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## Japan

### FAIRS Subject Report

## Government of Japan Prepares Food Safety Proposals

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#### Report Highlights:

Recently 10 consumers in Japan fell seriously ill after eating frozen gyoza imported from China that contained a dangerous level of pesticides. Following this incident, Prime Minister Yasuo Fukuda's office announced that it would seek to implement various new food safety measures. Among these food safety measures are proposals for more comprehensive labeling requirements and increased testing of food imports. These labeling and testing proposals could potentially impact exports of U.S. processed foods to Japan, which were valued at \$3.4 billion in 2007.

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## Executive Summary

In December 2007 and January 2008 imported gyoza, or frozen dumplings, from China that were found to contain dangerous residue levels of the pesticide methamidophos resulted in the serious illness of ten people in Japan. The gyoza incident was for all appearances a result of food tampering rather than a typical food safety violation. Nevertheless, it was viewed by the Japanese media and consumers as a failure of the current food safety system. Following the gyoza incident Prime Minister Yasuo Fukuda called for the creation of a consumer agency, increased food monitoring, and more comprehensive labeling requirements. The monitoring and labeling proposals have the potential to affect U.S. exports of foods to Japan; and in particular processed foods, which were valued at over \$3.4 billion in 2007.

## Background

### *Food Safety Scandals*

Japan has experienced a number of food related scandals over the past several years. Most of these incidents were with foods manufactured in Japan by venerable Japanese companies such as the food manufacturer Fujiya, a cake maker that was using expired ingredients, and Akafuku, a manufacturer of bean-jam sweets that was falsifying production and expiry dates. These food scandals have led to decreased consumers confidence in the food supply. Although mislabeling and food safety are separate issues, the media reports portrayed these incidents as a serious threat to food safety. In order to calm public anxiety, the Japanese government announced that it will take a number of steps to improve food safety.

## Proposed Food Safety Measures

### *Working Groups Formed to Address Consumer Safety Issues*

Following the gyoza incident the Prime Minister established five working groups, including a group tasked with examining food safety, to consider ways of strengthening Japan's consumer product safety system. Members of the food working group consisted of academics, a lawyer and a representative of a consumer group. However, officials from the ministries with responsibilities for food safety were not represented. After deliberating on the proposals the groups sent their recommendations to the Quality of Life Bureau (Kokumin Seikatsu Shingikai) under the Prime Minister's Office, which then submitted a final report in late March to Prime Minister Fukuda. The report called for a number of new measures including creation of a consumer agency to oversee the consumer protection work currently being done in various ministries and unification of multiple labeling laws administered by those ministries into a single law. Two of the proposed measures could potentially impact U.S. food exports to Japan if mandated under Japanese law. The first measure calls for increased testing of imported processed foods and the second for more comprehensive labeling requirements. It should be noted, however, that while earlier versions of the proposals called for labeling proposals to be mandatory the final version of the Prime Minister's report acknowledges the need for compliance with international standards, calling for proposed guidelines that would be voluntary.

For more information please see the provisional translation of excerpts taken from the report in [GAIN JA8003](#).

## Consumer Agency

The most extensive proposal in the report calls for establishing a new consumer agency to oversee the work currently handled by multiple ministries. The government of Japan would have to address many regulatory obstacles before this proposal could be implemented; for instance, it is unclear at this time whether these consumer protection functions would remain in their current locations in the ministries or be consolidated into a single organization. It is also unclear whether the body would be a full ministry or a smaller organization. As a first step to creating the body, on February 19, Prime Minister Fukuda appointed Fumio Kishida as State Minister for Consumer Affairs. It is expected that the Prime Minister will also appoint Mr. Kishida as Minister of the proposed consumer agency if the new organization is eventually approved by the Diet.

### *Hazard Reporting (Alert) System*

The gyoza incident highlighted problems with hazard reporting in Japan. Due to the year-end and new-year holidays government offices were closed and there was a delay in reporting the initial incident between agencies, allowing the incident to spread. The public health center where the original incident was reported in December did not alert MHLW for about a month after the initial outbreak. To address hazard reporting problems the government has proposed establishing director-general level positions in MHLW, MAFF, Ministry of Education, Culture, Sports, Science, and Technology (MEXT), and the Cabinet Office to be known as Food Safety Hazard and Information Control Managers that will oversee distribution of information related to food borne illness. The officers will report to a Council on Food Crisis Information that will manage a new food safety information system. In addition, public health centers will be required to be open 24-hours a day. Prefectural governors will be required to notify the health minister when there is a case of poisoning. In order to address consumer safety problems with imports, a Food Safety Officer has also been placed in Japan's embassy in Beijing.

### *Increased Food Import Monitoring*

MHLW recently announced its intention to increase testing for all imported foods. However, Japan already has a very strict agrochemical testing system in place. Furthermore, the current system unfairly tests imported foods much more extensively than domestic products and increased testing would probably widen that divergence.

