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POLICY

Voluntary - Public

Date: 9/7/2018

GAIN Report Number: JA8065

Japan

Post: Tokyo

Japan Revising Elements of National GI Law

Report Categories:

Agricultural Situation
Trade Policy Monitoring
Dairy and Products

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Report Highlights:

On August 29, 2018, Japan notified [G/TBT/N/JPN/448/Add.3](#) to the World Trade Organization's Committee on Technical Barriers to Trade and its trade partners. Japan noted that in response to the Japan-EU Economic Partnership Agreement (EPA) signed in July 2018, and to ensure the proper reciprocal protection of geographical indications based on the EPA, it intends to amend the Act on the Protection of the Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs. Amendments are proposed for the provisions on prior use of protected terms and the use of protected terms in advertisement materials, price lists or transaction documents of agricultural products. Comments to this notification are due to the Japanese Enquiry Point (enquiry@mofa.go.jp) by September 29, 2018.

General Information:

Japan's geographical indication (GI) protection system has been implemented based on the [Act on Protection of the Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs Act](#) (the GI Act) which was passed on June 18, 2014, and entered into force on June 1, 2015 (see http://www.wipo.int/wipolex/en/text.jsp?file_id=431683 for an unofficial English translation by the World Intellectual Property Organization). Japan's Ministry of Agriculture, Forestry and Fisheries defines a GI as "a name of {an} agricultural product, and from which a specific geographical origin and established characteristics such as the quality that are linked to that origin are identified."¹

On August 29, 2018, Japan notified [G/TBT/N/JPN/448/Add.3](#) to the World Trade Organization's Committee on Technical Barriers to Trade and its trade partners. Specifically, Japan commented that in response to the Japan-EU Economic Partnership Agreement (EPA) signed in July 2018, and to ensure the proper reciprocal protection of GIs based on the EPA, Japan intends to amend the GI Act to:

- limit the continued use of a prior used term that has since become protected to a period of 7 years from the date of registration/designation of a GI; and,
- expand the regulatory scope for the use of GIs in advertisement materials, price lists or transaction documents of agricultural products.

Comments to this notification are due to the Japanese Enquiry Point (enquiry@mofa.go.jp) by September 29, 2018.

The text of the WTO notification follows:

¹ For a complete list of MAFF-approved GIs, see http://www.maff.go.jp/e/policies/intel/gi_act/register.html and http://www.maff.go.jp/e/policies/intel/gi_act/designation.html.

NOTIFICATION

Addendum

The following communication, dated 29 August 2018, is being circulated at the request of the delegation of Japan.

Draft Outline of Amendment to the Act on Protection of the Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs

In response to the Japan-EU Economic Partnership Agreement (EPA) signed in July 2018 and to ensure the proper reciprocal protection of geographical indications based on the EPA, Japan hereby provides notification that it intends to amend the Act on Protection of the Names of Specific Agricultural, Forestry and Fishery Products and Foodstuffs (hereinafter referred to as "the Act"). The amendment includes the restriction on the period of prior use and the expansion of regulatory scope to advertisement etc. both with respect to geographical indications. The main points of the amendment will be as follows.

1. The Restriction on the Period of Prior Use

The current Act allows the use of indication for agricultural, forestry and fishery products etc. (hereinafter referred to as "agricultural products") that is same or similar as the registered/designated geographical indication if it has been used without any illicit purposes since before the date of registration/designation of the geographical indication. The amendment will limit the prior use for the duration of 7 years from the date of registration/designation of the geographical indication. The prior use for the duration of 7 years shall not be applied if the use of the designated geographical indication does not comply with the relevant laws and regulations of the other party.

The continuous use of a trademark will be only allowed when it was applied without any illicit purposes before the date of registration/designation of the geographical indication.

2. The Expansion of Regulatory Scope

The current Act lays down the rules for the use of geographical indication on agricultural products and their packages. The amendment will expand the regulatory scope to the use of geographical indication through advertisement materials, price lists or transaction documents of agricultural products. Agricultural products that belong to the category of the registered/designated geographical indications will be prohibited to use any indications that mislead to the true registered/designated geographical indication.

*Note: The Act covers agricultural, forestry and fishery products and foodstuffs which fall under any of the following items, with the exception of alcoholic beverages, drugs, and cosmetics:

- 1) agricultural, forestry and fishery products (limited to those served for human consumption);
- 2) food and beverages;
- 3) agricultural, forestry and fishery products (excluding those served for human consumption) designated by the Cabinet Order; and

4) the products manufactured or processed using agricultural, forestry and fishery products as materials or ingredients (excluding those served for human consumption) designated by the Cabinet Order.

Proposed date of adoption: To be determined

Proposed date of entry into force: To be determined

This addendum concerns a Modification of content and/or scope of previously notified draft regulation

Comment period: Thirty days from the date of circulation of the addendum to the notification.

Agency or authority designated to handle comments: National Enquiry Point. Address, fax number and e-mail address (if available) of other body:

Japan Enquiry Point
International Trade Division
Economic Affairs Bureau
Ministry of Foreign Affairs
Fax: (+813) 5501 8343
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