

can another law improve food safety in China? [view in browser](#)

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new Food Safety Law: a step closer to a single agency?



signal

Lack of single agency ownership for food safety in China has taken a grim toll. The new law, effective 1 October, in which CFDA takes decisive control of 'edible agricultural products' in the market indicates change may be finally on the way. This brings China closer in line with international norms of farm-to-fork oversight under a single agency. But the law's ever increasing penalties will not build social trust, without which no food is safe.

intent

China's 2009 *Food Safety Law* was years in draft as agencies battled over rents from certification and testing. Finally rushed out following the melamine crisis, it was unable to address root causes. Major agency restructures followed in 2011 and 2013, but confidence in local products remains low. Resources have been directed at tackling food crime, while microbiological contamination—salmonella, listeria, e-coli, campylobacter—the cause of most incidents globally, are seldom reported.

Cheap imports are challenging price mechanisms and national security. With food production already at record levels, margins are pushed to the limit, further risking the safety of the food supply. To improve safety the state must professionalise and consolidate the millions of workers along the food chain that together produce a fifth of GDP. But policy conflicts, including land ownership and the urban-rural divide, complicate reform. While still aspirational, the revised *Food Safety Law* attempts to further streamline agencies and brings in new rules to address consumer concerns.

at the institutional level the new law

- expands the China Food and Drug Administration's (CFDA) powers
- partly integrates the new law with the MoA *Quality and Safety of Agricultural Products Law*, mandating the two laws use common standards
- increases local government responsibility
- creates authoritative third-party expert agencies for standard setting and risk management
- increases the role of industry associations

for producers and distributors it

- mandates strict testing and record keeping: penalties aim to push small, low-skill producers to the wall
- offers incentives for downstream agents to train farmers to ensure compliance
- focuses on milk powder: each firm only allowed one brandname per formula
- holds "upstream and downstream" jointly responsible for clean food chains
- 'encourages' the support of favorable industry policies for the development of key enterprises, transparency, scale operations, traceability systems, low-toxic pesticide use and food safety liability insurance

for consumers it

- mandates clear labelling
- offers protection through real name registration for online retailers
- requires third-party platforms to monitor online compliance
- encourages public participation in reporting food incidents

for importers it

- strictly controls baby formula and health products
 - bans importers for non-compliance
 - places responsibility for recall of substandard products on importers
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outlook

A single agency responsible for food safety, current international best practice, is nigh impossible under China's competitive government structure. Maximising income from rents is often an agency's prime preoccupation. Amid jockeying for position when the original law was in draft, the Ministry of Agriculture trumped other agencies in 2006 by bringing out its own law, the *Agricultural Products Quality and Safety Law*. The law effectively hobbles the system by splitting authority at the farm gate, potentially allowing responsibility to fall into the gap. The MoA law will remain a major hurdle to an effective food safety system.

The revision, however, confirms a single-agency system as a long-term goal. In the meantime, issues besetting the system will not be solved by forever upping penalties and punishments. Implementation measures—giving teeth to the often weak language of the law—are yet to be released by CFDA and AQSIQ.

positive developments

- consolidation of supervision
- consolidation of processing and, eventually, production as farms scale-up
- locally, different agencies are being put together under one 'food safety' roof, as has been the case for many years in Shanghai
- new licensing systems for online business enforce transparency
- banning firms selling the same product under multiple brands, aimed at milk powder, protects consumers

unresolved systemic problems

- levels of education among rural producers and processors remains too low to implement sophisticated control systems
 - testing and inspection will remain limited as long as local FDA departments are understaffed and underpaid
 - recall measures will be ineffective without liability insurance
 - standards development has a long way to go to catch up with international norms
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context

28 September 2015: AQSIQ new policy on imported food inspection opens for comment

28 July 2015 to 2 September: CFDA new policies on health food, distribution, supervision and inspection, milk powder, and e-commerce open for comment

25 April 2015: revised *Food Safety Law* passed, to take effect 1 October 2015

11 March 2015: CFDA new food recall policy to take effect 1 September 2015

September 2014: Shanghai Hushi Food Company found to be selling expired meat to McDonald's, KFC, Starbucks, Pizza Hut and Burger King

May 2013: excessive levels of cadmium found in large quantities of rice in Guangdong

May 2013: authorities discover lamb meat in Shanghai and neighbouring provinces contains rat, fox and mink meat

March 2013: Administrative Restructure. Creation of China Food and Drug Administration and National Health and Family Planning Commission

March 2013: following a crackdown on illicit pig-trade in Zhejiang, 15,000 dead pigs found floating in the Huangpu River in Shanghai

