

# Washington Report



## Trump, Trade, and Food

Industry seeks clarity amid evolving international trade agreements and domestic policies | BY TED AGRES

**F**ood industry experts and policymakers are having difficulty determining the implications of President Donald Trump's pronouncements regarding foreign trade, including the possibility of imposing tariffs on imports from Mexico, renegotiating the North American Free Trade Agreement (NAFTA), withdrawing from the Trans-Pacific Partnership (TPP), and ignoring rulings made by World Trade Organization.

Adding to the uncertainty, many key presidential advisers and senior agency officials—all with roles to play in shaping food policy—have yet to be confirmed by the Senate. Among them are Scott Gottlieb, MD, a former deputy FDA commissioner, nominated to head that agency, and Robert Lighthizer, a Maryland attorney, nominated to be U.S. trade representative. Sonny Perdue, nominated to head USDA, has undergone hearings in the Senate but, as of publication deadline, had not yet been confirmed. Issues involving food imports, exports, and safety

will likely be impacted by these and other officials.

Questions also surround emerging domestic policies, including a temporary freeze on new and pending federal regulations until reviewed and approved by the Trump administration; the identification of at least two prior regulations to be eliminated for every new regulation issued; the proposed downsizing of the federal government and slashing of non-defense, discretionary budgets, possibly affecting spending for food safety.

In a preliminary budget submission for Fiscal 2018, the Trump administration is seeking \$179 billion for USDA, a \$4.7-billion or 21 percent reduction from 2017's funding level. USDA's Food Safety and Inspection Service (FSIS) would remain fully funded, however. (By law, slaughter and processing facilities cannot operate unless FSIS inspectors are present.) But some external research grants could be trimmed, and the budget "focuses" in-house research funding within the Agri-

cultural Research Service to the "highest priority agriculture and food issues," such as farm productivity, and "addressing food safety and nutrition priorities."

Funding within FDA for the Food Safety Modernization Act (FSMA) and food safety is not specifically addressed in the budget, although funding for the Department of Health and Human Services, FDA's parent agency, would be cut by \$15.1 billion, or 179 percent over the current year. Fiscal 2018 begins Oct. 1, 2017. The White House plans to submit a traditional full budget in mid-May.

Trump has been explicit about his disdain for government regulations which, he says, have impeded business growth and U.S. productivity, and his desire to repeal or trim back rules that are costly or burdensome. Thus far, however, the Trump administration has not indicated how it views FSMA, whose extensive rules and regulations are in the process of being implemented by industry. Most industry experts doubt that the administration would seek to dismantle FSMA, given that its major provisions have already been issued as final rules and that the law was passed with strong bipartisan congressional and industry support.

The White House, however, has not explicitly addressed its overall philosophy regarding food safety. This has left many people sifting for clues. For example, does Trump's well-known preference for burgers and steaks cooked well-done mean that he truly appreciates the importance of proper food preparation and handling to prevent the spread of foodborne illnesses?

Perhaps more significantly, what, if anything, should be made over the Trump campaign's online posting—and prompt removal—last September of a fact sheet that highlighted "specific regulations to be eliminated," including what it called the "FDA Food Police"? The fact sheet claimed the FDA Food Police "dictate how the federal government expects farmers to produce fruits and vegetables" and that federal regulations "greatly increased in-

spections of food ‘facilities’ and levies new taxes to pay for this inspection overkill.” Following publicity, the fact sheet was quickly removed and replaced with one that did not mention the FDA.

### Food and Trade

At the heart of many concerns is how the U.S. food industry may be impacted by major changes to international trade agreements. Trump, both as candidate and president, has made foreign trade a cornerstone of his agenda to strengthen the U.S. economy by promising to make such agreements “freer and fairer for all Americans.” The Trump administration’s trade policy agenda, issued March 1, 2017 by the Office of the United States Trade Representative (USTR), promises “a fundamental change in direction of U.S. trade policy” by focusing on bilateral instead of multilateral negotiations and renegotiating and revising agreements “when our goals are not being met.”

Shortly after assuming office, Trump signed an executive order withdrawing the U.S. from TPP, a trade agreement between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam that had been seven years in the making under the Obama administration.

While noting that Congress was unlikely to ratify TPP in any case, the United Fresh Produce Association urged the Trump administration to “move past anti-trade rhetoric” and begin building consensus for key portions of TPP that would have benefited U.S. growers. These include rules that prevent countries from imposing protectionist measures in the form of sanitary and phytosanitary barriers. Without these, “countries can simply choose to block imports without scientific justification,” said Tom Stenzel, president and CEO, United Fresh.

