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Consumer Affairs Agency Begins Operation

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Report Highlights:

On September 1, Japan began operating a new Consumer Affairs Agency (CAA), which will administer consumer protection issues. The CAA will have about 200 permanent staff drawn from related ministries and for will be responsible for labeling policy and oversee communications on product safety incidents.

Executive Summary:

The Diet on May 29, 2009 approved bills establishing a Consumer Affairs Agency (CAA) which will administer consumer protection issues. As of September 1, the Agency began officially operating with about 200 staff from the Cabinet office, Fair Trade Commission, Ministry of Economy, Trade and Industry (METI), Ministry of Agriculture, Forestry and Fisheries (MAFF) and Ministry of Health, Labor and Welfare (MHLW) and other ministries. In addition, 60 temporary staff will be appointed from the public sector including attorneys, consumer affairs consultants and academics. The CAA is placed under the Cabinet Office, and Consumer Affairs Centers nationwide will oversee information about product-related accidents and complaints. The Consumer Affairs

Committee (CAC) will be established at approximately the same time to monitor the CAA. The CAC will be an independent body from the CAA with equal status. The CAC has authority to request information and reports from the ministries and will make recommendations for crisis management of specific incidents under the Prime Minister's office.

General Information:

For over a year the government of Japan (GOJ) has been considering the creation of a new governmental body to administer consumer protection issues. The CAA will have jurisdiction over 29 consumer related laws including the Food Safety Basic law. The idea was initially proposed during Prime Minister Fukuda's administration and was carried over to Prime Minister Aso's administration although it has been modified slightly from previous plans in order for the Liberal Democratic Party (LDP) to reach agreement with the opposition Democratic Party of Japan (DPJ). Since the DPJ has now gained a majority of seats in the Lower House of the Diet as of the August 31, election there is some questions about how the CAA will develop under a new administration. The proposed CAA would cover a range of consumer issues including financial fraud, defective products, and product labeling. The agency would be linked to the Consumer Life Centers located under local governments and would act as a control tower for communications regarding consumer safety and health problems. In regards to foods, the agency is slated to bear responsibility for labeling and would allow GOJ to provide a rapid response to food safety incidents. These labeling measures could also have relevance for imports of U.S. foods and particularly processed foods, which were valued at over \$4.6billion in 2008.

Here is an overview of the proposed agency:

- CAA will compile and integrate information from CACs and conduct surveys and analysis.
- CAA will make recommendations to each ministry acting as the headquarters for administration of consumers' affairs.
- CAA will be tasked with creating new labeling laws that will help overcome the sectionalism associated with the current administration of multiple laws by multiple ministries.
- CAA will handle laws related to consumer affair.
- CAA will request corrective measures based on the Consumer Safety Law, and accommodate problems which are not currently being handled by any ministry.

Enforcement (investigation)

Consumer Affairs Committee (CAC)

- The committee members will be at most 10 person and they will work part-time. Three of them will be able to work full-time.
- CAC can exercise authority independently.
- CAC can submit a recommendation of important issue to ministries, CAA and the PM.
- CAC can request information from administrative agencies.
- CAC can directly submit recommendations to the PM and the PM can then request corrective measures to relevant ministries.

Structure of the agency

The CAA would be an external organ of the Cabinet Office. As such it would have the authority to act on behalf of the Prime Minister's Office. There are no indications that GOJ intends for the CAA to be a food safety agency although there have been many rumors. Currently the plan is for the CAA to house about 200 staff drawn from within the divisions in the ministries holding related consumer responsibilities such as the labeling division of MAFF. With a relatively small staff it is unlikely that the CAA would be able to handle anything beyond coordination with relevant ministries on food safety issues. Initially there was talk of the Food Safety Commission (FSC) being part of the CAA but it has been decided that they should remain separate although they will likely share the same minister.

