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HOUSE ENERGY AND COMMERCE COMMITTEE

WRITTEN TESTIMONY OF
MICHAEL F. MARTIN
ANALYST IN ASIAN POLITICAL ECONOMY
CONGRESSIONAL RESEARCH SERVICE
BEFORE THE
HOUSE ENERGY AND COMMERCE COMMITTEE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
HEARING ON
DIMINISHED CAPACITY:
CAN THE FDA ASSURE THE SAFETY AND SECURITY OF THE NATION'S FOOD
SUPPLY? - PART III
OCTOBER 11, 2007

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Opening Statement

Chairman Stupak, Ranking Member Whitfield, distinguished members of the subcommittee, thank you for the opportunity to appear before you today. I am Michael F. Martin, Analyst in Asian Trade and Finance, of the Congressional Research Service. I ask that my full, written statement be included in the record.

As requested, this statement provides observations and analysis on how the governments of Hong Kong¹ and Japan seek to insure the safety of food products imported from mainland China. To a limited extent, I will comment on possible lessons the United States may be able to learn from the practices of Hong Kong and Japan. However, my area of expertise does not include current U.S. food safety policy, and I would defer to the analysis of my colleagues at CRS and other experts in the field on the strengths and weaknesses of the present U.S. food safety laws, regulations and practices.²

Also, before I begin my testimony, I would like to thank the Japanese embassy and the Hong Kong Economic and Trade Office in Washington, D.C. for their help and assistance in learning more about their government's food safety policies. Any analysis or opinion expressed in this testimony are my own in my capacity as an analyst at the Congressional Research Service, and should not be construed or inferred as a reflection of the views of the Japanese embassy or the Hong Kong Economic and Trade Office unless directly attributed to those entities.

¹ For purposes of this testimony, the term "Hong Kong" will be used to refer to the "Hong Kong Special Administrative Region."

² For information on the U.S. regulatory system for imported foods, see CRS general distribution memorandum of July 26, 2007, "Survey of Statutory Authorities Involved in Import Safety," and CRS Report RS22664, *U.S. Food and Agricultural Imports: Safeguards and Selected Issues*, by Geoffrey S Becker.

Importance of the Food Safety Issue

There has been extensive press coverage and public concern about the safety of food imported from China this year.³ In May, the U.S. Food and Drug Administration, or FDA, began the recall of a wide range of pet foods because wheat and rice protein imported from China – which was added to pet food manufactured in the United States – had been adulterated with melamine, leading to the death of hundreds of cats and dogs.⁴ According to the FDA, some of the tainted protein was used as feed for livestock and fish that were eaten by U.S. consumers, but the assessed risk to human health was deemed small.⁵ In June, the FDA announced it was detaining all imports of farm-raised seafood from China because of their concern that these goods may contain unsafe drug residues.⁶

³ For more information on the issue of U.S. food safety and imports from China, see CRS Report RS22713, *Health and Safety Concerns Over U.S. Imports of Chinese Products: An Overview*, by Wayne M. Morrison and CRS Report RL34080, *Food and Agricultural Imports from China*, by Geoffrey S. Becker.

⁴ For details on the recall of pet food tainted with adulterated Chinese wheat gluten, see the FDA web page: [<http://www.fda.gov/oc/opacom/hottopics/petfood.html#situation>].

⁵ “Joint Update: FDA/USDA Update on Tainted Animal Feed,” U.S. Food and Drug Administration press release, April 27, 2007.

⁶ “FDA Detains Imports of Farm-Raised Chinese Seafood,” U.S. Food and Drug Administration press release, June 28, 2007.

Events such as the preceding have apparently raised public concern about the safety of food in the United States, and particularly the safety of food imported from China. In a joint Reuters/Zogby poll of over 1,000 U.S. consumers conducted in mid-September, about 78% of the respondents “worry about the safety of Chinese imports, and a quarter have stopped buying food from China.”⁷ In a similar poll conducted in June by Consumers Union, the publishers of *Consumer Reports*, 92% of the over 1,000 respondents stated that they wanted to know the country of origin of the food they are buying.⁸

Food Safety Is Not a New Issue in Hong Kong and Japan

While concern about the safety of food imported from China has arisen in the United States in 2007, this issue has been important to Hong Kong and Japan for a number of years. In December 1997, Hong Kong’s Agriculture, Fisheries, and Conservation Department slaughtered every live chicken in the city – over 1.5 million chickens – to combat an outbreak of avian flu that claimed the lives of six people.⁹ Virtually all of those chickens had been imported from China. In July 2002, Japan banned the import of frozen spinach from China after several shipments were found to contain unacceptable levels of pesticides.¹⁰ Prior to the ban, China had supplied Japan with 99% of its imported spinach – approximately 50,000 metric tons per year. In both Hong Kong and Japan, the perceived threat to food safety touched off a period of heightened public concern and greater government scrutiny of food imports from China. As a result, the Hong Kong government has been

⁷ Most Americans concerned with China imports,” *Reuters*, September 19, 2007.

