

Based on all of this information, the Administrator can only conclude that Canada's system of meat and poultry inspection does not assure compliance with the requirements equivalent to all the inspection, building construction standards, and other requirements of the Federal Meat Inspection Act and Poultry Products Inspection Act and corresponding regulations applicable to official establishments in the United States. Furthermore, reliance cannot be placed upon Canada's certificate of eligibility. Therefore, the Administrator must withdraw Canada from the list of countries eligible to export to the United States under 9 C.F.R. §§ 327.2 (b) and 381.196 (b). The failure to delist Canada would be contrary to the FMIA and PPIA. The failure to delist Canada would also be arbitrary and capricious and an abuse of discretion, and thus contrary to the Administrative Procedures Act.<sup>16</sup>

- A. A December 2005 USDA Inspector General's Audit Report on Canada's meat and poultry inspection system found that Canadian inspection officials do not enforce requirements or maintain inspection intensity at levels equivalent to those FSIS applies, or is required to apply, to official establishments in the United States.

The chronic food safety issues that FSIS auditors have found in Canadian food establishments prompted the USDA Office of Inspector General (OIG) to conduct its own audit of the Canadian food safety system and the processes FSIS used to determine equivalence with Canada. The OIG found the following:

... [I]n July 2003, FSIS identified that Canadian inspection officials were not enforcing certain pathogen reduction and Hazard Analysis and Critical Control Point (HACCP) system regulations. These same types of concerns were identified again in June 2005, almost 2 years later.

Timely actions were not taken because FSIS does not have protocols or guidelines for evaluating deficiencies in a country's inspection system that could jeopardize a country's overall equivalence determination...

In July 2003, as part of an onsite review, FSIS identified serious concerns with the Canadian inspection system. These concerns included the insufficient implementation of sanitation controls and HACCP requirements by establishments and the lack of enforcement in these areas by Canadian inspection officials.

Based on these concerns, FSIS proposed an enforcement review in 2004. (Enforcement reviews can lead to a determination that a country's system is not equivalent to U.S. standards and, thus, not eligible to export to the United States). The proposed 2004 enforcement review was not conducted and FSIS officials did not reassess Canada's implementation and enforcement of sanitation controls and

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<sup>16</sup> 5 U.S.C. § 706 (2)(A).

HAACP requirements until almost 2 years later. When FSIS officials finally returned to Canada in May 2005, they continued to find the same types of deficiencies they had found in 2003.

FSIS should analyze the deficiencies identified in the 2003 and 2005 reviews to determine whether immediate actions are needed to address concerns regarding public health and if additional enforcement measures are needed.

FSIS' analysis of the regulations governing the Canadian inspection system identified two areas that may not be equivalent to the United States inspection system. FSIS found that Canadian policy allowed less than daily inspection coverage in processing establishments. By contrast, FSIS has a long established history of requiring the presence of an inspector in a U.S. processing establishment at least once per shift per day. FSIS also identified differences in the testing performed for *Listeria monocytogenes*. Canadian inspection officials require establishments to perform risk-based environmental sampling, as opposed to the finished product sampling required by FSIS.<sup>17</sup>

- B. FSIS audits of Canadian establishments in 2003, 2005, 2006, and 2007 show numerous and repeated failures both in terms of establishments' adherence to sanitation and food safety requirements, as well as the inspection system's enforcement of those requirements.

According to FSIS audits in 2003,<sup>18</sup> Canadian establishments repeatedly failed to adhere to sanitation and food safety requirements and the Canadian inspection officials failed to enforce these requirements:

- In 22 of the 37 establishments visited, FSIS officials found that the Canadian inspection system did not have adequate sanitation controls. FSIS officials found that Canadian establishments did not ensure sanitation controls were adequately implemented or evaluated for effectiveness. FSIS also found that the establishments did not take corrective actions when sanitation controls failed to prevent direct product contamination or adulteration and did not maintain daily records of these activities.
- FSIS officials found that Canadian inspection officials did not implement certain HACCP requirements in 27 of the 37 establishments. FSIS found that Canadian establishments were deficient in validating their HACCP plans, documenting

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<sup>17</sup> United States Department of Agriculture Office of Inspector General. Audit Report: Food Safety and Inspection Service Assessment of the Equivalence of the Canadian Inspection System, Report No. 24601-05-Hy, December 2005, pp. i-ii.

