

THE FUTURE LEADER
—The First China International Legal Elite Camp,
Renmin University of China, Beijing, China

Theme Salon Project
— — **Food Safety Law Among Asia-Pacific**

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Food Safety Law Among Asia-Pacific

Introduction

Since the conclusion of Uruguay round of multilateral trade negotiations in 1994, the development of new international trade rules has shifted from global to bilateral and regional agreements. Bilateral agreements greatly outnumber regional ones, but there is now intense interest in the latter, especially in the Asia-Pacific region. The trans-Pacific Partnership(TPP), now in the negotiation, could become the first significant regional agreement in the Asia-Pacific since the North American Free Trade Agreement(NAFTA)was concluded in 1992. Another “Asian track”of regional initiatives is also in negotiation in Northeast and Southeast Asia.

In the context of expanding global food trade, insuring safety of imported food products is an essential requirement for the stable food trade relations as well as for the people's health and life. Study conducted by the World Bank in 2005 shows that food safety has become major concern of international consumers thus one of the key factors in competitiveness in international consumer markets, especially in developed country. Meanwhile, trade conflicts caused by difference in food safety regulations have become one of the biggest issues in the recent international trading system.

China, who has become world's top exporters of agricultural food products, has suffered from infamous reputations of its food products due to a series of violations of the food safety standards set by its trade partners. For example, from August 2002 to July 2003, the US Food and Drug Administration (US FDA) refused 1,285 shipments of Chinese food products, of which 630 were agricultural and aquatic products that violated the food safety standards of the U.S. in use of chemical substances. In 2002, the European Union (EU) banned all food product imports of animal origin from China following a discovery of veterinary medicine residues in products imported from China. In 2005, after Malachite green, a cancer-causing substance was found in Chinese farm-raised, Japan, South Korea and Hong Kong suspended their imports.

To make matter worse, China caused domestic food-poisoning incident in 2008, when melamine contaminated milk powder killed 6 infants and sickened 300,000 kids in China. The incident was widely reported

internationally as tainted milk incident and received considerable attention. Consequently, the international consumers have become more concerned and skeptical about the safety of the Chinese food products.

We will discuss Japanese law and Chinese law, and see what we can learn from them as well as how we can integrate each other.

Japanese Law

I will introduce about Japan's food safety laws. The first is the Food Sanitation Law. The purpose of this law is to prevent the occurrence of diet and health hazards and to improve and promote public health, implemented from 1948. This law relates to the content, including food, food additives, direct contact with food and food additives utensils, containers and packaging on the sale or use of hazardous substances prohibited, the benchmark specification settings, which means that the benchmark, advertising, inspection, business and so on. For example, in Japan, food processing and handling of goods must be kept sanitary, clean condition, may not be sold corruption and contaminated food, processed foods not use these things, these things may not be imported. In addition, patients may not be sold MHLW order specified diseases of beef, pork, milk, etc., for the import of meat and meat overseas products, if not by the exporter of record government agency issued a certificate of health matters, can not be imported.

If you violate this law will be fined 2 million yen (about 140,000 yuan) a fine or two years' imprisonment.

The second is the Food Safety Basic Law. The law was enacted in 2003, which aims to promote food safety to ensure that the overall strategy and restore the trust of the food administration. This is the background of the legal system in Japan, in a series of food safety problems caused by social unrest, which include the occurrence of BSE, pesticide residue problems, false identification, and circulation of genetically modified foods.

Under the Act, the Food Safety Commission Cabinet Office internal settings for food risk assessment (evaluation of the health effects of food). In addition, it and consumers, manufacturers of information exchange. MHLW launched various food safety measures. For example, radioactive substances

countermeasures. Set radioactive substances in food standards, and to check if there is excessive phenomenon, to take other measures to stop shipment.

In addition, as the BSE measures in Japan in the latest scientific findings, based on the overall BSE measures are improving. Japan's own production of grain ratio was only about 40%, a variety of food from around the world, a wide variety. MHLW quarantine stations set up nationwide 32, of imported food inspection and monitoring to ensure safety.

There are also provisions in the Food Sanitation Law, said that the quality of Japanese food has a mandatory obligation. JAS law's main provisions of forestry and water quality standards and product representation obligations, its laws enacted in 1950, the 2009 changes.