⁸ “Poll: 92 Percent Want ‘Country of Origin’ Labels,” *Reuters*, July 11, 2007.

⁹ “The Next Influenza Pandemic: Lessons from Hong Kong, 1997,” by René Snacken, Alan P. Kendal, Lars R. Haaheim, and John M. Wood, *Emerging Infectious Diseases*, Vol. 5, No. 2, March-April 1999, pp. 195-203.

¹⁰ “Challenges for China’s Agricultural Exports: Compliance with Sanitary and Phytosanitary Measures,” by Fenxia Dong and Helen H. Jensen, *Choices*, Vol. 22, No. 1, 1st Quarter 2007, pp. 19-24.

aware of the issue for at least 10 years, and the Japanese government has been aware for at least five years.

Food imports from China are of particular concern to the Hong Kong and Japanese governments because of China's importance as a source of food for the city of Hong Kong and the nation of Japan. According to a recent press account, China supplies Hong Kong with about 80% of its food.¹¹ According to its Ministry of Health, Labour, and Welfare, or MHLW, more than 10% of Japan's food comes from China.¹² According to news sources, Japan relies on China for about 80% of its vegetable imports.¹³ On July 24, 2007, Tomohiko Taniguchi, deputy press secretary for Japan's Foreign Ministry, stated "it is too late" to control the quantity of food imports from China.¹⁴ According to Taniguchi, the safety of imports from China is "one of the biggest concerns I can tell you ordinary people in Japan are having these days ... and it's going to remain one of the most biggest concerns for the foreseeable future."¹⁵

Distinctive Characteristics of the Hong Kong and Japanese Markets¹⁶

¹¹ "China Scares Spur Hong Kong Organic Food, Vegetable Tracking," by Laurie Burkitt, *Bloomberg*, July 27, 2007.

¹² Data from the Ministry's webpage [http://www.mhlw.go.jp/english/topics/imported_foods/index.html] and Japan External Trade Organization, Trade and Investment Statistics.

¹³ "Japan Now Relies More on Chinese Food Imports," *Brunei Times*, September 5, 2007; "Japan's New Import Standards Threaten Chinese Farmers," *China View*, May, 28, 2007.

¹⁴ "China's Food Safety 'Biggest Concern' for Japanese: Official," *Agence France-Presse*, July 24, 2007.

¹⁵ *Ibid.*

¹⁶ Unless otherwise noted, observations made in this section of the testimony are based on first-hand experience living in Hong Kong and Japan, as well as continued contact with people living in Hong Kong and Japan.

While the extended experiences of Hong Kong and Japan may provide some useful insights for the United States on how to deal with imported food from China, there are distinctive characteristics of the food markets in both locations to be taken into consideration. First, the food consumption patterns of Hong Kong and Japanese households are different from those of U.S. households. Second, the food distribution systems in Hong Kong and Japan are different from the U.S. food distribution system. Third, the attitudes of consumers in Hong Kong and Japan about food are arguably different from the typical U.S. consumer.

The food consumption patterns of Hong Kong, Japanese and U.S. households are distinct from each other. For example, the typical Hong Kong household purchases the groceries for its evening meal in a wet market¹⁷ near its home the same day of the meal. In part, this is due to the small size of the typical Hong Kong kitchen and refrigerators and in part, it is due to their strong preference for fresh food. Often times, the fresh vegetables, meat and fruit are bought by an adult in the household on their way home from work or during the afternoon.

Any meat purchased for the evening meal was more than likely slaughtered in Hong Kong or in China that same morning. Any produce purchased in the wet market was likely either harvested earlier that day in China or arrived at the port in Hong Kong that morning. Produce or meat not sold on its first day in the wet market is often thrown away as rubbish because Hong Kong consumers generally do not trust day-old produce or meat. The larger grocery stores in Hong Kong – Park'n'Shop and Wellcome – mostly sell canned and frozen foods, beverages, condiments and sauces used by Hong Kong households when preparing the fresh vegetables and meat.