<sup>18</sup> Food Safety and Inspection Service, United States Department of Agriculture. "Final Report of an Audit Covering Canada's Meat, Poultry, and Egg Products Inspection System, June 17 through July 31, 2003" (See <http://www.fsis.usda.gov/OPPDE/FAR/Canada/CanadaJun2003.pdf>.)

corrective actions, and reassessing the adequacy of the plans.

- As part of the review of specific establishments, FSIS evaluated whether Canadian inspection officials adequately enforced FSIS requirements. FSIS officials found that the Canadian inspection system did not have adequate controls to ensure FSIS requirements were enforced. FSIS officials identified deficiencies in the areas of sanitation controls and HACCP requirements that had not been previously noted by Canadian inspection officials. This condition occurred in 32 of the 37 establishments visited by FSIS officials.
- Of the 37 establishments visited, 28 were establishments that produced processed products. FSIS officials found that Canadian inspection officials provided less than daily inspection at 10 of the 28 processing establishments visited.

Audits in 2005 demonstrated a similar pattern of abuses:<sup>19</sup>

- In 21 of the 35 establishments, FSIS officials found that the Canadian inspection system did not have adequate sanitation controls. FSIS continued to find that Canadian establishments did not ensure sanitation controls were adequately implemented or evaluated for effectiveness. In addition, the establishments did not take corrective actions when sanitation controls failed to prevent direct product contamination or adulteration and did not maintain daily records of these activities.
- FSIS officials found that Canadian inspection officials did not implement certain HACCP requirements in 19 of the 35 establishments. FSIS again found that Canadian establishments were deficient in validating their HACCP plans, documenting corrective actions, and reassessing the adequacy of the plans.
- As part of the review of specific establishments, FSIS again evaluated whether Canadian inspection officials adequately enforced FSIS requirements. FSIS officials found that the Canadian inspection system did not have adequate controls to ensure FSIS requirements were enforced. FSIS officials identified deficiencies in the areas of sanitation controls and HACCP requirements that had not been previously noted by Canadian inspection officials. This condition occurred in 29 of the 35 establishments visited by FSIS officials.

Later that year, the USDA OIG notified FSIS that it wanted a complete review of Canadian processing plants that exported to the United States on the issue of daily inspection. The OIG found the following:

On July 29, 2005, we issued a management alert to FSIS which identified a

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<sup>19</sup> Food Safety and Inspection Service, United States Department of Agriculture. "Final Report of an Enforcement Audit Carried Out in Canada Covering Canada's Meat and Poultry Inspection System, May 10 through June 16, 2005" (See <http://www.fsis.usda.gov/OPPDE/FAR/Canada/CanadaMay05.pdf>.)

condition that warranted the agency's immediate attention. We reported that FSIS had not taken timely action to resolve the agency's July 2003 finding that Canada does not require daily inspection coverage at processing establishments that export product to the United States. Specifically, the agency identified 10 processing establishments that received less than daily inspection and subsequently Canada reported 252 of its processing establishments did not receive daily inspection coverage during all processing shifts. Almost 700 million pounds of product entered U.S. commerce from these 252 establishments from January 1, 2003 through May 31, 2005. In FSIS' information system, the products were categorized as cuts and trimmings of raw product as well as products with additional processing from pork, veal, beef, poultry, and lamb.<sup>20</sup>

In August 2005, the Canadian Food Inspection Agency (CFIA) did change its Animal Hygiene Regulations as they applied to exports to the United States that explicitly required daily inspection of processing establishments.<sup>21</sup> However, FSIS agreed to permit Canada to conduct a study to prove that less-than-daily inspection in processing was equivalent to the U.S. inspection system. That study was to have been completed by November 2007. According to FSIS officials, CFIA is still evaluating the data it received from the study.<sup>22</sup>

In October 2005, FSIS dispatched an audit team to Canada to conduct a paper review of the new daily inspection procedures – FSIS did not conduct in-plant audits to verify whether the new inspection procedures had actually been implemented.

