showed the presence of additives banned in the United States. A much-publicized recall of pet food containing contaminated Chinese wheat gluten (an ingredient commonly used in foods intended for human as well as animal consumption) further highlighted the dangers.

In response to the growing concern, the Bush administration recently announced a

new Cabinet-level working group to investigate the issue of import safety, particularly in the food sector. The political ramifications of food safety are not only domestic; the topic has found its way into the diplomatic realm, as China and the United States have traded tit-for-tat import restrictions, with each nation accusing the other of unsafe food-production practices.

Yet it is vital to remember that while the rise in imports presents a genuine and growing challenge to the safety of our nation's food supply, the need for improved food-inspection policies transcends the import issue. Americans have long deserved a better inspection system—one that makes more efficient use of taxpayer dollars and does a better job of guarding consumers against unsafe food—no matter its origin.

While the U.S. food supply is generally considered very safe, the last year has seen outbreaks of E. coli-tainted spinach, salmonella-laced peanut butter, and many

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*“One person with a belief is a social power equal to ninety-nine who have only interests.”*

—John Stuart Mill

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other less-publicized cases. Each year, more than 76 million Americans get sick from eating spoiled, contaminated, or adulterated food—from both domestic and foreign sources. Each year, these incidents result in approximately 325,000 hospitalizations and 5,000 deaths.<sup>2</sup>

The drumbeat of food-contamination incidents has taken a toll on public faith in the food-inspection system. A survey conducted in September 2006—after the spinach outbreak but before the pet-food scare—found that “only 30 percent of 1,000 randomly selected participants had a great deal of confidence that the [FDA] could ensure the safety of their food.”<sup>3</sup> In January 2007, the Government Accountability Office (GAO) designated the federal oversight of food safety a high-risk area for the first time.<sup>4</sup>

Not since Upton Sinclair exposed the horrors of the meatpacking industry in *The Jungle* has there been a more appropriate time to take a fresh look at food safety and offer positive suggestions for reinventing the government’s approach to this critical task.

This paper will offer five simple ideas to improve food safety:

- ❑ **Improve and simplify the regulatory process by creating a single food-inspection agency.** Among the biggest issues in food safety today are the redundancies and occasional inconsistencies between the two biggest food-inspection agencies, the FDA and the U.S. Department of Agriculture (USDA). A single food agency would mandate a united approach to food safety.
- ❑ **Double resources for food safety by cutting waste.** It is possible to double the money spent on food safety and quintuple the number of FDA field inspectors with the elimination of two of the outdated and redundant agencies presently assigned to promote U.S. goods abroad.
- ❑ **Shift to a risk-based allocation of resources.** We should deploy our limited pool of inspection resources to focus more aggressively on imports from nations with problematic food-safety histories, while saving money by pooling inspection efforts with those trading partners that share our high food-safety standards.

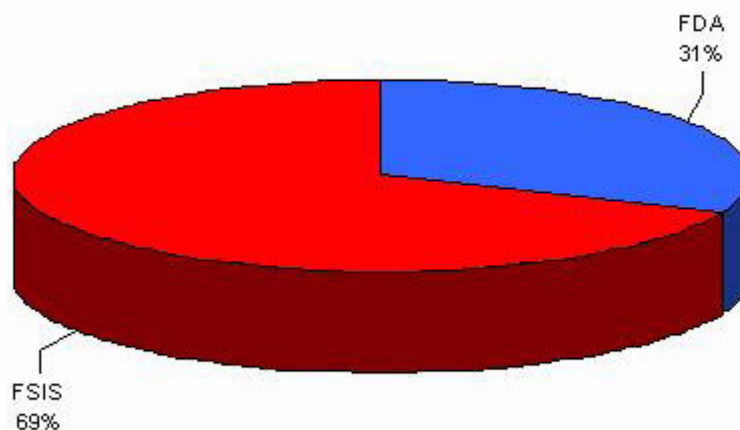
- ❑ **Create a stronger recall authority.** When the cars we drive show signs of being unsafe, they are subject to prompt recall. The same should apply to the food we eat—and federal agencies should have a direct mandate to issue such recalls. A stronger federal recall authority for food products will remove dangerous foods from the food supply more quickly and prevent more people from getting sick.
- ❑ **Use the Container Security Initiative (CSI) program to strengthen point-of-entry food inspections.** The Container Security Initiative (CSI) was created to help prevent terrorist weapons from entering the country. As long as we are going to the necessary expense of inspecting incoming ships for bomb materials, we may as well be on the lookout for tainted food imports. By leveraging our current CSI efforts, we could greatly strengthen point-of-entry inspections of food.