¹⁷ Hong Kong wet markets are typically located in or near a set of apartment buildings in a government-run community center or a commercially-run shopping center. The wet markets contain food stalls for rent to vendors selling fresh produce, meat, seafood or other food items. There is often a section of inexpensive restaurants nearby which are commonly known as “dai pai dongs.”

Hong Kong households also eat out quite frequently, often at nearby neighborhood restaurants, ranging from “dai pai dongs”¹⁸ (open-air street restaurants) to internationally renowned restaurants. Whatever type of restaurant they are, most Hong Kong restaurants also purchase their produce and meat at wet markets every day to meet the expectations for freshness among their customers.

Japanese households also purchase much of their food as fresh produce and meat. Much like the case in Hong Kong, this is partially due to the small size of the typical Japanese kitchen and refrigerator. In comparison to Hong Kong, more of Japan’s shopping is done at supermarkets and specialty food stores, such as fishmongers and fruit and vegetable stores. Like Hong Kong households, Japanese households usually purchase any meat or vegetables for their evening meal earlier that day. While Japanese households eat their evening meal out less often than Hong Kong households, when they do eat out, the restaurant generally serve fresh meat and vegetables purchased that same day.

The food distribution systems of Hong Kong and Japan are also different from that of the United States. In Hong Kong, most of the fresh food enters either on land from China or by sea from overseas and proceeds directly to wholesale markets near the point of entry. At the wholesale markets, a mixture of food vendors, purchasers for restaurants and representatives from the supermarkets select the items they want and then transport them to the wet markets scattered

¹⁸ “Dai pai dong” literally means “big license stall” after the oversized licenses issued to street food stalls by the Hong Kong government in the 1940s. These informal restaurants are commonly located near wet markets, street markets or major bus terminals. A common characteristic of dai pai dongs is the use of folding tables and stools that are often shared among the neighboring food stalls in the dai pai dong.

throughout the city, take them back to their restaurants, or transfer them to the supermarkets' food distribution facilities. As a result, the distribution of food at the wholesale level is highly centralized and highly competitive.

In Japan, there is a split in the market between the small food vendors, and the large supermarket chains and the emerging big box stores. The large supermarket chains (such as Daiei, Itoyokado, Jusco, and Seiyu) and the big box stores usually procure their meat, produce and other food items directly from their overseas suppliers, often using long-term procurement contracts. By contrast, the smaller food vendors – especially sellers of seafood and fresh produce – typically buy their merchandise in wholesale markets.

Finally, there is a common perception that Hong Kong and Japanese consumers are generally highly concerned about the safety of their food. A survey of Japanese households on food discovered that food safety was the top concern of 70% of the respondents; price was the top concern for 8% of the respondents.¹⁹ Day-old, damaged or blemished produce or meat usually cannot be sold to Hong Kong and Japanese consumers, even at highly discounted prices. Also, in response to the recent problems with tainted food from China, there are reports of growing interest in organic produce and meats in Hong Kong.²⁰ Japanese consumers have also shown increasing interest in organic food products, but ironically, much of Japan's organic food is imported from China.²¹

¹⁹ Results from presentation by Paul Young, "Food Safety Regulation: Comparing the EU and Japanese Systems," at the symposium, "Regulating Food Safety in China," held at the Woodrow Wilson International Center for Scholars on September 20, 2007.

²⁰ "China Scares Spur Hong Kong Organic Food, Vegetable Tracking," by Laurie Burkitt, Bloomberg, July

Hong Kong's Approach to Imported Food Safety

27, 2007.

²¹ "Organic Farming Grips China," by Juliana Liu, *BBC*, October 4, 2007.

Under Hong Kong law, the responsibility to ensure the safety of imported food is placed in the Food and Environmental Hygiene Department. On May 2, 2006, the Food and Environmental Hygiene Department established the Centre for Food Safety, which was given specific responsibility for planning and implementing Hong Kong's food safety policies, negotiating and managing relations with overseas food authorities (including China), and maintaining a consultative structure to allow the businesses and people of Hong Kong with an opportunity to comment on Hong Kong's food safety system. In addition, Hong Kong's Customs and Excise Department²² has the authority to inspect baggage and materials brought into Hong Kong to see if they contain any illegal materials, including prohibited food items.