In 2006 audits by FSIS,<sup>23</sup> the agency found that establishments were not implementing their Standard Sanitation Operating Procedures (SSOPs), Sanitation Performance Standards (SPS), or HACCP plans, and were not adequately testing for salmonella:

- In 10 of 21 establishments audited, there were deficiencies in the implementation of the Standard Sanitation Operating Procedures. For example, there was improper documentation of daily records for SSOP requirements; improper implementation of SSOPs in 5 establishments; no corrective action taken when SSOP failed to prevent direct product contamination in one establishment; and no reference to pre-operational sanitation in the SSOP prerequisite program, although pre-operational sanitation was occurring at one establishment.

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<sup>20</sup> United States Department of Agriculture Office of Inspector General. Audit Report, Ibid., p. 9.

<sup>21</sup> Canadian Food Inspection Agency. Meat Hygiene Directive: 2006-02 (See <http://www.inspection.gc.ca/english/anima/meavia/mmopmmhv/direct/2006/direct02e.shtml>.)

<sup>22</sup> Dr. William James, Acting Assistant Administrator for International Affairs, FSIS, meeting with Safe Food Coalition, November 28, 2007.

<sup>23</sup> Food Safety and Inspection Service, United States Department of Agriculture. "Final Report of an Enforcement Audit Carried Out in Canada Covering Canada's Meat and Poultry Inspection System, April 25 through May 23, 2006" (See <http://www.fsis.usda.gov/OPPDE/FAR/Canada/CanadaApr2006.pdf>.)

- Nineteen of the 21 establishments had deficiencies in the implementation of Sanitation Performance Standards (SPS). The violations found included unsanitary conditions such as insects found in two empty containers used for rework of product and product residue found in bins ready for use.
- Fifteen of the 21 establishments had deficiencies in the implementation, corrective actions, verification and/or recordkeeping parts of HACCP. The violations found included inadequate recordkeeping documenting the written HACCP plan, the monitoring of the critical control points, and dates and times of specific occurrences in 11 establishments; in seven establishments, verification and validation of the HACCP plants were not performed properly; in four establishments, the corrective action was not written in the HACCP plan; in three establishments, the HACCP plan was not adequately reassessed; in two establishments, on-going monitoring of the HACCP plan was not performed properly.
- Laboratories were using only 25 grams of ready-to-eat products in tests for *Salmonella* instead of 325 grams. FSIS auditors critiqued the lack of oversight exercised by CFIA over the private laboratories they retained to conduct microbial testing.

No establishments were recommended for delistment.

In August 2007, the USDA OIG issued an audit report on egg processing inspection. Its findings included:

(W)e found that while FSIS had identified deficiencies in 2003 with Canada’s controls over egg product processing plants that exported to the United States, no follow up visits had been made since then to verify that corrective actions had been implemented. FSIS officials gave greater priority to the review of meat and poultry establishments, since processed egg products were considered to pose less of a health risk than some meat products due to the use of the pasteurization process. In their last visit, FSIS reviewers found that two Canadian egg product processing plants broke and used eggs that were leaking or had foreign material on their shells.<sup>24</sup>

As a result of the OIG report, FSIS conducted audits of four Canadian egg products processing facilities in addition to twenty meat and poultry establishments.<sup>25</sup>

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<sup>24</sup> United States Department of Agriculture Office of Inspector General. Audit Report: Egg Products Processing Inspection, Report No. 24601-0008-Ch, August 2007, p. ii.

<sup>25</sup> Food Safety and Inspection Service, United States Department of Agriculture. “Final Report of an Audit Carried Out in Canada Covering Canada’s Meat, Poultry, and Egg Products Inspection System, May 1 through June 6,

On this visit, one Canadian establishment was recommended for delisting and six received Notices of Intent to Delist.