Food Safety and Fraudulent Labeling Incidents

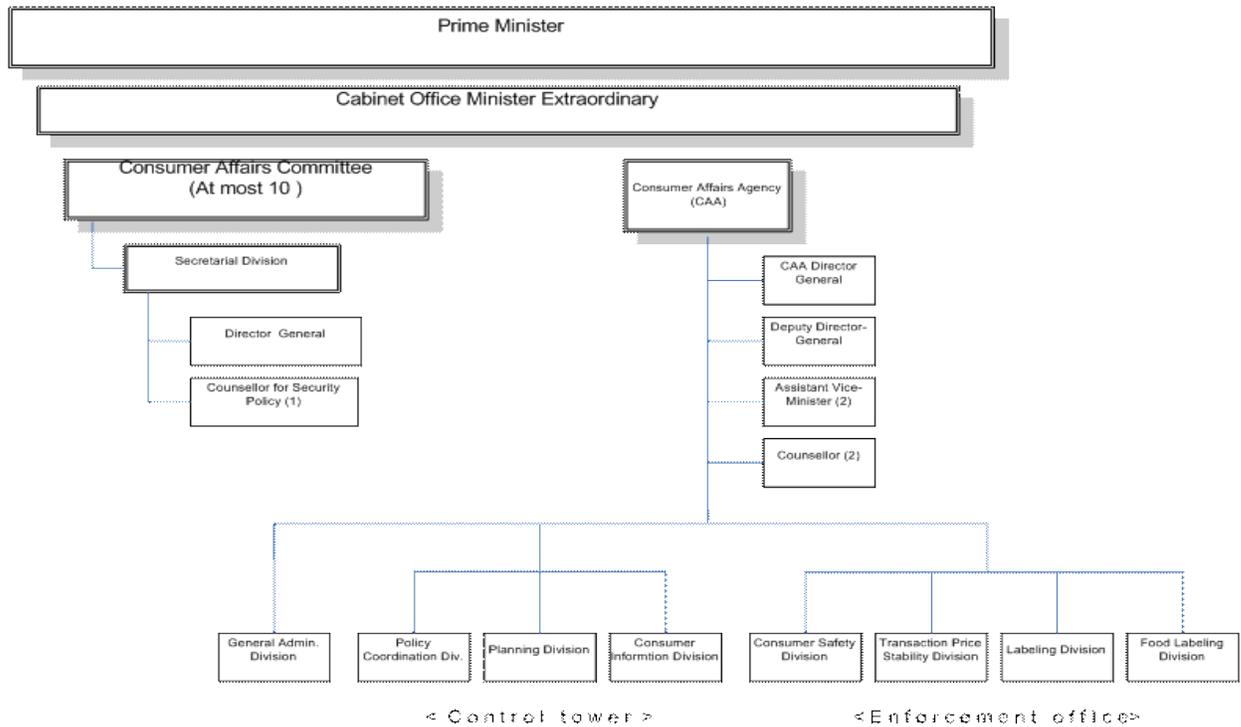
Japan has experienced a number of food related incidents over the past several years, many associated with fraudulent labeling, and public anxiety over these events has continued to build.

Here are several examples of such incidents.

- Brand-name "hinaidori" chickens were found to have been replaced by culled chickens which did not lay eggs anymore.
- Fujiya used expired milk.
- Meat Hope put a label saying "ground beef" but they actually used pork. Also, Meat Hope had tampered with the use by date of frozen croquettes.
- Akafuku reused unsold products.
- Senba Kicho was involved in deceptive origin labeling. The product was labeled Tajimagyu, which is product of Kobe beef, rather than Yamagatagy, which is substantially cheaper.
- Distressed rice which was tainted with aflatoxin and methamidophos was used for human consumption.

These incidents culminated in December 2007 with a series of food poisonings resulting from Chinese gyoza tainted with the pesticide methamidophos. The tainted frozen gyoza, or frozen dumplings, imported from China were found to contain dangerous residue levels of methamidophos that resulted in the serious illness of ten people in Japan. Although the gyoza incident was a result of food tampering rather than a standard food safety violation from error or non-compliance, it was viewed by the Japanese media and consumers as evidence of a failure of the current food safety system. In response, the Japanese government announced that it would take a number of steps to improve food safety. Foremost was a plan for the creation of the CAA.

Consumer Affairs Agency and Consumer Affairs Committee Organization (tentative)



Primary Functions of the CAA in Connection with Foods

A rash of food incidents over the past few years has resulted in a loss of consumer confidence in the safety of foods despite the fact that most of these incidents were related to fraudulent mislabeling. The majority of food safety incidents were with foods manufactured in Japan yet imports have borne the brunt of the public’s criticism. The fact that labeling supervision was distributed through various organizations in the Japanese government has been seen as one of the reason for the incidents. As a result, the proposals call for the work currently being done in various ministries to be consolidated under the consumer affairs agency. The proposed agency would be tasked with unifying multiple labeling laws into a single law. Consolidation would bring 29 laws under the administration of the proposed agency, including three labeling related laws that affect food trade: 1) JAS Law, 2) Food Sanitation Law and 3) 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.

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.

The CAA would oversee Consumer Life Centers located throughout the prefectures. There are already 586 Consumer Life Centers located throughout the country with the majority located in major urban centers. Consumers would be able to report issues to the centers that would then be sent to the CAA. Prefectural governors will be required to notify the health minister when there is a case of poisoning. These public health centers will most likely not come under the jurisdiction of the CAA. However, they bear some food related duties including health inspection and certification for restaurants and food manufacturers. In addition, public health centers will be required to be open 24-hours a day.

Impact of the Proposals on Imported Food

New proposals on hazard monitoring are less likely to impact imports. Food labeling parts from the three food labeling related laws will be separated and will be consolidated into a single food labeling law. Since these laws have been effective, the rule of the new law will have the same efficacy. MHLW will continue to handle food safety issues and already has a very effective testing regime to ensure food safety. Better communication between the ministries and health centers should help to contain food safety problems better when they do occur. We will continue to closely monitor the development and amendment of food labeling standards.