## Background

Food safety is currently managed by an intricate system of more than 30 laws and 50 interagency directives from multiple federal agencies in cooperation with state and local authorities. At issue today is whether this system—which has developed more out of necessity than design since the early 1900s—has been able to keep pace with changes in food production and processing and the increasing reliance of U.S. companies on imported food ingredients for their finished products.

The FDA and the USDA share primary responsibility for ensuring the integrity of the food supply. The USDA Food Safety and Inspection Service (FSIS) is responsible for regulating the safety of both domestic and imported meat, poultry, and certain egg products, while the FDA regulates all other foods, including whole eggs (in the shell), seafood, dairy, grains, fruits, and vegetables. Multi-ingredient products such as pizza, sandwiches, and soups often fall under the

## FY2006 Food Safety Funding Allocation



Source: CRS Report for Congress, “The Federal Food Safety System: A Primer,”  
February 20, 2007.

jurisdiction of both agencies, and manufacturers of such products can be subject to redundant or inconsistent oversight by both the FSIS and the FDA. For example, frozen cheese pizza is regulated by the FDA, while pepperoni pizza falls under the purview of the FSIS.

While most of the nation's overall food supply falls under the jurisdiction of the FDA, the majority of the government's food-safety budget goes to the FSIS. The resource gap is evident in the distribution of foodborne illnesses by agency jurisdiction. Many of the foods involved in recent product recalls—including the aforementioned spinach, wheat gluten, and peanut butter—fall under the jurisdiction of the FDA.

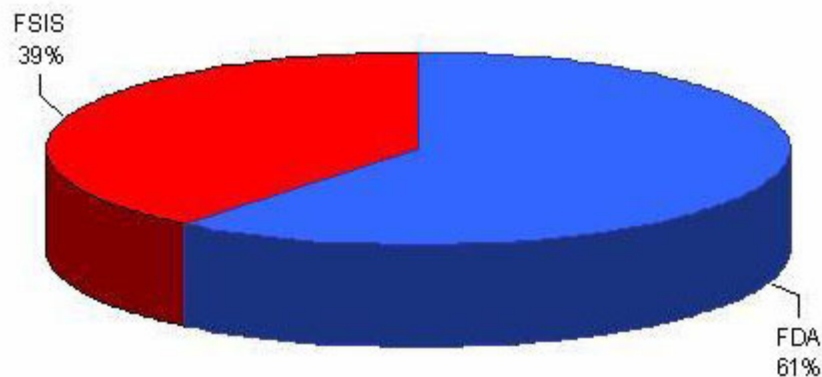
In addition, the FDA has responsibility over seafood, one of the most important categories of food inspection. More than 75 percent of all seafood is imported, and the Centers for Disease Control and Prevention

(CDC) estimate that contaminated seafood accounts for 15 percent of all documented foodborne outbreaks—"a greater percentage than either meat or poultry, even though meat and poultry are consumed at 8 and 6 times the rate of seafood, respectively," according to a GAO report.<sup>5</sup>

Overlapping oversight and differing authority can result in inconsistent inspection and enforcement. One reason the GAO gave for its high-risk designation is the FDA's limited ability to recall food. Except in cases involving infant formula, FDA recalls are voluntary. By contrast, the FSIS can withdraw inspectors from plants, effectively shutting down distribution if it suspects unsafe conditions. The FDA's limited recall authority increases the possibility that unsafe food will remain in the food supply, exposing greater numbers of people to the threat of illness.

Voluntary recalls and inconsistent enforcement standards send the dangerous

### Number of Reported Foodborne-Disease Cases Associated with Products Regulated by the FDA and FSIS 1998-2002



Source; Author analysis of CDC Data, "Surveillance for Foodborne-Disease Outbreaks — United States, 1998-2002." Only major food categories included; beef, dairy, game, pork, poultry, vegetables, fruits and nuts, grains, oils and sugars, finfish, and shellfish. Intentionally omitted were CDC categories: eggs, unclassifiable vehicle, complex vehicle, and unknown vehicle due to difficulty in assigning agency jurisdiction. Cases refers to the number of cases reported by vehicle of transmission.

message that it is all too easy for exporting nations to dump substandard food products on unwitting American consumers. According to William Hubbard, a former senior associate commissioner at the FDA, when you have “a weak FDA, then that actually gives foreign exporters incentives to send us their bad stuff.”<sup>6</sup>

That incentive to bend the rules can be overwhelming in today’s competitive global marketplace—though one might think that China’s recent execution of a former safety official on charges of approving tainted medicine for domestic consumption would be a stern object lesson for regulators in that nation and elsewhere.