These were the deficiencies that were found in the 2007 audit:

- There was no Canadian method for *Salmonella* analysis of meat and poultry products that had been deemed equivalent by the United States. Specifically, the problem of the sample size cited in the 2006 audit had not been corrected; only 25 grams of product was being sent in for laboratory analysis while the U.S. standard is 325 grams. As the FSIS audit stated: “Many of the establishments did not understand that they must make that specific request to satisfy U.S. requirements.”
- Seventeen of 20 slaughter and/or processing establishments had deficiencies in the implementation, maintenance, corrective actions, and/or recordkeeping requirements of the Standard Sanitation Operating Procedures (SSOPs). The problems discovered included descriptions of non-compliances, causes, corrective actions, and preventive measures were either missing or not written in sufficient detail for the establishments’ management or for CFIA personnel to verify the effectiveness of the actions; records were not completed in the manner described in the HACCP plans, including times and temperatures; the sanitation prerequisite programs did not address the cleaning and monitoring of some areas of the establishments; condensate was present in various rooms and was observed dripping on personnel, boxes, product and/or product contact surfaces; positioning of product presented a variety of cross-contamination scenarios; product handling practices also led to cross-contamination; heavy dust and protein residues were found on fans that led directly into an RTE slicing room; residue from previous day’s production was found on food contact areas; pre-operational sanitation monitoring by one establishment was done on slaughter days only and not on days when there was only processing performed; sanitation records revealed repetitive deficiencies with either no preventive measures or preventive measures were ineffective; and hooks for edible product were not maintained in a sanitary manner.
- Nineteen of the 20 slaughter and/or processing establishments had deficiencies in Sanitation Performance Standards (SPS). Two of the four egg products processing facilities had SPS deficiencies. The problems found with SPS included: inedible containers were observed coming into contact with personnel working with edible product, edible product, edible product containers, and/or food contact areas; condensate was present in processing rooms, coolers, freezers; there was rust and corrosion on many pieces of equipment and overhead structures; there was no floor drain in the area of the sticker in a hog plant, which

resulted in the operator standing on support pads in a pool of water and blood; establishment of pre-requisite programs for water and/or ice were not written or followed in the manner specified in the CFIA Manual of Procedures; walls, floors, ceilings, and/or overhead structures were in poor repair; exposed insulation in processing room and cooler locations; freezers and storage areas were not maintained in sanitary manner; excessive shell fragments were observed in breaking machines and collection pots; and excessive shell fragments were also observed past the filtering system in the performance of the pour test.

- Thirteen of the 20 slaughter/processing/cold storage establishments audited had deficiencies in the implementation of HACCP requirements. Most involved deficiencies in recordkeeping. One of the egg processing facilities had a HACCP deficiency – calibration of equipment. Examples of the HACCP deficiencies included descriptions of deviations, corrective actions, and preventive measures were either missing or not written in sufficient detail for the establishments' management or for CFIA personnel to verify the effectiveness of the actions; CCP monitoring and verification records had missing times, missing initials, missing temperatures, and entries that were not actual measured values; HACCP plans had poorly described hazards which led to critical limits, monitoring procedures, corrective actions, preventive measures, and verification procedures that did not follow in a logical manner or address the hazard; pre-shipment reviews were not conducted for all products.
- Three of the nine slaughter facilities had deficiencies in their generic *E.coli* testing program. The problems found included no action taken when total coliform and *E. coli* counts exceeded the acceptable limits and the recording program for *E. coli* results was not functioning properly.
- One of the nine slaughter facilities never received its residue sampling schedule from CFIA for FY 2006-2007 and no meat was sampled for chemical residues during that time period.
- Two establishments that produced both single and multiple species ground products did not have species identification sampling scheduled for them by CFIA.
- The FSIS auditor made the following observation: “Inspection system controls at all levels were not fully developed and implemented. There were many instances of deficiencies both in the documentation reviews and in the operations audits that should have been addressed prior to the FSIS audit. Some inspection personnel were not well-trained in the performance of their inspection tasks. Inspection personnel were not conducting pre-operational sanitation inspection verification