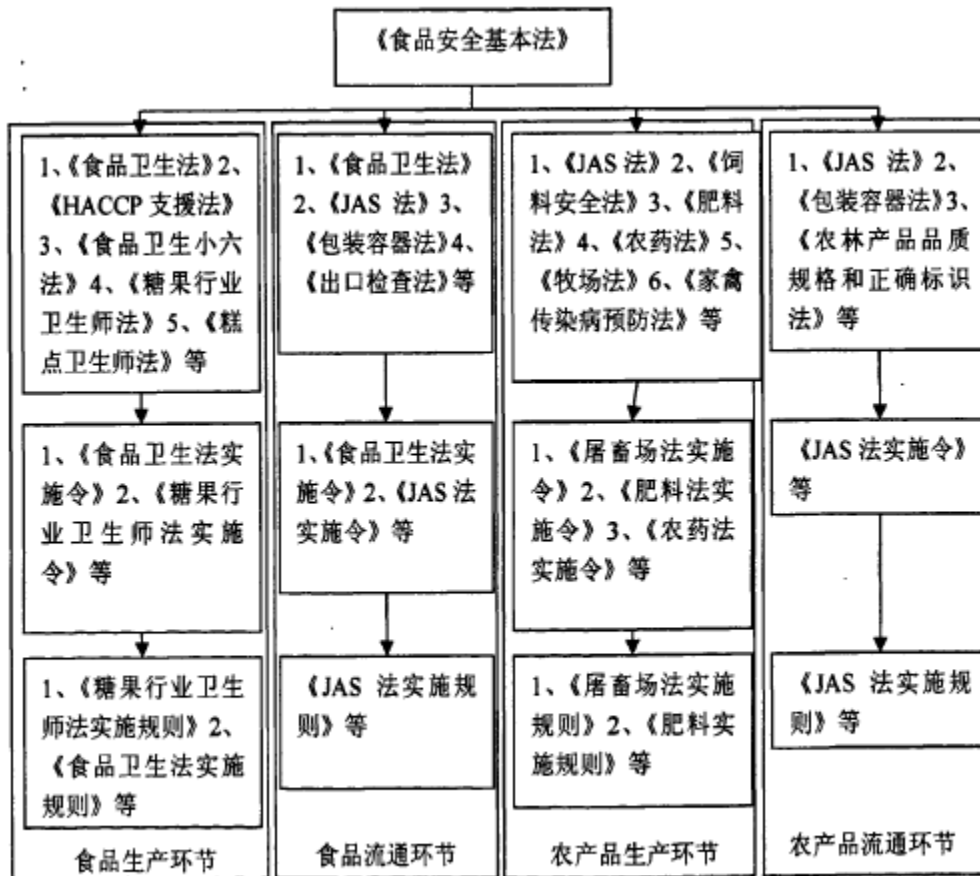


图 2.2 日本食品安全法律体系

Comparison of Chinese law and Japanese law on food safety issues

Legislative background

The first stage, based on the main stage of food management. This stage is usually at the level of food production

For backward period. This period is focused on the management of food production and marketing, banning personal health hazards

Health foods eliminate shortcomings. Developed countries like Japan because of production levels and enterprise system management is the first into such problems have not developed the main contradiction of food safety. However, China is vast, regional economic differences, some economically backward areas in the food safety system and the management of imprecision makes such food safety problems still occur as described above.

The second stage, the food hygiene management phase. This stage is characterized by the lack of institutional constraints, a body in order to seek to maximize their own interests, even against ethics, law, food safety issues in this period explosion hair. Such as Japan occurred Morinaga milk arsenic poisoning, mad cow disease event, China's Jinhua ham dichlorvos things Parts, toxic milk powder incident in Fuyang, etc.. This is the basic idea of Legislation during the stay in the management of food hygiene for food Security risk management and inadequate attention to prevention science, especially for food safety risk assessment, food safety standards Standards and inspection requirements there is a big loophole.

The third stage, focus on food safety phase. This stage is the most important feature from a focus on food hygiene to the concept of conversion of food safety that will protect consumers' health a priority position, the introduction of risk analysis of the square method for risk assessment and risk management. This stage of the legal regulation to expand the scope and content, covering the inner More and more content, but also the creations of a new system, such as a series of food recall system.