The very existence of such an incentive is bad news for manufacturers and consumers at a time when imports are rising. The amount of food imported to the United States has grown considerably in recent years, to approximately 13 percent of the annual American diet.<sup>7</sup> More than one-quarter of all fruit, one-half of all tree nuts, and two-thirds of all fish and shellfish consumed in the United States are imports.<sup>8</sup> The average American will consume more than 260 pounds of imported food each year—however, only 1.3 percent of foreign food shipments undergo inspection, and that rate is declining further as trade volumes increase.<sup>9</sup>

Canada, Mexico, Italy, Australia, and Ireland are the top five agricultural exporters to the United States by value. China is sixth, but its exports grew almost twice as fast as any of the top five producers in 2006, meaning that if current trends persist China could become the largest exporter by value in less than a decade.<sup>10</sup> China is already a leading supplier of food nutrients—supplying, for example, more than 80 percent of the world’s vitamin C (ascorbic acid).<sup>11</sup> That means that even when we think we are consuming American-made products such as cereals and juices, it is likely that some of the ingredients are from China and other foreign nations.

Import requirements vary for different types of food, even if they originate from the same country, based on whether they fall under the jurisdiction of the FSIS or the FDA. The FSIS operates under a country-focused approach, working collaboratively with an importing firm’s government to verify that the country’s regulatory regime holds to standards equivalent to those of the United States. Thirty-one countries are currently allowed to export meat, poultry, or egg products to America, with an additional country allowed to export poultry only.<sup>12</sup>

The FDA’s inspection requirements, by contrast, are company-specific and require each company wishing to export food products to the United States to register with the FDA in advance and submit documentation confirming that the product is produced to U.S. safety standards. This approach compels the FDA to review every foreign firm wishing to export to the United States as if it were a domestic producer.

The FSIS system involves a lighter regulatory burden. It requires simply that the exporting country’s inspection and safety system be roughly equivalent to U.S. standards, thus shifting some of the burden to foreign governments to ensure the safety of products produced in their country. Both the FSIS and the FDA participate in random port-of-entry inspections to ensure compliance.

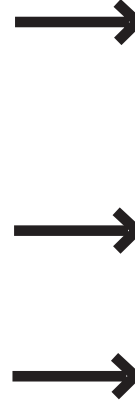
This requirement is particularly onerous for an agency whose mandate is so much greater than its resources. FDA-inspected imported products carry a higher risk of foodborne contamination and spoilage, but the FDA is poorly equipped to identify and contain that risk. A recent GAO report on the safety of imported seafood found that more than half of imported products failed to have the required documentation for importation to the United States. In the same study, the GAO found it took the FDA, on average, 157 days to issue warning letters

## Current Responsibilities for Food Safety

	Agency	Responsibility
U.S. Department of Health and Human Services	Food and Drug Administration (FDA)	Inspection of domestic and imported food products except meat, poultry, and processed egg products
U.S. Department of Agriculture (USDA)	Food Safety and Inspection Service (FSIS)	Inspection of all meat, poultry, and processed egg products imported or involved in interstate commerce
U.S. Department of Homeland Security	U.S. Customs and Border Protection	Enforcement of customs laws

## Single Food Inspection Agency

Responsibility
Establish quality standards and inspection procedures for all domestic and imported foods including, meat, poultry, eggs, and seafood
Issue and enforce recalls of all tainted foods
Coordinated with CSI initiative on targeted import inspections



Source: Government Accountability Office; Agency websites

to the firms that failed inspection—a lag that enables firms to continue to ship questionable goods to the United States.<sup>13</sup>

### Improve and Simplify the Regulatory Process by Creating a Single Food-Inspection Agency

The GAO has proposed replacing this unwieldy two-agency system with a single entity,<sup>14</sup> and Sens. Dick Durbin (D-Ill.) and Charles Schumer (D-N.Y.), along with Rep. Rosa DeLauro (D-Conn.), have introduced a bill to establish a single food-inspection agency.<sup>15</sup>

A single food-inspection agency would promote a sensible, standardized approach to food safety and could leverage the relative strengths of each agency while reducing or eliminating redundancies and inconsistencies. Canada, Denmark, Germany, Ireland, the Netherlands, New Zealand, and the United Kingdom have all recently consolidated responsibility for food

safety in a single agency, resulting in significant improvements.<sup>16</sup>

The FSIS and the food-safety portion of the FDA should be merged into a new unified agency with stronger recall authority and clear jurisdiction to join the CSI on targeted food-import inspections.