Centre for Food Safety. The Centre for Food Safety is organized into three divisions. The Food Surveillance and Control Division is responsible for planning and implementing Hong Kong's food surveillance system, running Hong Kong's food import control and export certification, managing any food incidents that pose a threat to public health, liaising with foreign food authorities, and overseeing the testing of imported food from Mainland China. The Risk Assessment and Communication Division oversees risk assessment studies, conducts food consumption surveys, advises on the establishment of food safety standards, communicates food safety information to the public, organizes consultative meetings with Hong Kong businesses and consumers, and communicates with international bodies to strengthen the food safety systems of Hong Kong. The

²² Although Hong Kong is legally part of China, under the terms of the 1984 "Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China On the Question of Hong Kong," the Hong Kong Special Administrative Region will "retain the status of a free port and a separate customs territory."

final division of the Centre for Food Safety is its Administrative Division, which is responsible for administrative support services.

Enforcement. Under current Hong Kong law, a food import declaration form is required to legally import food into Hong Kong. The form includes information on the date of import, particulars of the person making the import declaration, the name and contact information for both the importer and exporter of the food, and a description of the imported food items, including the physical quantity and place of origin. The form specifically requests the name and address of the farm from which the food came. While not legally required for all food products, the Centre for Food Safety “encourages” food importers to obtain health certificates issued by the appropriate authorities of the country of origin for the food products, and have copies of those certificates accompany the food products when imported into Hong Kong. For certain “perishable or high-risk” food items – such as game, meat, and poultry; milk and milk beverages; frozen confections; and marine products – health certificates are required. Also, importers of frozen or chilled beef, mutton, pork and poultry must obtain an import license from the Centre for Food Safety before shipping these food products to Hong Kong.

Failure to comply with Hong Kong’s laws and regulations governing the import of food is punishable by up to six months in jail or a maximum fine of 50,000 Hong Kong dollars, or about \$6,400. However, it is unusual that a company or person will be given the maximum penalty. In many cases, the illegally imported food or the imported food found in violation of Hong Kong’s health standards will be impounded and destroyed. According to the Centre for Food Safety, Hong Kong did prosecute over 500 food safety violations in 2006.

In order to expedite the inspection of food imports, Hong Kong limits the number of points of entry for imported food. In general, fresh food imports are to enter Hong Kong either via Man Kam To (near the center of the border with Mainland China), the pier by the Western Wholesale Food Market (on the northwest corner of Hong Kong Island), the pier by the Cheung Sha Wan Wholesale Food Market, or the Hong Kong International Airport at Chek Lap Kok. Other food items may also enter Hong Kong at Lok Ma Chau (on the western edge of the border with Mainland China) or Sha Tau Kok (on the eastern edge of the border).

Recent Legal Developments. According to the Centre for Food Services, “in response to a series of food incidents concerning imported food, the [Hong Kong] Government has announced a package of new measures to ensure the safety of imported food. One of these new initiatives is to require food importers to Hong Kong to register with the Centre for Food Safety.”²³ Although the new law has not yet been introduced to Hong Kong’s Legislative Council, the Centre for Food Safety has developed a pre-statutory voluntary notification scheme to encourage importers and distributors of food to register. The notification scheme is a phased program that started in August 2007 with the registration of importers of game, meat and poultry meat, and is to continue into 2008. It is not known when the new law will be introduced to Hong Kong’s Legislative Council.²⁴

Relations with China. Because of the importance and sensitivity of food imports from Mainland China, the Centre for Food Safety has developed special procedures for food imported from China, and has established close ties with food and health authorities in Mainland China. Over

²³ “Pre-statutory Voluntary Notification Scheme for Food Importers/Distributors,” press release of the Centre for Food Safety, available online at: [http://www.cfs.go.hk/english/whatsnew/whatsnew_fstr/whatsnew_fstr_pre_stat_vol_scheme.html].

²⁴ Under Hong Kong law, most proposed legislation is initiated by the Chief Executive and is subject to the approval of the Legislative Council.

the last 10 years, the Hong Kong's Food and Environmental Hygiene Department and China's State General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) have agreed to a set of administrative procedures to ensure the safety of food shipped to Hong Kong. These special procedures cover fresh produce, livestock, poultry and marine products.²⁵

In general, under the special procedures, AQSIQ inspects, certifies and registers food producers in China that meet specified safety standards. Only food from registered farms and facilities in China that are accompanied by AQSIQ health certificates are to be allowed into Hong Kong by Hong Kong Customs and the Centre for Food Safety's inspection facilities. All food imports from China are also subject to inspection by the Centre for Food Safety. At present, Hong Kong generally relies on international established sanitary and phytosanitary standards when inspecting imported food. For example, Hong Kong has not established its own maximum residue levels (MRLs) for pesticides, but uses the Codex Alimentarius Commission's standards.