or were not conducting it at the frequency required.”<sup>26</sup>

While all establishments audited were receiving at least daily visits by CFIA inspection personnel, one establishment – Eastern Protein Foods Limited (Canadian Establishment Number 203) – did not appear to be inspected from March 2 through May 3, 2007 for the second shift of production. In addition, for a three month period, CFIA inspection personnel did not appear to be conducting on-site pre-operational sanitation verification which is required to be performed at least twice monthly. Instead, CFIA inspection personnel were only conducting record reviews at this establishment.<sup>27</sup>

FSIS recently sent another audit team to look at the one plant that had been delisted as a result of this audit and the six that had received Notices of the Intent to Delist. According to FSIS officials, all of these plants corrected their deficiencies and continue to export to the United States.<sup>28</sup>

C. FSIS instituted two large recalls in 2007 of meat and poultry products produced in Canada.

a. **Topps Meat Company, LLC Recall of Ground Beef Products**

On September 25, 2007, FSIS announced a voluntary recall for 331,582 pounds of frozen ground beef products by the Topps Meat Company, LLC of Elizabeth, New Jersey.<sup>29</sup> The recall was eventually expanded to 21.7 million pounds of frozen ground beef products on September 29, 2007.<sup>30</sup> The meat was contaminated with *E. coli* 0157:H7. This recall made it the fifth largest in U.S. history.<sup>31</sup> Because of the magnitude of the recall, Topps Meat Company was forced to shutter its doors and declare bankruptcy.<sup>32</sup> FSIS announced on October 26, 2007 that the likely source of the contamination was beef trim that Topps had imported from Canadian Establishment Number 630, Ranchers Beef, Ltd. Of Balzac, Alberta that itself had shut down operations in August 2007.<sup>33</sup>

As part of the investigation, the Centers for Disease Control (CDC) reported that there were 40

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<sup>26</sup> Ibid., p.16.

<sup>27</sup> Food Safety and Inspection Service, United States Department of Agriculture. “Foreign Establishment Audit Checklist – Eastern Protein Foods Limited,” May 31, 2007.

<sup>28</sup> Letter from Dr. William James, Food Safety and Inspection Service to Dr. Bill Anderson, Canadian Food Inspection Agency, November 27, 2007 (See [http://www.fsis.usda.gov/PDF/Canada\\_O157\\_Resume\\_Normal\\_Testing\\_Letter.pdf](http://www.fsis.usda.gov/PDF/Canada_O157_Resume_Normal_Testing_Letter.pdf))

<sup>29</sup> See [http://www.fsis.usda.gov/News\\_&\\_Events/Recall\\_040\\_2007\\_Release/index.asp](http://www.fsis.usda.gov/News_&_Events/Recall_040_2007_Release/index.asp).

<sup>30</sup> See [http://www.fsis.usda.gov/PDF/040\\_2007\\_Expanded\\_Recall.pdf](http://www.fsis.usda.gov/PDF/040_2007_Expanded_Recall.pdf).

<sup>31</sup> See Transcript of Tele-News Conference on Topps Recall and E. Coli Reduction Efforts With Under Secretary for Food Safety Richard Raymond FSIS, Dr. Daniel Engeljohn, Deputy Assistant Administrator FSIS Dr. David Goldman, Assistant Administrator, Office of Public Health Science, Washington DC, October 4, 2007

<sup>32</sup> “Topps Meat to Close Down After Meat Recall,” Associated Press, October 5, 2007.