A single food-inspection agency would establish quality standards and inspection procedures for all domestic and imported foods—including meat, poultry, eggs, and seafood—thereby eliminating redundancies in jurisdiction for multi-ingredient products as well as removing inconsistencies in standards and quality for all foods due to differing inspection procedures.

The best practices and policies of the two existing agencies should be combined to form common standards and procedures, while staff could still specialize in inspections by product type based on experience and expertise. Currently, meat products under the jurisdiction of the FSIS are inspected daily, while the GAO estimates that products under the FDA’s jurisdiction are inspected approximately once every five years.<sup>17</sup>

Aligning procedures and standards should bring inspection rates more in line with each other and subsequently reduce the total number of foodborne outbreaks associated with lax FDA oversight.

## Double Resources for Food Safety by Cutting Waste

The USDA currently operates three agencies responsible for promoting U.S. agricultural products overseas: the Foreign Agricultural Service (FAS); the Grain Inspection, Packers and Stockyards Administration (GIPSA); and the Agricultural Marketing Service (AMS). By cutting just two of these programs—for example, the AMS (which includes among its duties the marketing of tobacco products) and the GIPSA—the federal government could more than double the amount spent on food safety, without the need to raise a single new tax dollar.

Furthermore, with the savings that would come from eliminating the GIPSA and the AMS, the FDA could more than quintuple its number of field inspectors from the 1,946 provided for in the Fiscal Year 2008 budget to more than 10,600.<sup>18</sup> That may sound like

a lot, but the FSIS already has 7,865 meat, poultry, and egg field inspectors stationed in approximately 6,160 domestic firms and 121 import stations throughout the country<sup>19</sup>—and the FSIS is only responsible for inspecting 21 percent of the food supply.<sup>20</sup>

The FDA is responsible for inspecting the remaining 79 percent of the food supply, a share that comprises more than 57,000 domestic firms and countless additional foreign exporters.<sup>21</sup> If we are serious about reducing the number of foodborne-illness outbreaks each year for products under FDA jurisdiction, then bringing staffing levels in line with responsibilities is a minimum first step.

## Shift to a Risk-Based Allocation of Resources

According to Sen. Schumer, the FDA rejected twice as many food shipments from China as from all other foreign producers combined.<sup>22</sup> It is common sense that if we are going to import foods from high-risk countries such as China, then we should allocate resources effectively to inspect as many Chinese firms and shipments as possible, while relying on nations with more reliable regulatory regimes to monitor their own domestic producers.

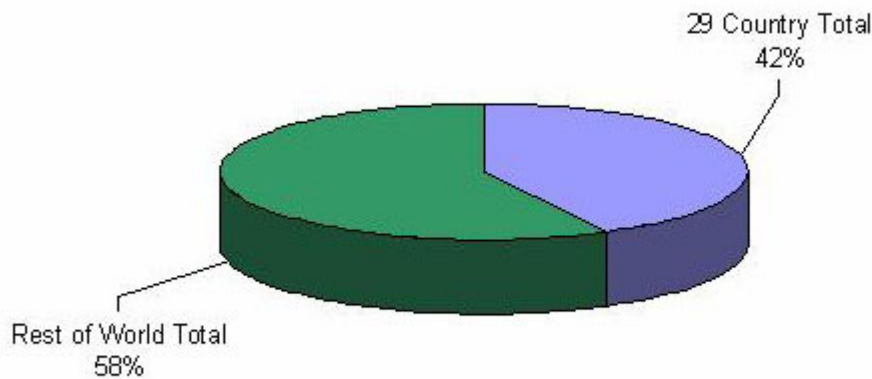
### Budget for the New Single Food-Inspection Agency

Food Safety and Inspection Service	\$	925,000,000
Food and Drug Administration (Food Budget)	\$	466,726,000
<b>Total</b>	<b>\$</b>	<b>1,391,726,000</b>
Savings from eliminating Grain Inspection, Packers and Stockyards Administration	\$	43,000,000
Savings from eliminating Agricultural Marketing Service	\$	1,350,000,000
<b>Total</b>	<b>\$</b>	<b>1,393,000,000</b>
<b>Total Budget</b>	<b>\$</b>	<b>2,784,726,000</b>

Source: Fiscal Year 2008 President's Budget, Office of Management and Budget, Food and Drug Administration

## Share of Total Agriculture Imports by FSIS Equivalent Countries

2006 Data in Dollars, 29 Countries Eligible to export meat products (excludes poultry and eggs)



Source: US Department of Agriculture Economic Research Service, FATUS Import Aggregations Database and USDA FSIS Eligible Foreign Establishments list.