Legal Principle

As can be seen from the above description of China's food safety law principles and legislative principles big Japanese food safety legislation To still the same. From the management principles of the law is concerned, China's food safety regulatory body requirements set Division of powers should be exercised in accordance with laws and acts. China's food safety law does not rank on the Food Safety Commission Be set right. If you later abuse of food safety committee members, there is no law to punish basis.

Corresponding to the principles of rule of law principles in Japan. Japan's food safety law from the laws, decrees, departmental order to the large number of local regulations, etc., but in the administrative organization, profit or loss and other aspects of administrative action to achieve a legal retained beyond the law decrees have legal basis. Japan's food safety law principles and duties the whole country is relatively similar regulatory principles. Because food security involves "from farm to table" the whole food the entire process chain, not a department alone can solve, the need for coordination and cooperation between departments. Two food Security Act are responsible for determining the system requirements. Japan's Food Safety Law emphasized the role of consumers, and our laws just casually wrote the public on food safety supervision. No consumer attention like Japan the role of those charges. Japan's Food Safety Law Consumers should strive to learn and master the knowledge of food safety, and can enough of food safety policy put forward their views and suggestions, to play its positive role in promoting food safety.

Japan's food safety law in open and participatory principles and the principle of openness and transparency of the information bit same. Both emphasized the same point is the information public. The difference is that Japanese food safety law principles also emphasize participation. Japan's "Food Safety Law" Article 13 provides that, in the development of food safety policy should be to ensure fairness and transparency, National policy should disclose relevant information, and to allow citizens the opportunity to present views on policy, and urged the phase relevant units and personnel to exchange information and opinions with each other, making the national consensus to reflect on the development of policies.

In the Food Safety Commission and other council, there should be appropriate consumer representatives.

Legal System

(1). Imperfect legal system

First set up in the law, our 1982 trial "Food Sanitation Law", June 1, 2009 start implementation of the "Food Safety Law"; while Japan in 1947 on the establishment of the "Food Sanitation Law", enacted in 2003 and implementation of the "Food Safety Basic Law." Seen in the construction and implementation of the law on Japan has been walking in front of the surface. This also means that Japanese management of food safety laws decades earlier than us, which makes Japanese food Safety and legal system more perfect and more experienced.

Table 2.1 pairs through the main food of Japanese laws comparison, it is clear that gap. Country's laws and regulations both in the number of legal provisions, or coverage, are not meticulous finish of Japan good. Meanwhile, in other areas such as additives standards, pesticide and veterinary drug management, animal and plant inspection and quarantine, the Japanese

This is the law of all laws and regulations only. Both in the legislative and legal documents intensity level has a significant difference distance, our legal system, there are many such loopholes and gaps. As well as Japan has systematically began formal. This advanced implementation of HACCP food safety management. China is still in an exploratory stage. Furthermore, Food safety risk assessment system is still lacking relevant laws need to be further supplemented and improved.

表1 中日食品安全相关法律专门性对比^①

对比方面	中国	日本
食品安全专门法律	无	《食品安全基本法》
	《食品卫生法》	《食品卫生法》
	无	《农业土壤污染防治法》
	无	《JAS法》
	《农药管理条例》	《农药取缔法》
	《兽药管理条例》	《兽药取缔法》
相关对应的专门法律	《饲料和饲料添加剂管理条例》	《饲料安全法》
	无	《肥料取缔法》
	《生猪屠宰管理条例》	《屠畜场法》
	无	《禽类处理法》
	《动物检疫条例》	《家畜传染病防治法》
	《植物检疫条例》	《植物防疫法》
	《进出境动植物检疫法》	无
	无	《HACCP支援法》

(2) Do not cover "from farm to table" the whole process

As can be seen from Table 2.2, China's agricultural production safety supervision laws lacks, though Has promulgated the "Measures for the Administration of pollution-free agricultural products," "Organic Food Certification Management Regulations", "green label Zhi management approach "and other departmental regulations, but have not been able to form the law. In addition, existing agricultural veterinary drugs and animal feed Also a lack of legal norms. The Japanese production and circulation of agricultural products and food processing and distribution in both phases Legal norms should be.