In cases where shipments from a registered Chinese farm or facility fail inspection, representatives of AQSIQ and the Centre for Food Safety may conduct a joint investigation of facility to determine the cause of the problem. In addition, AQSIQ and the Centre for Food Safety have agreed to notify each other of "major incidents" related to food exports or imports.

²⁵ In 1997, Hong Kong and China made special arrangements for the certification and inspection of poultry in response to the outbreak of Avian flu. In 1999, special arrangements were made for cattle imported from China. Special arrangements for pork and marine products were made in 2005. Special arrangements for fresh produce were made in 2006.

To facilitate better relations and communications across the border, AQSIQ and the Centre for Food Safety hold periodic meetings to discuss various aspects of their relationship, including the notification system, farm registration and certification, updated food standards, and new food safety technology. For example, in October 2006, China and Hong Kong began utilizing radi-frequency identification (RFID) tags on live pigs imported into Hong Kong as part of a pilot program to study the feasibility of using RFID techniques to trace imported food.²⁶ As explained in an interview with a Hong Kong official, the goal of these meetings is to develop a better rapport with Mainland Chinese officials and to ensure that enforcement standards are maintained in China.

²⁶ “Centre for Food Safety - the First Year,” special report, Centre for Food Safety,

Internal Relations. To improve communications and relations within Hong Kong, the Centre for Food Safety has developed a variety of consultative and communications mechanisms. For example, the Centre for Food Safety created three formal bodies – the Expert Committee on Food Safety, the Trade Consultation Forum, and the Consumer Liaison Group – for consultation with different stakeholders in Hong Kong on the issue of food safety. In addition, the Centre for Food Safety releases a variety of newsletters, fliers and handouts on food safety to provide the public with information about changes in policies and regulations, or updates on recent food safety incidents.²⁷ Finally, like all executive agencies in Hong Kong, the Centre for Food Safety may be asked to answer questions posed by the Legislative Council.

In response to the overall regulatory environment, Hong Kong food importers and consumers generally rely on establishing supply networks that they consider trustworthy. For the smaller wholesalers, vendors and consumers in Hong Kong, this network tends to be based on personal relationships; people will return to the same wholesalers or vendors to purchase food items rather than shop around for the best price. For the large supermarket chains, the companies often sign long-term supply contracts with Mainland China farms that they consider safe and reliable. These contracts often provide a price premium to the suppliers as a way to provide an incentive to the farms to protect the safety and quality of their products.

Japan's Approach to Imported Food Safety

Historical Background. Recent Japanese concern about the safety of food imported from China dates back to the spring of 2002, when several shipments of Chinese-grown spinach were found to contain excessive pesticide residue. Public concern about the tainted Chinese-grown

²⁷ The most recent food safety alert release by the Centre for Food Safety was an August 8, 2007 warning about oysters imported from the United States that might be infected with *Vibrio parahaemolyticus*.

spinach was heightened by the earlier death of a Japanese woman who had used diet pills made in Guangdong Province in China that contained fenfluramine, as well as a fear that had emerged in September 2001 of mad cow disease in Japanese beef.

In response to the discovery of the tainted spinach, several Japanese food companies — Ajinomoto, Nichiro, and S&B Foods — temporarily stopped the import of Chinese vegetables. In addition, the Japanese Diet amended the nation's Food Sanitation Law (originally passed in 1947) in July 2002 allowing the ban of imported food products from a country or area when successive violations of the law have been found. The amendment also increased the penalty for Japanese importers of banned food products to up to six months in prison or a fine of up to 300,000 yen (approximately \$2,400 at that time).

In May 2003, the Japanese Diet passed the Food Safety Basic Law to strengthen its existing measures designed to protect the public from unsafe food. The Food Safety Basic Law was designed to work in coordination with Japan's existing laws governing food safety, including the Food Sanitation Law, the Abattoir Law, and the Poultry Slaughtering Business Control and Poultry Inspection Law. In addition to "clarifying the responsibilities of the state, local governments, and food-related business operators and the roles of consumers," the Food Safety Basic Law also created the Food Safety Commission, a Cabinet-level independent agency given oversight authority over the food safety activities of various government ministries and departments.

Current Japanese Food Safety Laws. There are four main laws currently governing food safety in Japan — 1. the Food Sanitation Law; 2. the Food Safety Basic Law; 3. the Abattoir Law; and 4. the Poultry Slaughtering Business Control and Poultry Inspection Law.