The FSIS has already had some success with this approach. Its practice of using country-equivalency certification shifts some of the burden of ensuring compliance back on the countries that want to trade with us. The FDA should do the same to ensure that we are targeting our limited resources toward addressing the greatest risks.

The chart above shows the share of world trade by value that would be covered if the equivalency-certification model currently in place for meat products were extended to all food products.<sup>23</sup> While food imports covered by the equivalency standards should still be subject to periodic, random point-of-entry inspections, adopting the FSIS approach would reduce the inspection burden by more than 40 percent.

The GAO has already recommended the country-equivalency strategy for seafood products. The fact that a respected agency would advocate this policy for such a high-risk food category indicates that country-equivalency certification could be readily introduced for other classes of food imports as well. The potential gains—in financial savings and in efficiency—are too significant to ignore.

### Create a Stronger Recall Authority

Agencies that regulate the safety of products such as cars or children's toys have the authority to ensure that recalls are enforced when companies do not cooperate. The FSIS has the *de facto* ability to shut down production by withdrawing inspectors. However, infant formula is the only food product currently subject to any mandatory recall authority. The GAO has recommended legislation granting the FDA such authority over other product categories, as well as the power to require companies to alert the agency when they have discovered potentially unsafe food.<sup>24</sup>

### Use the CSI Program to Strengthen Point-of-Entry Food Inspections

The Container Security Initiative (CSI) was developed after 9/11 to address the potential threat of a terrorist using a maritime

container to smuggle a weapon into the United States. More than 50 ports around the world currently participate in the program, including Hong Kong, Shenzhen, and Shanghai in China. The program requires ports to have radiation-detection devices on hand to screen suspicious containers quickly and non-invasively. A sophisticated software program called the Automated Targeting System (ATS), operated by U.S. Customs and Border Protection, applies hundreds of targeting rules to identify potentially dangerous containers up to 24 hours before they arrive at a participating port.

As PPI's own Ed Gresser has suggested, we could leverage this system to inspect more food shipments. The Bioterrorism Act of 2002 gave the FDA the ability to request notification up to 24 hours before a shipment arrives at a U.S. port. The FDA has yet to utilize this authority fully because of a lack of available inspectors. Leveraging CSI infrastructure and experience, in addition to adding more inspectors on the ground, would enable us to improve significantly upon the current paltry 1 percent inspection rate.

Lastly, because it is not possible to test every crate of food that enters our borders, we should at least require every food item coming to our country from abroad—and every ingredient of that item—to be labeled by country of origin. Think of this as the consumers' final line of protection. After all, the best defense against cheap and

dangerous imports is an educated public that demands accountability with its consumer dollars.

## Conclusion

The increase in America's food imports has some undeniable benefits for U.S. consumers. It reduces the cost of food, enhances the variety of our national diet, and serves as a stimulant to the global economy. However, this growing reliance on food imports also carries risks, particularly the exposure to unsafe food from other countries.

Americans have long prided themselves, justly, on having one of the best food-inspection systems in the world, but that system needs to be updated to address the realities of the increasingly global marketplace—and to strengthen our protections against contaminated food from domestic as well as foreign sources.

What is prescribed here is not an expensive new program, but mainly the efficient redeployment of present resources. This will require the overhaul of some longstanding programs, but the disturbance of a flawed status quo is a small price to pay to better ensure the safety of our people and the smooth functioning of the international trading system. As recent incidents have shown, the time has come for a more effective, sensible approach to this vital governmental function.

