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FRESH PRODUCE

Potential Implications of Country-of-Origin Labeling

Statement for the Record by
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Mr. Chairman and Members of the Committee:

We appreciate the opportunity to present this statement for the record, which discusses our recent report—Fresh Produce: Potential Consequences of Country-of-Origin Labeling (GAO/RCED-99-112, Apr. 21, 1999). As you know, in the past few years several legislative proposals have been introduced that would require fresh produce to be labeled at the retail level by its country of origin. As requested by the Senate and House conferees for the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, our report reviewed a number of issues associated with the potential costs and benefits of a mandatory labeling requirement.[1] These issues would also be relevant considerations for meat labeling. Specifically, our report—as well as our testimony today—provides information on (1) the potential costs associated with the compliance and enforcement of a mandatory country-of-origin labeling requirement at the retail level for fresh produce, (2) the potential trade issues associated with such a requirement, (3) the potential impact of such a requirement on the ability of the federal government and the public to respond to outbreaks of illness caused by contaminated fresh produce, and (4) consumers' views of country-of-origin labeling.[2]

In summary:

- The magnitude of compliance and enforcement costs for mandatory country-of-origin labeling for fresh produce at the retail level would depend on several factors, including the extent to which current labeling practices would have to be changed. In addition, enforcement would be difficult.
- Labeling could be viewed by other countries as a trade barrier if, for example, they are concerned that additional costs may be incurred by their exporters.
- Because of the time lag between the outbreak of an illness and the identification of the cause, labeling would be of limited value in responding to produce-related outbreaks of illnesses.
- Surveys indicate that most people favor country-of-origin labeling; however, they rate information on freshness, nutrition, handling and storage, and preparation tips as more important.

[1]Our report was requested in Conference Report 105-825, accompanying H.R. 4328, which became the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (P.L. 105-277, Oct. 21, 1998).

[2]In conducting our review, we assumed that the retailer would be responsible for ensuring that produce is labeled as to its country of origin and that the term "label" means any label, mark, sticker, stamp, placard, or other clear visible sign.

Background

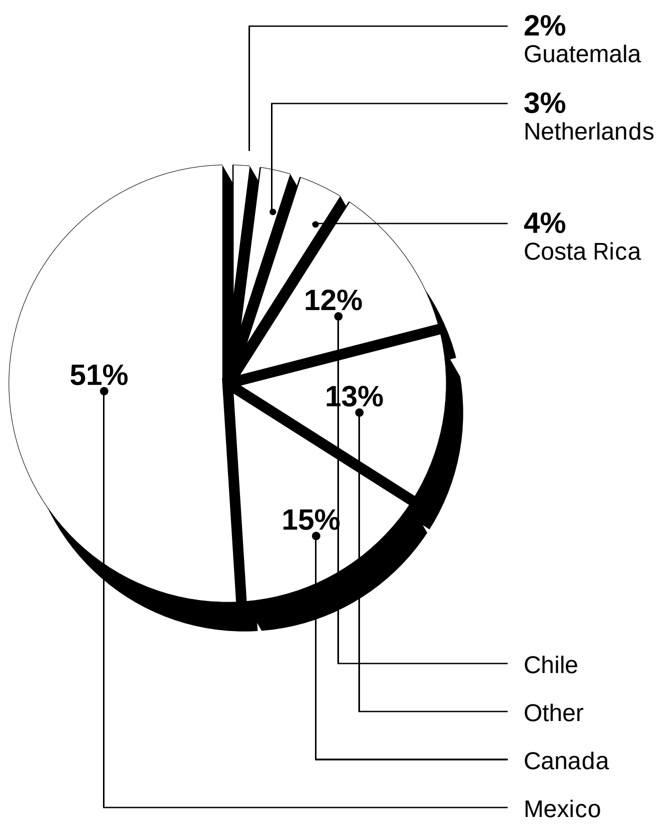
The Tariff Act of 1930, as amended, generally requires imported articles—such as clothing, appliances, and canned and frozen goods—to be marked with the country of origin. Under the statute, however, certain articles, including fresh produce, are not required to be marked individually; however, the container holding the article must be marked. U.S. Customs Service rulings provide that when fresh produce is taken out of its container and put into an open bin or display rack, there is no obligation to identify the items by the country of origin.[3]