November 2011: Food Safety regulators reshuffle. National Food Safety Commission office moved from Ministry of Health to the State Council

May 2011: watermelons burst by the score in Jiangsu Province, reportedly due to overuse of growth chemicals

March 2011: more than 2,000 tonnes of fresh pork meat and pork meat products contaminated with clenbuterol

March 2010: regulators found that restaurants throughout China were using gutter oil in a nationwide scandal which has still not been fully resolved

1 June 2009: *Food Safety Law*

September 2008: baby formula contaminated with melamine kills babies and makes over 300,000 ill

May 2008: pet food imported from China recalled in the US due to melamine contamination

April 2004: over 50 babies in Anhui die from malnourishment caused by consuming fake powdered milk

roundtable

the difficulties of implementing the 'strictest food safety law in history'

Wu Linhai 吴林海 | *Baijia*

Three major problems remain in China's food safety governance system

- food regulators and law enforcement agencies are weak and severely understaffed
- regulatory agencies are relatively poor and their expenses too high
- service institutions are too few and their technical level is too low to support efficient regulation

To avoid further conflict and better succeed in carrying out the new *Food Safety Law*, Wu suggests that local administrations should be allowed little room to interpret how they implement the law. The priority must be to avoid bureaucratic manipulation for other ends.

severe punishments targetting food safety and the chaos in advertising

Teng Jiakai 滕佳材 | *Guangming Daily*

The new law's aim is to scare infringers with fines causing financial ruin, says Teng Jiakai 滕佳材 CFDA vice minister. Police can now intervene directly in food safety cases, and financial penalties have been tripled to 30 times the value of goods. At the same time consumer compensation will be more immediate. Manufacturers committing three offences in a year will be forced to cease operation and will have their licenses revoked; moreover, online food sales platforms will be held strictly responsible for monitoring real name registration, licenses, and inspection, as well as consumer compensation.

three strategic views on food safety governance

Hu Yinglian 胡颖廉 | *China Cadre Tribune*

The food industry is a major pillar of the national economy and accounts for 18 percent of GDP. The reason why people are not satisfied with the safety of food is because the risk is unknown. The only way to improve food safety is to improve capacity and governance. We must resolve the relationship between the state, market and society of which the core is to guide behaviors, norms and contradictions. The ideal system should focus only on producers and traders. Information disclosure, random sampling and educational promotion are necessary to improve the level of operation. Modern food safety management calls for a change from a sheer governmental regulation to a multi-party governance model, involving government, enterprises, consumers, industry associations, and the media. Devolution is the first step: food safety authorities should cut approval red tapes.

in the spotlight



Chen Junshi 陈君石 | Food Safety Commission expert committee

Founder of Chinese toxicology research and an authority on food safety and nutrition, Chen is China's most prominent food safety expert. He

was a key architect of the first *Food Safety Law* (2009) as well as the newly revised one and has a leading standard-setting and crisis control role in the Food Safety Commission and its related expert groups. Chen is an optimist but acknowledges consumers' trust deficit and social stability risks. He holds that food safety risks cannot be eliminated but can be reduced to an acceptable level. Fundamental food safety problems in China, he says, include too many small farms and producers, lack of standardised production, poor credibility and a fragmented national food control system. His attempts to clarify misconceptions on GMOs and food additives in summer 2015 met with protests from anti-GMO activists.



Centre for Coordination and Innovation of Food Safety Governance 食品安全治理协同创新中心

Established in 2011 at Renmin University in partnership with Tsinghua University and South China

University of Technology, the centre gives expert support to China's food safety governance institutions, including NPC Legislative Commission, Supreme Procuratorate, and State Council Law Office, and partners with CFDA. It is responsible for drafting measures and laws and providing judicial opinions and assistance, and publishes the annual *Blue Book of Food Safety Governance*. Headed by Renmin University Law School Dean Han Dayuan 韩大元.

Wu Linhai 吴林海 | Jiangnan University professor

Government bureaucrat turned agronomist first at Nanjing University, and since 2001 at Jiangnan University where he has focused on food safety issues since 2008. Wu is the editor of the annual *China Food Safety Development Report*. In 2014, his book *Food Safety in China* was published in English. The hardest nut to crack in managing food safety risk is, he says, the supervision of edible agricultural products during production. MoA should not supervise both production and safety,



he argues, nor is it possible to manage the source contamination simply by relying on self-management of the agricultural sector. In addition, MoA's main task is to protect the supply of agricultural products, which can oppose ensuring quality. This tension creates problems for the future, he says.

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