The Food Sanitation Law. The Food Sanitation Law was originally passed in 1947, but amended in 2002 and more recently in 2006. The basic purpose of the law as written is to "prevent

the occurrence of health hazards arising from the consumption of food, by making necessary regulations and taking any measure so as to work for the protection of the health of the people." As Japan's most general food safety law, it covers a wide range of topics including: food safety standards; permissible and prohibited food additives; food processing requirements; food labeling requirements; inspection procedures and regulations; designation of enforcement agencies; import regulations and procedures; penal provisions; and registered laboratories. The most recent amendment of the Food Sanitation Law raised the highest penalty for violation of the law to up to three years in jail or a fine of up to 3,000,000 yen (approximately \$26,000).

The Food Safety Basic Law. The Food Safety Basic Law sets out the responsibilities of the various government agencies responsible for ensuring that Japan's food is safe. Under Japan's administrative procedures, provincial and local authorities are part of the food product safety system in addition to federal government agencies. The general administration of food product safety is under the jurisdiction of the Department of Food Safety of the Ministry of Health, Labour, and Welfare, of MHLW. Within the Department of Food Safety, the main enforcement agencies are: the Office of Port Health Administration, which manages Japan's 31 quarantine centers and inspects imported foods; the Inspection and Safety Division, which handles domestic food inspection; the Office of Import Food Safety, which "assures import food safety;" and the Office of International Food Safety, which manages the general coordination of international issues of food safety.

The Food Safety Basic Law also created the Food Safety Commission, a Cabinet-level independent agency that oversees the government's activities on food safety. The representative of the Food Safety Commission in the Japanese Cabinet is the Minister of State for Food Safety. Its main function is to conduct risk assessments of food products and the government's enforcement of food safety standards. It oversees the work of the Ministry of Health, Labour, and Welfare in their

activities pertaining to food sanitation and safety, and the Ministry of Agriculture, Forestry, and Fisheries in their oversight of food products from agriculture, forestry and fisheries.

The Abattoir Law. As the name implies, the Abattoir Law was established to regulate the operations of Japan's slaughterhouses in order to protect public health. The law stipulates which government entities are responsible for the inspection and regulation of slaughterhouses, as well as setting standards for cleanliness and safety.

The Poultry Slaughtering Business Control and Poultry Inspection Law. Similar to the Abattoir Law, the Poultry Slaughtering Business Control and Poultry Inspection Law regulates the slaughtering of poultry, including chickens, ducks, turkeys, and other fowl.

Enforcement. The actual enforcement of Japan's food safety system is disseminated throughout the nation's federal, provincial and local governments. In general terms, the federal agencies handle food safety enforcement for imported goods, and the provincial and local government agencies focus their efforts on domestic enforcement issues.

Imported foods, from China or other locations, are subject to inspection by the roughly 300 inspectors located at 31 quarantine stations run by the Ministry of Health, Labour, and Welfare. Prior to the import of any food product, the importer must notify the Ministry of its intent to import food products. The Ministry's inspectors review the notification materials, and then determine if an inspection of the shipment is warranted. The usual practice is to inspect a company's first food shipment to Japan. A history of past violations also tends to result in a shipment being selected for testing.

If the shipment is to be inspected, it is temporarily quarantined and the importer is informed of the decision to inspect the shipment. If the food products are deemed unsafe or unfit for human

consumption by the inspection, the importer is to be informed of the inspector's decision, and the products are to be either destroyed or returned to their point of embarkation.

Under current Japanese law, the inspections cover over 300 food products, nearly 800 agricultural chemicals and include nearly 55,000 inspection criteria.

Once the imported food products enter Japan, they are still subject to inspection by provincial and local health and food safety officials under the terms of Japan's Food Safety Law and the Food Safety Basic Law.

Recent Developments. Japanese and Chinese health officials recently held a series of meetings to discuss ways of insuring the safety of food products imported into Japan from China. Also, Japanese officials indicated that food product safety would be a major topic of discussion at then upcoming Asia Pacific Economic Cooperation meetings held in Sydney between September 3 and 7, 2007. Various press accounts of these meetings report that Japan's Economic Minister Akira Amari had pressed China's Commerce Minister Bo Xilai for a "full explanation" of China's efforts to improve the safety of food and other products from China.

