

Friday, April 12, 2013

The Honorable Tim Kaine
B40C Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Kaine,

As representatives of major agriculture and food producers in Virginia, we are concerned that a proposal currently under consideration by the Obama administration could have potential adverse impacts on Virginia's important agriculture and export industries.

In May 2012 the Obama administration released a draft summary of a "Safe Harbor Proposal" for the Trans-Pacific Partnership (TPP) trade agreement that would allow health authorities in major overseas markets to adopt regulations on certain U.S. products without having to abide by any of the important conditions required for regulations on all other products. We are concerned that a "carve-out" of specific products would establish a dangerous precedent that could lead to exclusion of other Virginia export products in the TPP and future free trade agreements.

For decades trade agreements have allowed "safe harbors" for certain health-related regulations, but only if those regulations were demonstrated to be "necessary" to achieve a legitimate public health policy objective. This requirement prevents countries from imposing unfair trade barriers on U.S. products and ensures that public health regulations are adopted based on sound science and demonstrated outcomes, rather than the narrow domestic trade interests of overseas markets.

However, the "Safe Harbor Proposal" under consideration by the Obama administration does not include this important condition and therefore marks a troubling departure from a long-standing precedent. This proposal could greatly harm Virginia's agriculture and food producers through the adoption of unchecked regulations in overseas markets that lack any demonstrated, scientific basis or positive public health outcomes.

We are deeply concerned that if the United States Trade Representative establishes this new precedent, our trading partners will demand similar "safe harbors" to protect their domestic industries or allow for regulatory experimentation without any of the well-established constraints provided by international rules. As a result, Virginia's agriculture and food producers, and the vital export industry they support, could be threatened by a range of harmful regulatory schemes in overseas markets.

Virginia agricultural producers already face myriad regulatory challenges in foreign countries, some of which are based on dubious, unscientific health-related grounds. Fortunately, existing free trade agreements provide our industries with important protections that ensure the fair treatment of our exports. In 1997, the World Trade Organization (WTO) struck down the European Union's import ban on beef products containing certain growth-producing hormones because the ban violated WTO rules and lacked a proven scientific justification. The WTO issued a similar ruling in 2006, overturning the European Union's moratorium on the approval of new genetically modified organism (GMO) traits in agriculture.

Undermining long-standing rules requiring a scientific basis for health-related regulations would represent a troublesome new direction for international trade policy. This would encourage other countries to exploit "safe harbors" to protect domestic industries against U.S. competition and adopt frivolous regulatory schemes without any scientific basis. Such measures would seriously jeopardize Virginia agricultural producers' access to some of the largest and fastest growing markets for our products around the world.

We urge you to relay our concerns to the Obama administration and underscore the harmful impact the “Safe Harbor Proposal” would have on vital agriculture and food producers in Virginia if included in the TPP. Free trade agreements are intended to open doors to foreign markets, not to close them. Please urge the Obama administration to not proceed with this proposal and focus on protecting the interests of Virginia’s agriculture and food producers.

Sincerely,

Virginia Agribusiness Council
Virginia Chamber of Commerce
Virginia Farm Bureau Federation
Virginia Peanut Growers Association
Virginia Pork Industry Association
Virginia Poultry Federation
Virginia State Dairymen’s Association
Delmarva Poultry Industry, Inc.