表 2.2 中日食品链各环节法律比较

环节	中国	日本
食品生产	《食品生产加工企业质量安全监督管理办法》 《食品添加剂卫生管理办法》 《食品卫生监督程序》 《糖果卫生管理办法》 《食品卫生许可证管理办法》	《食品卫生法》 《HACCP 支援法》 《食品卫生小六法》 《糖果行业卫生师法》 《糕点卫生师法》
食品流通	《流通领域食品安全管理办法》 《定量包装商品计量监督规定》 《集贸市场食品卫生管理规范》 《铝制食具容器卫生管理办法》	《食品卫生法》 《JAS 法》 《包装容器法》 《出口检查法》
农产品生产	《农业法》 《无公害农产品管理办法》 《绿色食品标志管理办法》 《生猪屠宰管理条例》 《水产养殖质量安全管理规定》 《有机食品认证管理办法》 《农药管理条例》 《兽药管理条例》	《JAS 法》 《农药法》 《肥料取締法》 《饲料安全法》 《家畜传染病防治》 《植物防疫法》 《屠宰场法》 《禽类处理法》
农产品流通	《农业法》 《粮食流通管理条例》	《JAS 法》 《包装容器法》 《农林产品品质规格和正确标识法》

(3), the law is not timely updates

With the continuous development of society changes, various kinds of problems. The need for timely updating of the law. China's "Food Sanitation Law" 1982 trial, in June 2009, "Food Safety Law" was promulgated. During the construction of food safety laws are not many, can only rely on regulations to supplement, which led to China's food safety law Law lags behind the development of the times, can not meet the need of reality. However, Japan's "Food Sanitation Law" from 1947 Was enacted to today, has been amended 11 times, a serious problem in the food safety during the revision will become more frequent, a few Amended once almost every year, as in 1998, 1999, 2002, 2003 have been modified.

In recent years, the growing problem of food safety, a variety of new problems emerging, which also requires China's food Safety laws with the times, it is necessary to food safety should be accelerated construction law and related laws.

What can we learn from Japan

As we all know, food safety is closely related with people's lives and health, food safety incidents handled properly to develop as a major social impact of public events. In China, in recent years, a spate of major food safety incidents

Therefore, to the community as well as nationals brought bad influence. In this paper, learn from Japan's experience in food safety supervision Basis, make the following revelation.

1. Improve food safety laws and regulations

Although China has promulgated the "Food Safety Law" and other relevant formulated foods Safety laws and regulations. However, these existing laws and regulations are still many shortcomings, it is necessary to carefully Clean-up, integration of various laws and regulations relating to food regulatory elements to achieve legislative and law enforcement to reduce and avoid The conflicting purposes. To properly solve the problem of chaotic legal system, as far as possible the harmonization of laws and Integrity. Meanwhile, in building the legal system and improve the food safety process, should reflect the "Japanese Food Safety Basic "and" consumer preference, national health first "basic idea and build gradually build" from the farm Field to fork "food safety laws and regulations.

2. Constructed to prevent food safety system

Japan's food safety law the most significant feature is the introduction of risk assessment methods, and Japanese food safety The Committee is an independent risk assessment body, improve the scientific risk assessment and neutrality. Country risk Rating agencies - the Food Safety Commission, its functions content, and Japanese Food Safety Commission has Essential differences. China's Food Safety Commission proceedings were characterized as coordination department, and no separation of risk assessment and risk management but rather a combination of both functions. Risk assessment in order to maintain the professionalism and neutrality, Must implement risk assessment and risk management, separation, China's food safety committee should be directed to the Prime Minister Responsible for the risk assessment function independently and will assess the results of the report to the Prime Minister and other food safety Regulatory agencies, by the specific risk management authorities to provide corrections in accordance with its reporting modify their regulatory measures.

Therefore, how to implement risk management and risk assessment of the separation of functions, which play True Food Safety Commission Positive role in China's food safety regulatory reform next step that should be addressed.

Meanwhile, China is still the implementation of HACCP management system stage, it should be incorporated as soon as possible HACCP China's food safety legal system, establish control procedures and effective oversight of these control measures, so that the food safety Full to minimize the risk of harm is possible.