Most U.S. food-industry related worries, however, surround Trump’s repeated calls to renegotiate NAFTA and impose tariffs of 10 to 20 percent on imports from Mexico and possibly other countries, with revenues to be used, in part, to build a wall on the southern U.S. border. When it went into effect in 1994, NAFTA removed most remaining trade barriers and tariffs from U.S., Mexico, and Canada. The pact has long been controversial due to concerns

of job losses, declining wages, and companies shifting manufacturing to Mexico. Indeed, Trump called NAFTA “the worst trade deal in the history of the country.”

While continuing to bristle over the concept of a border wall, Mexican officials agree that NAFTA needs updating. “NAFTA is a 23-year-old agreement. We need to bring it up to modernity,” said Mexico’s Economy Minister Ildefonso Guajardo at a meeting hosted by the Detroit Economic Club in March. He disagreed with Trump that NAFTA has led to a “massive” trade imbalance, noting that Mexico’s exports to the U.S. in 2016 totaled \$294 billion compared to \$231 billion in U.S. exports to Mexico.

According to USTR, Mexico was the second-largest supplier of imported agricultural products to the U.S. in 2015 (the most recent year available), with goods totaling \$21 billion. Any border tax or tariff would be imposed on U.S. importers, adding to the cost of products as they cross the border, which would lead to reduced company profits or higher consumer prices.

With much at stake, more than 130 U.S. food and agricultural organizations have urged Trump to not abandon NAFTA but to upgrade and modernize it, thereby preserving and expanding its gains. In a Jan. 23, 2017 letter to the president, the groups, organized as the U.S. Food and Agricultural Dialogue for Trade, noted that NAFTA has been a “windfall” for U.S. farmers, ranchers, and food processors, with agricultural exports to Canada and Mexico more than quadrupling in value, from \$8.9 billion in 1993 to \$38.6 billion in 2015.

“With the productivity of U.S. agriculture growing faster than domestic demand, the U.S. food and agriculture industry...relies heavily on export markets to sustain prices and revenues,” said the letter, whose signatories included such trade and industry groups as the American Soybean Association, the Fresh Produce Association of the Americas, the U.S. Dairy Export Council, and Western Growers, as well as food processing companies, including Archer Daniels Midland, Cargill, and Tyson Foods.

### Regulatory, Hiring Freezes

While FSMA itself is unlikely to be affected by the administration’s temporary freeze on new and pending regulations or the two-for-one rule, some FSMA-related is-

ssues might be. They include pending FDA rules for food lab accreditation standards, the posting of recall notices, and traceability regulations for high-risk foods. Other potentially affected actions include a USDA final rule on adding new requirements to the National Organic Program for livestock handling and avian living conditions, and an FDA proposed rule to remove GRAS affirmation for partially hydrogenated oils, according to an analysis by the Covington & Burling law firm. Finally, FDA guidance documents related to the Nutrition Facts Label final rule could also be delayed.

The Trump administration’s freeze on filling vacant federal government positions, announced in January, was having a negative effect on USDA’s FSIS. According to a Jan. 18, 2017 internal message sent to FSIS staffers, the staffing freeze would delay tests of pathology samples submitted to the FSIS lab system for analysis. “AMR-01 and rush cases will be given priority status,” the memo stated, “however, turnaround times and expected to be delayed by at least 24 hours on these samples.” Resolving the matter would depend on staffing of key positions, it added.

But administration staffing at the most senior levels is also causing some concern. Sonny Perdue, Trump’s choice to lead the USDA, was governor of Georgia during the 2008/2009 Peanut Corp. of America Salmonella outbreak, which killed nine people and sickened at least 714 others across 46 states. Two years earlier, under Perdue, Georgia had slashed its food safety budget by 29 percent. The FDA had delegated inspection responsibility to the state, and state officials later said that shortfalls in manpower and funding had hindered their ability to adequately inspect the company.

In March, Trump nominated Dr. Gottlieb to head the FDA. A former deputy FDA commissioner for medical and scientific affairs (2005-2007), Dr. Gottlieb’s experience has been mainly with pharmaceutical discovery, development, and drug approval policies, including design of and requirements for human clinical trials. The extent to which he might be directly involved in the agency’s food portfolio remains unclear, although some previous FDA commissioners had largely delegated food responsibilities to their deputies. ■

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