Also, Japan implemented a "positive list" system in May 2006 to tighten its review of food imports for agricultural chemicals. According to a report in Mainichi Shimbun, during the first year since the implementation of the "positive list," the frequency of violations of Japanese standards has increased more than eight-fold.²⁸

²⁸ "Imported Food Violations Increase Eight-fold in Year since New System Introduced," Mainichi Shimbun (in Japanese), July 9, 2007.

Relations with China. Relations between Japan and China on the issue of food safety take place in two separate arenas – government-to-government relations and company-to-company relations. On the government-to-government side, Japan has negotiated over 30 separate arrangements with China specifying safety standards for a range of food items. Under these arrangements, Chinese health officials is to certify specific farms and food production facilities meet the agreed quality standards. In Japan, food shipments from these certified Chinese farms and facilities are afforded preferential treatment to imports from non-certified farms and facilities. As a result, on the business-to-business side, Japanese importers tend to source their food products from the certified farms and facilities – often offering a higher price for the goods – in order to lower the risk of the shipment being inspected or impounded, as well as lower the chance that the importer may be legally liable if the products are subsequently found to be unsafe or unsanitary.²⁹

On March 23, 2007, the Director of Japan's Department of Food Safety issued an imported food monitoring and guidance plan for fiscal year 2007 to the heads of the quarantine stations.³⁰

The sixth basic point of the plan states:

In order to prevent any violation of the Law during the production process in exporting countries, the MHLW shall support promotion of sanitation measures in exporting countries by (i) providing information on food-sanitation regulations to embassies located in Japan and to importers, (ii) holding bilateral discussions, (iii) conducting on-site inspections, and (iv) providing technical support.

²⁹ For a more detailed description of one company's sourcing system in China (in Japanese), see Aqlifoods webpage: [http://www.aqli.co.jp/action/action_02.html].

³⁰ "Development of Imported Food Monitoring and Guidance Plan for FY 2007," Department of Food Safety, March 23, 2007.

As part of their efforts to promote better sanitation conditions in exporting countries, the MHLW plans on providing overseas suppliers information on samples cases of violations, hold seminars on Japanese food-sanitation regulations, and introduce pre-export inspections. The guidelines also indicate that if 5% of the food imports from a specific country, area or business entity violate Japanese food safety laws, and if such violations are highly likely to continue, the MHLW shall ban the importation of such foods.

Safety Record of Hong Kong and Japan

It is inherently difficult to determine the effectiveness of a food safety system because it involves proving that something did *not* happen – exporters did *not* try to ship unsafe food to your country, a shipment of unsafe food did *not* get past inspectors, and consumers did *not* eat or drink unsafe food that did enter your national food distribution system. In addition, it is unclear how to interpret the data that is available. For example, does a low rate of failure in pesticide residue testing on imported vegetable samples indicate that very few tainted vegetables are being imported or that the sampling process is not identifying the tainted shipments. Also, it is uncertain if one can extrapolate the amount or volume of unsafe food imports that are entering a country from the failure rate from the inspected sampling without knowing if the sample population is representative of all import shipments. In the end, the most one can readily say is how strict a government's food safety system appears to be.

Hong Kong's Record. Hong Kong's Centre for Food Safety reports on the results of its food surveillance program every two months via its web page.³¹ In 2006, the Centre for Food Safety

³¹ The Centre for Food Safety's webpage is: [<http://www.cfs.gov.hk/>].

took over 64,000 samples for microbiological and chemical testing; the overall failure rate was 0.3% – the same as it was in 2005.³² In its latest report, which covers July and August 2007, the Centre for Food Safety found a slightly higher failure rate of 0.6% out of 12,800 samples.³³ Neither report indicated what percentage of food imports were sampled, nor did they indicate if the sampling method was considered representative of Hong Kong's food imports in general.

In its report on its first year of operation, Hong Kong's Centre for Food Safety reported that it handled over 550 "food incidents" and over 6,600 "food complaints," but did not provide any specific information about the nature or seriousness of these incidents and complaints. Nor did it provide data on how many of these events involved imported food or food from China.

Japan's Record. Between April and September 2006, the Ministry received 923,968 shipment notifications of intent to import food products, and conducted inspections on 94,920, or 10.3% of the shipments. Of the shipments inspected, 629, or 0.7% were found to be in violation of Japanese law.