<sup>33</sup> “FSIS Provides Update on Topps Meat Company Recall Investigation,” October 27, 2007, See [http://www.fsis.usda.gov/News\\_&\\_Events/NR\\_102607\\_01/index.asp](http://www.fsis.usda.gov/News_&_Events/NR_102607_01/index.asp).

illnesses with 21 known hospitalizations in eight states. In Canada, the CFIA reported that there were 45 illnesses that seemed to be tied to meat produced by Ranchers Beef that included eleven hospitalizations and one death.<sup>34</sup> After its initial announcement, CFIA was forced to issue six additional press releases that expanded the scope of the recall of meat that was produced at Ranchers Beef.<sup>35</sup>

It should be noted that FSIS never conducted an audit of Ranchers Beef, Ltd. FSIS officials indicated that Ranchers Beef was a new company that had come into existence in 2006 and that the agency did not have the opportunity to schedule it for an audit before it ceased operations in August 2007.<sup>36</sup> Yet, the CFIA had certified the new company to export its products to the U.S. FSIS did not delist Ranchers Beef until October 20, 2007 – some two months after it ceased operations.<sup>37</sup>

USDA officials admitted during an October 23, 2007 news teleconference that FSIS had not formally informed trading partners of the new FSIS policy of testing for beef trim that it had initiated for domestic beef plants in March 2007.<sup>38</sup> Therefore, all countries that exported beef products to the United States between March 2007 and October 2007 were not in compliance with U.S. food safety standards.

In response to the findings of the Ranchers Beef investigation, FSIS announced that, effective November 9, 2007, it would institute increased testing of all imported meat and poultry products from Canada for *E. coli* 0157:H7, *Salmonella*, and *Listeria monocytogenes*.<sup>39</sup> That enhanced testing regime ceased on November 28, 2007.<sup>40</sup>

#### **b. Aliko Foods Recall of Chicken and Pasta Product for *Listeria Monocytogenes* Contamination<sup>41</sup>**

On October 9, 2007, FSIS announced a voluntary recall by Aliko Foods, Incorporated that had

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<sup>34</sup> “Investigation into E-coli Cases in Canada,” Canadian Food Inspection Agency, October 26, 2007, See <http://www.inspection.gc.ca/english/corpaffr/newcom/2007/20071026e.shtml>.

<sup>35</sup> “Expanded Health Alert: Certain Beef Products May Contain E.coli 0157:H7 Bacteria,” Canadian Food Inspection Agency, November 15, 2007 (See <http://www.inspection.gc.ca/english/corpaffr/recarapp/2007/20071115e.shtml>.)

<sup>36</sup> Dr. William James, Acting Assistant Administrator for International Affairs, FSIS, meeting with Safe Food Coalition, November 28, 2007.

<sup>37</sup> “Canada – Eligible Plants Certified to Export Meat, Poultry and Egg Products to the United States, January 16, 2008” (See [http://www.fsis.usda.gov/PDF/Canada\\_establishments.pdf](http://www.fsis.usda.gov/PDF/Canada_establishments.pdf).)

<sup>38</sup> “Transcript of Tele-News Regarding E.coli 0157:H7 Actions,” October 23, 2007 (see <http://www.usda.gov/wps/portal/usdahome?contentidonly=true&contentid=2007/10/0301.xml>.)

<sup>39</sup> Letter from Dr. William James, Food Safety and Inspection Service to Dr. Bill Anderson, Canadian Food Inspection Agency, November 8, 2007 (See [http://www.fsis.usda.gov/PDF/Canada\\_O157\\_Testing\\_Letter.pdf](http://www.fsis.usda.gov/PDF/Canada_O157_Testing_Letter.pdf).)

<sup>40</sup> Letter from Dr. William James, Food Safety and Inspection Service to Dr. Bill Anderson, Canadian Food Inspection Agency, November 27, 2007 (See [http://www.fsis.usda.gov/PDF/Canada\\_O157\\_Resume\\_Normal\\_Testing\\_Letter.pdf](http://www.fsis.usda.gov/PDF/Canada_O157_Resume_Normal_Testing_Letter.pdf).)