3. Improve our system of laws and regulations, food safety standards

Japan has established a broad range, a large number of scientific, advanced food safety standard system, and from a Begin to develop food standards, attaches great importance to international standards, focusing on foreign advanced standards of reference and compliance standards.

However, only about 40% in our country adopted national standards with international standards, international standards, or fairly. From Aspects can be seen, the coverage of international standards is not enough, there is a big gap with the developed countries. "OffTo crack down on illegal food to add behavior to strengthen food additive regulatory notice "is also proposed to improve the food Additives standards, strict audit requirements of the Ministry of Health to develop national standards for new varieties of food additives, 2011 Before the end of the year to develop and publish complex common safety standards of food additives and food additives labeling standards. Because This according to the international Codex Alimentarius standards, to build a perfect system of quality standards for food safety. This Samples can effectively guarantee the safety of domestic food, but also can prompt us to accelerate hair green food industry Show.

Trade between Japan and Asia

China's Growth in the Agricultural Food Exports

China, a large country with a population of 1.3 billion, has experienced a rapid economic growth, with an annual average growth rate of 9.7% in GDP (gross domestic product) from 1978 to 2006 and played an important role in the global economy. The world's agricultural products market is one of the sectors in which China has played a significant role. One of the major factors of the growth is its entry to the WTO in December 2001. As shown in the Figure 2, China has very sharply increased agricultural imports and exports since 2001. China's total food exports reached 24.17 million tons in 2006, which is US \$26.7 billion in value.

Since its entry to the WTO in 2001, China has experienced several rejections of its food products. Most refusals are due to violations of food safety standards, the SPS measures. Among three categories of the food safety risks introduced above, China's food product imports mainly suffer from the SPS measures that regulate violation of the second category, chemical contamination: excessive pesticide residues, low food hygiene, unsafe additives, misuse of veterinary drugs, and other unacceptable ingredients such as unsafe color additives (Becker, 2008:

The import bans that resulted from the violation of safety standards have brought impacts on China's agricultural food exports. In 2001, about US\$7 billion worth of Chinese exports were affected by SPS measures (Chinese Ministry of Commerce, 2005).

Furthermore, the Ministry of Commerce of China reported in 2007 that annual loss of its exports due to the violation of the SPS measures has been US\$9 billion (Dong et al., 2007: 19). Empirical research has shown the negative and statistically significant effect of the higher food safety standards, which are imposed by importing countries, on China's exports of agricultural products (Chen et al., 2008: 101).

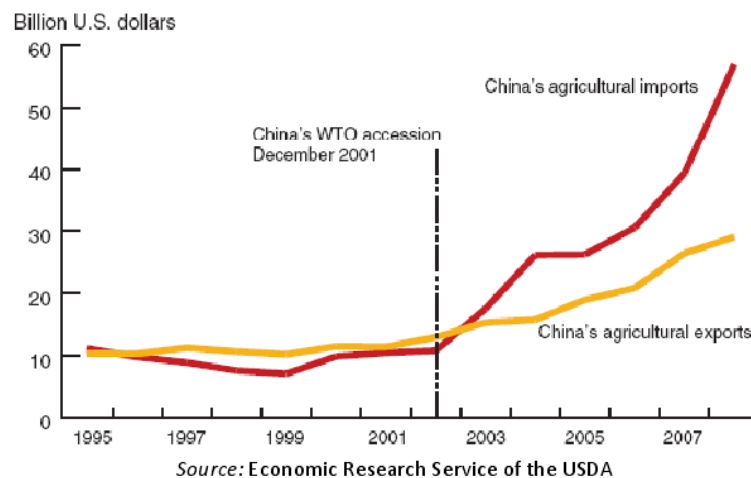
China's Dual System in Vegetable Production

Rapid rise of Chinese agricultural export and a series of trade conflicts due to the violation of the safety standards attracted several studies on the Chinese food safety system.