Total U.S. consumption of fresh produce has increased 43 percent since 1980, from about 56 billion pounds to nearly 80 billion pounds in 1997, the latest year for which the U.S. Department of Agriculture (USDA) has compiled such data. During this same period, the amount of fresh produce the United States imported more than doubled—from 7.5 billion pounds to 16 billion pounds. In 1997, the majority of the produce the country imported came from Mexico, Canada, and Chile, as shown in figure 1. The United States is also the world's largest exporter of fresh produce, valued at $2.9 billion in 1998. Three-fourths of exported U.S. produce goes to Canada, the European Union, Japan, Hong Kong, and Mexico.[4]

[3] U.S. Customs ruling HRL 722992. This ruling was interpreted in Customs ruling HRL 733798 to not require marking because open bins or display racks were not determined to constitute "containers."

[4] The European Union is composed of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom.

Figure 1: Source of Fresh and Frozen Imported Produce, 1997, by Dollar Value



Source: GAO's analysis of data from USDA's Economic Research Service.

Three states—Florida, Maine, and Texas—have enacted country-of-origin labeling laws for fresh produce. Florida requires all imported fresh produce to be labeled, Maine requires labeling of produce imported from countries identified as having specific pesticide violations,[5] and Texas requires labeling for fresh grapefruit.

Uncertainties Exist About Costs Associated With Compliance and Enforcement

The magnitude of compliance and enforcement costs for a country-of-origin labeling requirement at the retail level would depend on several factors, including the extent to which current labeling practices would have to be changed.

Associations we spoke with representing grocery retailers are particularly concerned that a labeling law would be unduly burdensome for a number of reasons. First, retailers would have to display the same produce items from different countries separately if each individual item is not marked, which in some cases would result in only partially filled bins. According to these retailers, consumers are less likely to buy from such bins because they are less appealing, causing the retailers to lose sales. Second, retailers report that they do not have sufficient display space to separate produce and still stock all the different varieties consumers want. Large grocery stores usually carry over 200 produce items. Third, because the country of origin of retailers' produce shipments may vary each week, retailers would incur costs to change store signs and labels to reflect the origins of the different shipments. According to the Food Marketing Institute, an association representing grocery retailers, it would take about 2 staff hours per store per week to ensure that imported produce is properly labeled. Costs would also be incurred if retailers were required to maintain paperwork at each store as evidence of the origin of these multiple shipments.

It is unclear who would bear the burden of any additional labeling costs. Initially, to ensure that produce is properly labeled, at least some of the compliance costs would be placed on retailers. However, retailers could pass some or all of the costs to their suppliers or to consumers. A country-of-origin labeling requirement may also result in fewer choices for consumers if retailers decide to stock more prepackaged produce, which would already be labeled, and fewer bulk items, which would have to be labeled. Furthermore, if a law required labeling for imported produce only, retailers could decide to stock fewer imported produce items in order to avoid the compliance burden.

[5]Maine also requires packages of Maine apples to state that they are from Maine and potatoes packaged in Maine to be labeled as to their country of origin.

Regarding enforcement, Food and Drug Administration (FDA) and USDA officials told us that enforcing a labeling law would require significant additional resources for this inherently difficult task. FDA estimated that federal monitoring of a recently proposed bill would cost about $56 million annually. The agency enforcing such a law would have to implement a system to ensure that the identity of produce is maintained throughout the distribution chain. While inspectors could ensure that retailers have signs or labels in place and could review documentation—if it were available—they might not be able to determine from a visual inspection that produce in a particular bin was from the country designated on the sign or label.

