



USDA Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Template Version 2.09

Required Report - public distribution

Date: 8/14/2008

GAIN Report Number: JA8053

Japan

Planting Seeds

Planting Seeds Annual Report

2008

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Report Highlights:

The revision of the Seeds and Seedlings Act was enacted on December 1st 2007 in order to increase plant variety in Japan.

Includes PSD Changes: No
Includes Trade Matrix: No
Annual Report
Tokyo [JA1]
[JA]

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I. Executive Summary

On December 1, 2007, Japan enacted the revision of the Seeds and Seedlings Act. With the number of registered varieties increasing every year violations of breeder's right have been rising sharply. The former law did not provide effective enough deterrence to prevent violations and the government has been slow to process compensation claims. A recent GOJ study indicated that 40 percent of breeders did not take any action when they found somebody had used their registered breed. The new revision was made in order to strengthen punitive measures for violations of plant variety protection rights, to lighten the burden of proof for claimant breeders, and to institute proper labeling. These changes will encourage Japanese breeders to take legal actions to suspend crops unlawfully produced from registered varieties.

II. Production

The Ministry of Agriculture, Forestry and Fisheries (MAFF) has not made statistics available on the production of planting seeds since 1998. Therefore, domestic production and use data is not available.

III. Plant health Regulations

There has been no change in Plant Health Regulations related to planting seeds since August 2006.

IV. Seed Certification

Japan is a signatory of the Organization of Economic Cooperation and Development (OECD) Seed Schemes which consist of seven schemes. Japan is affiliated with three schemes such as grasses of legumes, crucifers and other oil or fibre species, fodder beets and sugar beets.

As of July 2005, 101 forage crops which were developed in Japan are registered in the OECD Seed Certification System.

V. Intellectual Property Rights (Plant Variety Protection/Plant Patents)

In recent years, there have been cases involving the sale of plants grown in countries other than Japan with registered seeds that were removed illegally in an infringement of the breeder's rights. There have been cases of Japan reverse-importing crops produced illegally from registered seeds such as rush, carnation, ringiku (Chrysanthemum) from China; strawberry from Korea; cherry from Australia. However, as compared with the intellectual property rights for other items, protection of breeder's rights in Japan has not been sufficiently enforced. For this reason, MAFF issued the following Revision of the Seeds and Seedlings Act, which strengthened punitive measures, lightened the burden of proof for claimant breeders, and introduced proper labeling. This revision took effect on December 1, 2007.

1) Strengthen criminal punishment

Strengthening criminal punishment should discourage deliberate infringement of rights.

- Individual: Ten or less years of imprisonment, and a fine of 10 million yen or less. Formerly three or less years of imprisonment, and a fine of 3 million yen or less
- Corporation: 300 million or less yen fine. Formerly a fine of 10 million yen or less.

2) Lightening the burden of proof for claimant breeders

The revised law makes it easier for claimants with breeder's rights to take judicial action and increases the effectiveness of countermeasures designed to deter infringement of rights.

- A defendant who denies there has been an infringement will be obligated to prove it.
- A court can order the required documents to be presented.
- The amount of loss from damage is calculated based on the price for registered products.
- Trials that involve trade secrets can be kept from public disclosure.

3) Ensuring credibility of registration of variety labeling

- Prohibition of false labeling: seeds which are not from a registered variety are prohibited from being labeled as "registered variety" or similar labeling that could lead to confusion.
- Breeders should try to show the registered variety on the label. This prevents unintentional violations.
- Breeders must change their registered variety name when they receive an order to change the name.

Japan joined the International Union for the Protection of New Variety of Seeds (UPOV) in 1982 and adopted the 1991 convention in 1998.

VI. Variety Approval and Registration

There have been no new changes in the variety approval process since August, 2006.

The number of applications for variety registration of planting seeds accepted by MAFF was 1,533 in 2007, up 18.8% from 1,290 in the previous fiscal year (i.e. April-March). The number of varieties registered was 1,432 up 15.9% from 1,235 in the previous fiscal year.

MAFF has an English website on "Plant Variety Protection", which provides the following information.

1. The law and government ordinances
2. An institutional outline
3. UPOV Act
4. Documents required for a variety approval application

<http://www.hinsyu.maff.go.jp/english/index.htm>

NUMBER OF SEED VARIETY APPLICATIONS & REGISTRATIONS TWO-YEAR COMPARISON (JAPAN FISCAL YEAR: APR. THROUGH MAR.)				
Crops	Applications		Registrations	
	2006	2007	2006	2007
Edible Crops	49	88	56	64
Vegetables	86	80	61	58
Fruits	50	48	55	70
Forage Crops	9	18	31	11
Herbaceous Plants	801	1,046	828	960
Ornamental Plants	264	214	158	249
Forest Trees	2	0	0	2
Others	29	39	46	18
Total:	1,290	1,533	1,235	1,432

(Source: Ministry of Agriculture, Forestry and Fisheries)

The number of applications and registrations of seed varieties, which were developed in foreign countries, are shown in the following table. As of the end of March 2008, the cumulative number of applications for new registrations for seed varieties, grown outside of Japan, was reported as 7,019 cases, up 577 cases or 9.0% from the previous fiscal year, and the number of registrations was 4,867 cases, up 10.8% from the previous fiscal year.