However, there are limits on how much MHLW's quarantine officials can increase testing. MHLW has had difficulty meeting current monitoring requirements due to a lack of human resources and equipment. Consequently, the Japanese government has called for increased voluntary testing. Since the food industry would be required to pay for voluntary testing the cost would ultimately be paid by consumers. These guidelines despite being voluntary would create demand and expectations that the product be tested by the food industry regardless of whether good manufacturing practices ensuring food safety are already in place.

On February 19, 2008, MHLW notified quarantine offices of a new policy requiring inspection of processed foods for agricultural chemical residues, specifically targeted at organophosphorous pesticides (Please see GAIN [JA8009](#)). Prior to the gyoza incident processed foods were not tested for chemical residues. Part of the reason for this was that processed foods often are intensely treated with heat or water during the manufacturing process, which generally reduces the chemical content in the product. Testing processed product requires that the lab must first determine the number of different ingredients and the quantities of each ingredient found in these complex foods. Food manufacturers often vary ingredients so for the lab to properly test the product the manufacturer would have to

provide detailed information to the lab; creating the burden of extra record keeping. Since the ingredients of the product are generally blended for testing the lab would not be able to tell which substances were used on which ingredients and therefore would have to verify that the substances were approved for use on all of the ingredients contained in the product. Processed foods currently do not have established MRLs in Japan. Setting up such standards and regulations for processed foods would be difficult.

### *Labeling*

The Prime Minister has called for consolidating the five current labeling laws that are overseen by different ministries into a single law. Three laws on food labeling are referenced in the report including the Food Hygiene Law, the Japan Agricultural Standards Law, and Health Promotion Law. Other laws with relevance to labeling include the Unfair Competition Prevention Law, the Law against Unjustifiable Premiums and Misleading Representation and the Measurement Law. In order to further discourage deceptive labeling the government of Japan has discussed requiring companies that are found to have falsely labeled product to have profits made from such labeling impounded.

Currently Japan's labeling laws require all food imports to bear place of origin. However, ingredients used in processed foods manufactured in Japan have been exempt from origin labeling except for 20 designated products (these 20 products include only minimally processed items such as salted fish). The new labeling proposal calls for either more or all processed foods to label the place of origin for ingredients (Please see GAIN [JA8002](#) for more details).

One labeling proposal calls for processed foods to list more or all of the ingredients they contain on the label possibly including even those ingredients in very minute amounts. For products with many ingredients this is impractical and contrary to Codex regulations, which require listing only those ingredients that make up half or more of the product.

Another labeling proposal calls for certain perishable processed foods to replace "best before" dates with "use by" dates. However, "use by" dates are not approved under Codex. The reason is that "use by" dates are not accurate for certain items such as pouch or canned foods that last longer depending upon storage conditions. Another proposal would require date of manufacture, which was banned internationally in 1995 in acknowledgment of the fact that consumers tend to discriminate against foods that have older dates of manufacture. The "use by" date can also be a disadvantage to imports because they generally take longer to ship and thus have less time remaining before they would have to be consumed. Requiring that processed food products bear two different kinds of date marking on a label would be confusing to consumers.

Stricter labeling requirements create an extra burden for food processors that generally purchase ingredients from a number of different countries depending upon factors such as season, price, and supply. These companies would have to bear the extra expense of constantly relabeling products. Japanese regulators argue that consumers should have as much information as possible; however, in reality this kind of regulation encourages consumers to base choices on the incorrect assumption that domestic foods are safer than imported foods, despite imports in general having undergone greater scrutiny than domestic products.

## Conclusion

### *Impact of the Proposals on Imported Food*

The import monitoring proposals are allegedly intended to provide greater benefits to consumers. However, food imports are already undergoing rigorous safety checks and further testing would only marginally increase food safety. Stricter labeling would provide no real benefits to consumers in terms of safety. At the same time the proposals would increase food costs for the consumer by requiring extra labeling and testing of products bound for the Japanese market. They also could negatively affect imported foods by allowing consumers with preferences for domestic foods to more easily identify processed foods containing imported ingredients. Such foods make up a significant portion of foods manufactured in Japan including many items that contain U.S. soybeans, corn, and wheat. In order to see what kind of effect consumer preferences for domestic foods can have on imports one need only look at the example of the gyoza incident. In the month following the poisonings, food imports from China were down as much as 30% from a year earlier. Although the impact has mainly been on Chinese foods a future food safety incident could significantly affect other imported foods. Furthermore, increased testing and more comprehensive labeling requirements will be a disincentive for the U.S. food industry to supply products to Japan.

### *Next Steps for the Proposals*

Now that the Quality of Life Bureau has submitted the proposals to the Prime Minister they will next undergo vetting with related ministries before being introduced as legislation. It is expected that the proposals could be sent to the Diet for deliberation as soon as the extraordinary session later this year. Many of the recommendations contained in the report are for voluntary guidelines rather than mandatory requirements. However, the form the final proposals will take still remains uncertain. Earlier versions of the report contained proposals that would not conform to international practices under Codex. Although the current version seems to be more trade friendly, it remains very important for the government of Japan to notify the World Trade Organization of any new food laws or any modifications to the current law. Japan should also open a public comment period to give stakeholders an opportunity to provide comments regarding the proposals.