It is not clear who would be responsible for these inspections. State and local officials now generally conduct grocery store inspections for compliance with federal health and safety laws. USDA officials pointed out that if state and local governments were to carry out the inspections required by a federal country-of-origin labeling law, such a law would have to specify the states' enforcement role and provide funding for enforcement activities.

Of the three states with labeling laws, only Florida's law is enforced. Enforcement is part of Florida's routine state health inspections that are conducted about twice each year in every store. During these routine inspections, officials check the shipping boxes and packages in the store against the display signs or labels—a task they estimate requires about 15 minutes per visit. However, Florida does not require its retail stores to maintain paperwork documenting the country of origin, and inspectors there told us that they sometimes have no reliable means to verify the accuracy of labels. According to the Inspection Manager for Maine's Department of Agriculture, Maine does not enforce its country-of-origin labeling requirements because the list of countries to be identified keeps changing and paperwork to verify the country of origin is often unavailable. According to a Texas Department of Agriculture official, grapefruit is rarely imported into Texas, and the labeling law, which applies only to grapefruit, is not currently being enforced.

A Labeling Law Could Have Adverse Trade Implications

Depending on what it might require and how it might be implemented, a law mandating country-of-origin labeling for fresh produce could have adverse trade implications. U.S. trading partners might challenge the law's consistency with international trade obligations or take steps to increase their own country-of-origin labeling requirements. Moreover, according to

USDA officials, enacting a labeling law could make it more difficult for the United States to oppose foreign countries' labeling requirements that it finds objectionable.

Any labeling law would need to be consistent with U.S. international trade obligations in order to withstand potential challenges from U.S. trading partners. International trade rules that the United States has agreed to, such as those embodied in the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA), permit country-of-origin labeling.[6] For example, WTO provisions recognize the need to protect consumers from inaccurate information while minimizing the difficulties and inconveniences labeling measures may cause to commerce. WTO rules require, among other things, that the labeling of an imported product not result in serious damage to the product, a material reduction in its value, or an unreasonable increase in its cost.[7] Correspondence from the Office of the U.S. Trade Representative (USTR) stated that our trading partners could raise concerns that country-of-origin labeling requirements adversely affect their exports by raising costs.

Similarly, NAFTA requires that any country-of-origin marking requirement be applied in a manner that would minimize difficulties, costs, and inconveniences to a country's commerce. According to USTR and Department of State officials, Mexico requested consultations to discuss its concerns that one recently proposed U.S. country-of-origin labeling bill would violate certain NAFTA provisions on country-of-origin marking.

Officials also noted that countries concerned with a labeling law could take actions that could adversely affect U.S. exports. For example, these countries may develop or more strictly enforce their own labeling laws. Currently, about half of the countries that account for most of the U.S. trade in produce require country-of-origin labeling for fresh produce at the retail level.

While U.S. representatives have worked informally and cooperatively to oppose certain foreign country-of-origin labeling requirements, the United

[6]The WTO was established in 1995, as a result of the Uruguay Round (1986-94) of the General Agreement on Tariffs and Trade. WTO facilitates the implementation, administration, and operation of multiple agreements that govern trade among its member countries. NAFTA is a multilateral trade agreement that contains obligations governing trade among Canada, Mexico, and the United States. NAFTA negotiations began in 1991, and the agreement entered into force in 1994.

[7]In addition, country-of-origin labeling is covered as a technical regulation subject to the WTO Agreement on Technical Barriers to Trade. This agreement provides guidelines for developing and applying technical regulations.

States has not formally challenged any such requirements within the WTO. WTO officials said they were unaware of any formal challenges to any country's country-of-origin labeling requirement. However, USDA and WTO officials agreed that the absence of any formal challenge does not necessarily indicate that existing country-of-origin labeling requirements are consistent with WTO rules. Moreover, the absence of formal challenges to existing laws does not preclude these laws from being challenged in the future. Finally, because the United States is such a large importer and exporter of fresh produce, officials with USDA and the Department of State pointed out that a U.S. labeling law is more likely to be formally challenged than are other countries' laws.