When arguing food safety system in China, it is important to emphasize its dual system. In general, China has two market segments for vegetable productions. The food safety control systems for these two markets are different (Zhang et al., 2009: 105) The first segment is the domestic-market, where more than 99 percent of production volume goes, which requires lower level of quality and safety. China produced 540 million tons of vegetable in 2003, and 535 million tons went to domestic markets (World Bank, 2005: 12 and Calvin et al., 2006: 17). The other segment is the export-market where the production suppliers are limited due to high-standard product quality and safety requirement (USDA, 2003:11)

Scholars have argued that the food safety of vegetables produced for export, especially those for markets in developed countries, is higher than for the domestic market, especially since 2002 (Calvin et al., 2006: 21, Chen et al., 2003:4, Oshima, 2004: 10, and World Bank, 2005: 32)

Figure 2: China's agricultural import and export value from 1995 to 2007



Japan's Vegetable Import from China

Japan, which has been the world's largest net importer of food products, has increased the volume of vegetable product imports from 1.1 million tons in 1990 to 3 million tons in 2000 (the NIFILW and Oshima, 2004: 2). China's

share of these imports has increased since the early 1990s, growing from 40 percent in 1994 to 50.7 percent in 2001, and it reached to 80% in 2007 (Martin, 2007: 5 and Dyck et al., 2004: 68) The increased volume of vegetable product imports from China can be explained by the heavy investment in its vegetable processing industry by the Japanese food processing and restaurant-chain industries, which are the biggest users of imported vegetable products. These investors are attracted by Chinese vegetable processing industry, which is able to produce convenient vegetable products in cheaper prices, due to the following four factors. First factor is China's geographical proximity to Japan, the second is its low labor cost, the third is its low production cost, and openness to the FDI (Foreign Direct Investment) is the fourth factor (Chen et al., 2003:4, Calvin et al., 2006: 18, and Oshima, 2004: 8)

To take advantages of its geographical proximity, more than 65% of China's total vegetable exports are produced in six province of coastal region shown in the Figure 3. Shipping estimates from China to Japan is five days while it is 21 days from the US (Chen et al., 2003:3)

Most of the export companies in the coastal region producing vegetables to Japan are joint venture of Japanese importing companies and Chinese exporting companies, or branch of Japanese importing companies. China's low labor cost is advantage in the processing labor intensive "value added processed products," which are popular in the Japanese consumers and food-related industries. For example, onion, one of the top vegetable products imported from China, is imported to Japan with its skin peeled off for convenience (Chen et al., 2003:4). As for the production cost, cost of producing onion in Chinese farms is much cheaper than those in Japan and the US farms as seen in the Table 1.



Table 1: Cost of Producing Onion (per hecter in US dollar)

Japan (Hokkaido)	The United States (Idaho)	China (Shandong)
\$20,901	\$5,110	\$3,650

Source: Chen et al., 2003

How to integrate the food security of law of Asia?

We have two presumptions.

The first model is to enact a universal law. It is the highest legal integration. However, it is problematic. First, a universal law is not practical in the near future. Because there are still too many difference of the domestic regulations in relation to food safety protection in China, Japan and other Asian states. The levels of food safety laws are very different. Second, it is not need to rigidly uniform all regulations in detail. As we know, Europe Union has already been a Community and the provisions of food safety are harmonized in the EU member states. However, their member states can make their domestic laws to food safety as long as the regulations can comply with the Food Safety Basic Law (Regulation EC. No. 178/2002) which is the base of the food safety system of the EU. Besides, the universal law method may have some other problems as well.

The second model is to harmonize the food safety law by reaching some general regulations and enhance transnational cooperation among Asian states. As is said in China, “same but not exactly the same“, which means harmonize but keep divergence. We can reach some common values and principles. In specific, establish mechanism of regional negotiation and cooperation. In addition, the states can enhance cooperation on international technology of food safety and information management, especially provide the technology supports to improve the level of management of food safety in all of the east Asian countries. Besides, we can restrict developed countries’ trade protectionism by making multi-national rules in relation to food safety and technical barriers to trade. Lastly, we can set regional authority in Asia to govern food safety issues and alarms.

Japan and China should continue to have regular bilateral discussion in order to have technical exchange toward mutual understanding, thereby maintaining mutually-beneficial trade relations. In October 2009, the former Japanese Prime Minister Hatoyama Yukio and Chinese Premier Wen Jiabao met in Beijing and agreed to take a joint initiative to assure the food safety of imported food from China. In May 30 2010, both leaders signed a food safety agreement which allows both countries' officials conducting on-site inspections of food processing plants. With more cooperation on establishing effective food safety system, the stable environment can be established in the food trade of China and Japan.