## Endnotes

- <sup>1</sup> Lester, Will. "Bush creates import safety panel," USA Today (Associated Press), July 18, 2007, p.A1.
- <sup>2</sup> Centers for Disease Control and Prevention website, <http://www.cdc.gov/foodsafety/>.
- <sup>3</sup> Poll by the Opinion Research Corporation for the Coalition for a Stronger FDA cited in Burros, Marian. "Who's Watching What We Eat?," The New York Times, May 16, 2007.
- <sup>4</sup> GAO, High-Risk Series: An Update, GAO-07-310, January 2007.
- <sup>5</sup> GAO, Federal Food Safety and Security System, GAO-04-588T, March 2004.
- <sup>6</sup> Knox, Richard. "As Imports Increase, a Tense Dependence on China," NPR, June 22, 2007.
- <sup>7</sup> "US Food Imports Rarely Inspected," The Associated Press, April 16, 2007.
- <sup>8</sup> *Ibid.*
- <sup>9</sup> *Ibid.*
- <sup>10</sup> US Department of Agriculture Economic Research Service, FATUS Import Aggregations Database, <http://www.fas.usda.gov/USTrade/USTIMFatus.asp?QI>.
- <sup>11</sup> Knox, Richard. "As Imports Increase, a Tense Dependence on China," NPR, June 22, 2007.
- <sup>12</sup> USDA Food Safety and Inspection Service Eligible Foreign Establishments, [http://www.fsis.usda.gov/Regulations\\_&\\_Policies/Eligible\\_Foreign\\_Establishments/index.asp](http://www.fsis.usda.gov/Regulations_&_Policies/Eligible_Foreign_Establishments/index.asp). The thirty-one countries are: Argentina, Australia, Belgium, Brazil, Canada, Chile, Costa Rica, Croatia, Czech Republic, Denmark, Finland, France, Germany, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Mexico, Netherlands, New Zealand, Nicaragua, Northern Ireland, Poland, Romania, San Marino, Spain, Sweden, United Kingdom, and Uruguay. In addition, Israel is allowed to export poultry only. It also appears that China was recently added to the list for poultry only but with zero firms listed as eligible to export. Due to the ambiguity of status and lack of available data, China was excluded from the total count of 32 countries.
- <sup>13</sup> GAO, FDA's Imported Seafood Safety Program Shows Some Progress, but Further Improvements Are Needed, GAO-04-246, January 2004.
- <sup>14</sup> GAO, Federal Food Safety and Security System, GAO-04-588T, March 2004.
- <sup>15</sup> Martin, David S. "Lawmakers push for change in food safety oversight," CNN.com, May, 18, 2007, <http://www.cnn.com/2007/HEALTH/05/17/food.safety.law/index.html>.
- <sup>16</sup> GAO, *Food Safety: Experiences of Seven Countries in Consolidating their Food Safety Systems*, February 2005.
- <sup>17</sup> GAO, *Federal Food Safety and Security System*, GAO-04-588T, March 2004.
- <sup>18</sup> FDA, *FY2008 Budget*, "Narratives by Activity: Foods," pp.63-94, <http://www.fda.gov/oc/oms/ofml/budget/2008/TOC.htm>. Author's calculation based on available data. FY2008 field budget for 1,946 field FTE is approximately \$312 million, estimating \$160,400 per FTE would yield an additional 8,685 field FTE for \$1.393 billion (the amount of savings from eliminating AMS and GIPSA).
- <sup>19</sup> USDA, *FY2008 Budget Summary and Annual Performance Plan*, pp.59-60, [http://www.obpa.usda.gov/budsum/budget\\_summary.html](http://www.obpa.usda.gov/budsum/budget_summary.html).
- <sup>20</sup> GAO, *Federal Food Safety and Security System*, GAO-04-588T, March 2004.
- <sup>21</sup> *Ibid.*
- <sup>22</sup> Elsbai, Nadine. "Schumer Faults US Safety Checks of Chinese Goods," Bloomberg.com, July 1, 2007, <http://www.bloomberg.com/apps/news?pid=20601087&sid=aCyB.62Fyljl&refer=home>.
- <sup>23</sup> The 29 countries FSIS certifies to export meat products to the US are: Argentina, Australia, Belgium, Brazil, Canada, Chile, Costa Rica, Croatia, Czech Republic, Denmark, Finland, France, Germany, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Mexico, Netherlands, New Zealand, Nicaragua, Poland, Romania, Spain, Sweden, United Kingdom, and Uruguay. In addition, Northern Ireland and San Marino are also listed by FSIS as eligible to export meat products but were excluded from the chart because FATUS data was unavailable.
- <sup>24</sup> GAO, *Federal Oversight of Food Safety: High-Risk Designation Can Bring Attention to Limitations in the Government's Food Recall Programs*, GAO-07-785T, April 24, 2007.