Problems Continue to Exist. However, as demonstrated by recent anecdotes, problems with imported food safety continue to occur on both Hong Kong and Japan. One of the most unusual stories involved the sale of fake chicken eggs. According to the several Hong Kong newspapers, people were finding that chicken eggs they bought in the wet market were actually artificial eggs – complete with shells – made out of various chemicals. By all accounts, the fake eggs looked and felt like real eggs, but tasted different and didn't cook like real eggs. One article described how the fake

³² "Food Surveillance Results for 2006," press release, Centre for Food Safety, April 2, 2007.

³³ "Latest Food Safety Report Released," press release, Centre for Food Safety, September 27, 2007.

eggs were manufactured and reported that the production cost of making the fake eggs was about one-twelfth the retail price of eggs in Hong Kong.

Another interesting story of unsafe imported foods discovered in Hong Kong involved fish from Indonesia sold in a major Hong Kong supermarket.³⁴ According to the news account, ParknShop imported “cod fish” from Indonesia that actually turned out to be oil fish, a distant cousin of tuna that looks similar to cod fish. Also known as “blue codfish,” oil fish is considered toxic by Australia and Japan because people often complain of severe stomach aches and diarrhea after eating the fish. ParknShop removed all the oil fish from its stores after receiving complaints, and Hong Kong fish traders, restaurants, and businesses agreed to a self-imposed ban on the sale of oil fish in the city.

³⁴ “Hong Kong Voluntarily Bans Oil Fish after Labelling Blunder at ParknShop,” *Channel News Asia*, January 25, 2007.

In July 2007, prefectural health inspectors in the Japanese city of Maebashi discovered a banned synthetic antibacterial drug in broiled eels processed in China.³⁵ According to the news account, the eel was imported into Japan in March by a fish wholesaler in Tokushima and sold to vendors in the Kanto region. After the discovery, the Tokushima prefectural government asked the fish wholesaler to organize a voluntary recall of the fish. Supermarkets and retailers complied with the recall, and pulled the eels from their shelves.

Four Observations from the Experience of Hong Kong and Japan

Based on the preceding analysis of the experience of Hong Kong and Japan with the import of food from Mainland China, CRS offers four, somewhat interrelated key observations.

First, collaboration generally has been used more than confrontation. Part of the overall strategy of Hong Kong and Japanese food safety officials when dealing with Mainland Chinese counterparts seems to be to work together to solve the problem of protecting people from unsafe or unsanitary food items. For example, Japanese food safety officials often travel to China to meet with Chinese officials to share information about Japanese food safety standards, and develop “equivalency” standards for Mainland Chinese exports to Japan. These “equivalency” arrangements are then sometimes transformed into more formal agreements between the two governments. Plus, when Japanese inspectors discover a food shipment from Mainland China is tainted or unsanitary, Japanese officials have often traveled to China for consultations about the suspect shipment.

Second, the carrot has been used more than the stick. In their dealings with Chinese officials and businesses, both Hong Kong and Japan appear to have adopted an approach of providing incentives to cooperate, rather than penalizing failures to comply. For example, in Hong

³⁵ *Yomiuri Shimbun*, July 15, 2007.

Kong, the greatest penalty for the import of unsafe food is six months in jail. By contrast, current U.S. law sets the maximum penalty at three years in jail. On the flip side, the Japanese food importers are frequently willing to pay higher prices for produce and food products from Chinese suppliers that have met specified production quality standards – often relying on certification procedures jointly developed by the Chinese and Japanese food safety officials – rather than buy from less expensive, uncertified suppliers. Similarly, Hong Kong food importers tend to take their business back to reliable food vendors with clean records rather than simply buy the lowest price produce.

Third, food safety is not simply a matter of laws and regulations. Another element of the Hong Kong and Japanese approach to food product safety is the apparent focus on including the private sector in the development and implementation of the food safety program. Both governments have standing food safety consultative committees that include representatives of the private sector. Among other things, the presence of the private sector on these committees provides a “reality check” on proposed policy or regulatory changes. Also, both Hong Kong and Japan seek to create an environment where it is in the best interest of the Chinese food producers and exporters, as well the Hong Kong or Japanese food importers, to make sure that the imported goods are safe and sanitary.

Fourth, no system is perfect. No matter how well designed the policy or how well the policy is implemented, it is impossible to guarantee that every morsel of imported food – whether it is from Mainland China or some other location – is 100% safe and sanitary. The Hong Kong and Japanese governments have food safety policies in place, but they both continue to experience problems with tainted and unsafe imported food products.

Chairman Stupak, Ranking Member Whitfield, distinguished members of the subcommittee, this concludes my statement. Thank you again for the opportunity to testify on these issues. I will be pleased to respond to any questions you might have.