Labeling Would Provide Limited Benefits in Responding to Outbreaks of Foodborne Illnesses

Considerable time—several weeks or months—generally passes between the outbreak of a produce-related foodborne illness, the identification of the cause, and a warning to the public about the risks of eating a certain food, according to the Centers for Disease Control and Prevention (CDC) and FDA officials. By the time a warning is issued, country-of-origin labeling would benefit consumers only if they remembered the country of origin or still had the produce or if the produce were still in the store. Consequently, country-of-origin labeling would be of limited value in helping consumers respond to a warning of an outbreak. Moreover, a law exempting food service establishments from country-of-origin labeling would be of limited value because many identified outbreaks have been traced to food served in restaurants or at catered meals.

Several factors contribute to the delays in identifying causes of foodborne illnesses, including how quickly consumers become ill after purchasing and eating the food and whether they seek medical attention. State and local agencies report known or suspected foodborne illnesses to CDC, which uses this information to identify patterns of related illnesses—outbreaks—and to work with state, local, and FDA officials to identify the source. Once the source is identified, state and local public health officials generally issue a warning to the public if the product is still available in the marketplace. In most cases of foodborne illness, however, officials are not able to identify the specific point at which the food associated with the outbreak became contaminated. Between 1990 and 1998, CDC identified 98 outbreaks of foodborne illnesses linked to fresh produce. In 86 of these cases, the point of contamination was never identified. The remaining 12 cases were traced to contamination in food handling and to seed that was contaminated.

CDC officials told us that country-of-origin labeling might be a starting point in tracing the source of contamination if a person who had eaten a contaminated product remembered the source for that product. However, they said that more detailed information identifying every step from farm to table—for both domestically grown and imported produce—would be of greater use in tracing the source of an outbreak and identifying the practices that resulted in the contamination. CDC officials also pointed out that a country-of-origin labeling law would be more useful to them if it required retailers to keep better records, including invoices and shipping documents. Such records would allow investigators to identify the source of produce that was in grocery stores at a particular time in the past.

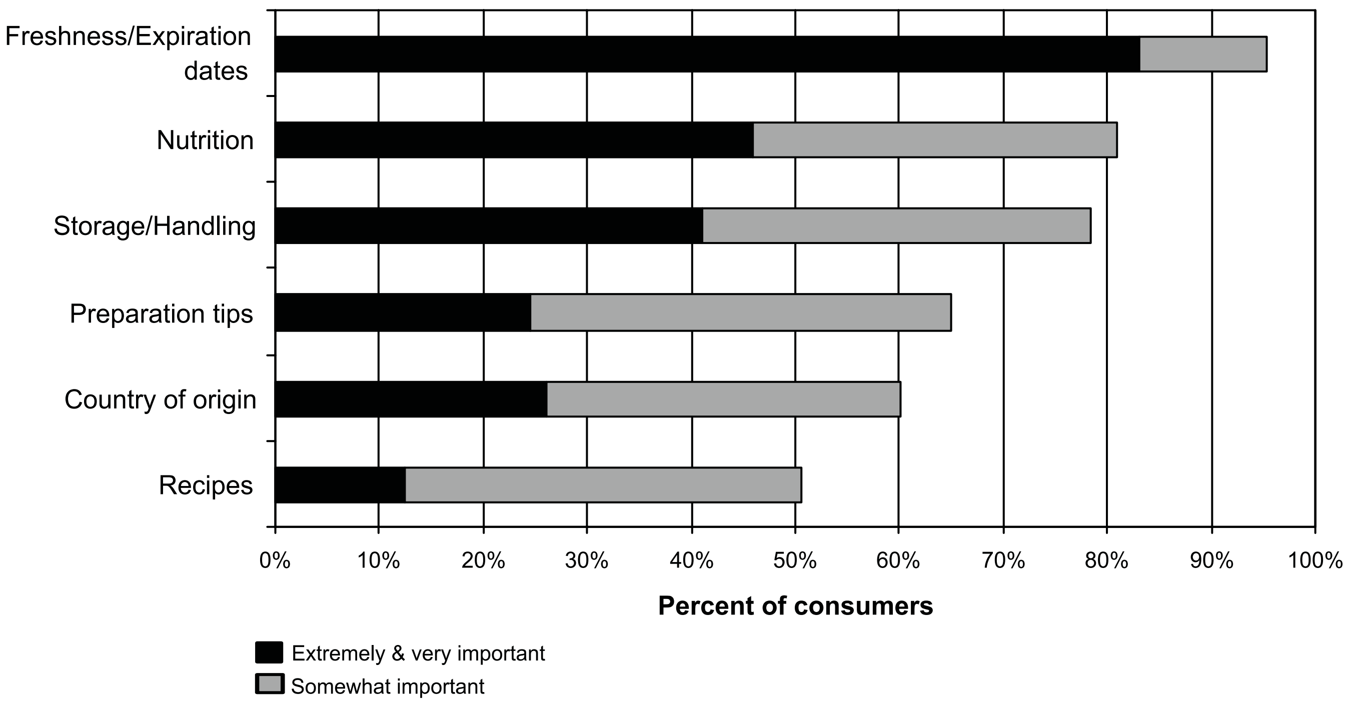
Although Consumers Favor Labeling, Other Information Is More Important to Them