<sup>41</sup> See [http://www.fsis.usda.gov/News\\_&\\_Events/Recall\\_043\\_2007\\_Release/index.asp](http://www.fsis.usda.gov/News_&_Events/Recall_043_2007_Release/index.asp).

imported 70,400 pounds of chicken/broccoli fettuccine alfredo frozen dinners that had been possibly contaminated with *Listeria monocytogenes*. The product had been produced by Canadian Establishment Number 219, Otter Valley Foods Incorporated, located in Tillsonburg, Ontario. Discovery of the contamination came as result of FSIS microbiological testing at the import establishment.

D. The failure to de-list Canada would be contrary to the FMIA, PPIA, as well as arbitrary and capricious and an abuse of discretion, and thus contrary to the Administrative Procedures Act.

Given the overwhelming evidence that the country's inspection system is not meeting requirements equivalent as those applicable to official establishments in the United States, including the admission of this in numerous agency audits, FSIS' failure to issue a rule delisting Canada under 9 C.F.R. §§ 327.2 (b) and 381.196 (b) would violate the FMIA, which states that "Notwithstanding any other provision of law, all carcasses, parts of carcasses, meat, and meat food products of cattle, sheep, swine, goats, horses, mules, or other equines, capable of use as human food, offered for importation into the United States shall be subject to the inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States."<sup>42</sup> It would also violate the PPIA, which states that

- (1) Notwithstanding any other provision of law, all poultry, or parts or products of poultry, capable of use as human food offered for importation into the United States shall-
- (A) be subject to inspection, sanitary, quality, species verification, and residue standards that achieve a level of sanitary protection equivalent to that achieved under United States standards; and
  - (B) have been processed in facilities and under conditions that achieve a level of sanitary protection equivalent to that achieved under United States standards.<sup>43</sup>

Additionally, in its 2005 audit report, the OIG found inconsistencies in the application of FSIS' policy of establishment delistment. For example, FSIS moved to delist plants in Belgium and Australia because they were not subject to daily inspection, but failed to take the same action against Canada.<sup>44</sup> In 2003, FSIS took the very strong step of suspending Argentina's ability to certify plants that could export to the United States because "past audit findings revealed continuing problems with the implementation of U.S. inspection requirements in certified establishments in Argentina."<sup>45</sup>

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<sup>42</sup> 21 U.S.C. § 620 (f).

<sup>43</sup> 21 U.S.C. § 466 (d).

<sup>44</sup> United States Department of Agriculture Office of Inspector General. Audit Report: Food Safety and Inspection Service Assessment of the Equivalence of the Canadian Inspection System, Report No. 24601-05-Hy, December 2005, p. ii.

<sup>45</sup> Letter from Dr. Elsa Murano, USDA Under Secretary for Food Safety to Congressman Sherrod Brown, March 4, 2004, p. 6.

Should FSIS continue to provide preferential treatment to Canada, and choose not to delist its without proper support or foundation, especially when it has had knowledge of the shortcomings of the Canadian inspection system at least back to 2003, such a decision would surely be arbitrary and capricious as well as an abuse of discretion.

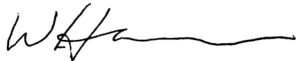
## **Conclusions**

The Canadian food safety system has numerous deficiencies that have been discovered and documented by FSIS auditors in recent years. There have been major recalls involving imported Canadian meat and poultry products that have called into question the safety of those products imported into the United States. In spite of these findings, the FSIS continues to treat Canada deferentially.

Furthermore, we are extremely concerned that FSIS is entertaining a proposal by Canada that would seriously undermine the continuous inspection standard that has been the underpinning of U.S. meat and poultry safety law. It has become apparent that Canada's less rigorous inspection policies have led to some of the recent incidents involving contaminated food entering into our food supply.

In light of these significant food safety issues, we respectfully request that FSIS immediately begin rulemaking to remove Canada as country that is eligible to export meat and poultry products under 9 C.F.R. §§ 327.2 (b) and 381.196 (b).

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Hauter', with a long horizontal flourish extending to the right.

Wenonah Hauter,  
Executive Director  
Food & Water Watch