



PETER A. QUINTER

Scrap the Bioterrorism Act

Sept. 11 changed the world in so many ways — sky marshals on planes, heightened security at ports and even concerns over the food we eat. Protecting the food supply chain is the stated purpose of the federal government's new Bioterrorism Act. However, its delayed enforcement shows the limits of its effectiveness and demonstrates why it should be scrapped as unworkable.

Although the law took effect on Dec. 12, the Food and Drug Administration and Customs and Border Protection announced they will not enforce the law until March 13.

The reason for the delay in enforcement is simple — only one-fourth of the companies required to register with the FDA did so by the original deadline. If the enforcement began on that date, 75 percent of food and beverages entering the U.S. could have been detained by Customs. Food products, especially perishables, would have been delayed getting to the consumer, and at worst would have had to be destroyed. Even with the delayed enforcement, the food industry predicts food prices will rise in 2004 as a direct result of the Bioterrorism Act.

The amount of food and beverage products imported into the U.S. is enormous. Food cargoes pass through several companies from the time they arrive in the U.S. until the products are purchased by consumers. Following a shipment's path and tracking a massive amount of data will be extremely difficult. Yet the Bioterrorism Act attempts to trace the movement of food by requiring detailed record-keeping for all food

and beverage imports at every juncture.

The record-keeping requirements apply to U.S. and foreign companies. The type of records required to be maintained includes the specific source of the food, a description of the food, the lot or code number, its quantity, its packaging, the date the food was received or shipped, and the name of the company transporting the food to and from the record-keeper.

Despite its complexity, the Bioterrorism Act does not fulfill its promise to add protection to the food supply chain. The existing Food, Drug and Cosmetic Act provided the FDA with legal authority to inspect imported food and trace its source if contaminated. FDA inspectors regularly sample imported merchandise and reject, export or destroy any food not fit for human consumption. But the FDA has no legal authority outside the U.S. to inspect food. That places an enormous burden on the inspectors at U.S. ports of entry.

Furthermore, the new Bioterrorism Act does not contemplate cooperating with foreign governmental agencies responsible for protecting the food supply as the U.S. Department of Agriculture does with meat inspections. Consequently, many countries and entities such as the European Union have objected to the new law and are considering a reverse Bioterrorism Act that would require U.S. companies to register with the foreign country before any food or beverages are exported to the foreign country. This lack of cooperation and retaliation could be the beginning of an ugly trade war involving our most important trading partners.

So, do you feel more secure knowing your food came from a company that has an FDA registration number? Are you satisfied that an importer, who has not properly registered and is found to be the source of contaminated food, will be punished by simply prohibiting him from sending more food to the U.S.? The Bioterrorism Act is one more knee-jerk reaction to the Sept. 11 tragedy. It is an unnecessary burden to the food and logistics industries, an affront to foreign countries, and most important, it will not significantly increase the security of the U.S. food supply. What it will do, unfortunately, is create a non-tariff barrier to international trade, and unnecessarily increase food prices around the world.

Instead of imposing ineffective but bureaucratic and costly regulations, the federal government should build on what already exists. A more efficient, more effective and less costly system would be to encourage and enable the FDA to continue its efforts to examine an increasingly higher percentage of U.S. food imports. And the U.S. government should cooperate with food inspectors in other countries to certify food from their facilities before it's allowed to enter the U.S., just as the USDA does with meat inspections. This is no time to reinvent the wheel.

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