According to nationwide surveys sponsored by the fresh produce industry, between 74 and 83 percent of consumers favor mandatory country-of-origin labeling for fresh produce, although they rate information on freshness, nutrition, and handling and storage as more important.[8] In fact, consumers ranked information on country-of-origin fifth out of the six factors in a 1996 survey, as shown in figure 2.[9]

[8]Based on nationally representative samples of U.S. households: Three surveys were conducted between 1990 and 1998 by Vance Publishing Corporation for The Packer newspaper and were published in its annual supplement, Fresh Trends, and one survey was conducted by the Charlton Research Group in 1996 for the Desert Grape Growers League. For the data we included in our report, we obtained frequency counts, survey instruments, and other documents, in order to review the wording of questions, sampling, mode of administration, research strategies, and effects of sponsorship. We used only the data that we judged to be reliable and valid.

[9]Survey conducted for The Packer newspaper in 1996.

Figure 2: Importance of Different Types of Produce-Labeling Information to Consumers



Source: GAO's analysis of 1996 survey data collected for The Packer, a publication of the fresh produce industry.

Surveys also indicate that most consumers would prefer to buy U.S. produce if all other factors—price, taste, and appearance—were equal. And, one survey found that about half of all consumers would be willing to pay "a little more to get U.S. produce."[10]

However, the survey did not specify the additional amount that consumers would be willing to pay.

In addition, survey responses show that consumers believe that U.S. produce is safer than imported produce; however, USDA, FDA, and CDC officials told us that sufficient data are not available to make this determination. Consumers Union—a nationally recognized consumer

[10]Survey conducted for the Desert Grape Growers League in 1996.

group—has used data collected by USDA's Agricultural Marketing Service to compare the extent to which multiple pesticide residues were found in selected domestic and imported fresh produce.[11] For its analysis, Consumers Union developed a toxicity index, which it used to compare the pesticide residues. According to this analysis, pesticide residues on imported peaches, winter squash, apples, and green beans had lower toxicity levels than those found on their domestically grown counterparts. In contrast, the pesticide residues on domestically grown tomatoes and grapes were less toxic than their imported counterparts. The study acknowledges that almost all of the pesticide residues on the samples were within the tolerance levels allowed by the Environmental Protection Agency. We did not independently determine the validity of the toxicity index developed by Consumers Union or verify its analysis or results. However, according to FDA officials, pesticide residues present a lower health risk than the disease-causing bacteria that can be found on food.

[11] Do You Know What You Are Eating? An Analysis of U.S. Government Data on Pesticide Residues in Foods, Consumers Union, Feb. 1999.

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