NUMBER OF REGISTRATION OF SEED VARIETIES BY CROP & CPUNTRY, GROWTH OUTSIDE JAPAN, as of the end of March, 2008																	
Country		Total		Edible Crops		Industr ial Crop		Vegeta ble		Fruit Trees		Forage Crops		Herbaceous Plants		Ornamental Plants	
		A	R	A	R	A	R	A	R	A	R	A	R	A	R	A	R
Asia	Israel	436	301					1	1					434	300	1	
	Thailand	23	14					2	1					21	13		
	China	11	9	5	5					3	2			3	2		
	Korea ,So.	17	3					2	1					8	1	7	1
	Taiwan	22	9					6	2					14	7	2	
	India	3	1											3	1		
	Philippine	3								1				2			
	Indonesia	2	2									2	2				
Europe	Netherlands	2,516	1,783	1				1	1	1				1,888	1,321	610	450
	Germany	1144	870	4				6	2	4				701	507	434	363
	France	430	321	14	8			6	1	8	5			167	130	235	177
	Italy	237	157											196	125	41	32
	U. K.	394	282	3				2	2	7	7			237	157	145	116
	Denmark	433	275											241	168	192	107
	Ireland	8	1											6		2	1
	Belgium	15	5							3	1			9	1	3	3
	Switzerland	8	5							2	1			6	4		
	Spain	35	9					5						29	8	1	1
	Sweden	1	1													1	1
	Norway	2	2											1	1	1	1
	Slovakia	1	1											1	1		
	Czech	1														1	
	Poland	4	4											4	4		
	Portugal	1	1													1	1
	Austria	2												1		1	
Americas	U.S.A.	896	575	3	2	2		2	1	1	6	1	9	608	369	230	170
	Argentina	2	1											1	1	1	
	Ecuador	8	1											4		4	1
	Costa Rica	29	21											28	20	1	1
	Canada	5	3	1										1		3	3
	Mexico	1	1													1	1
	Brazil	9	6							3	1			6	5		
Ocean ia	Australia	166	101					2		2				151	99	11	2
	New Zealand	131	85							2	8			35	20	75	57
Africa	Kenya	4	3													4	3
	Morocco	1						1									
	South Africa	18	14											16	13	2	1
Total		7,019	4,867	31	15	2		6	3	6	3	1	11	4,822	3,278	2,010	1,493

					9	9	7	1	2			
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VII. Genetically Modified Organism (GMOs)/Biotechnology

Japan does not produce any biotech products commercially; however Japan is the world's largest importer. Please refer the "Japan Biotechnology Annual Report 2007" GAIN JA7040 for details. The 2008 version (JA8047) will be available by early September, 2008.

<http://www.fas.usda.gov/gainfiles/200707/146291858.pdf>

VIII. Statistical information**1) Tariff**

The table below shows the import duties levied on planting seeds. Other seeds are duty free.

Crop	HS Code (Harmonized System)	Tariff Rates (WTO)
Pea Seeds	0713.10.211	6.0%
Kidney Bean Seeds	0713.33.210	6.0%
Broad Bean Seeds	0713.50.210	6.0%
Other Seeds (Vigna spp., Phaseolus spp.)	0713.39.210	6.0%
Other Seeds (Dried leguminous vegetables)	0713.90.210	6.0%

(Source: Customs Tariff Schedule of Japan)

2) Harmonized System – Tariff Codes for Planting Seeds in Japan

The HS codes for vegetable seeds and forage crop seeds have been changed. Trade data for each crop in former GAIN reports was obtained based on the HS codes shown in the table below. Japan uses 9-digit codes while the United States uses 10-digit codes. The first 6 digits are universal standard codes and the rest vary by country. BICO provides trade data for planting seeds includes six seeds groups. Each group represents a total of the individual commodities, based on the HS codes. Some of those commodities do not really fall in the Japanese customs tariff schedule.

Seed Group	HS Code
Vegetable Seeds	1209.91-010; 1209.91-090
Sugar Beet Seeds	1209.10-000
Forage Crop Seeds	1209.21-000; 1209.22-000; 1209.23-000; 1209.24-000; 1209.25-000; 1209.29-000; 1002.00-010; 1004.00-010; 1005.10-010; 1007.00-010; 1008.10-010; 1008.90-010
Pea / bean Seeds	0713.10-010; 0713.10-211; 0713.20-010; 0713.33-010; 0713.33-210; 0713.39-010; 0713.39-210; 0713.40-010; 0713.50-010; 0713.50-210; 0713.90-010; 0713.90-210
Sweet Corn Seeds	0712.90-031
Herbaceous Plant Seeds	1209.30-000
Other Planting Seeds	1209.99-000

End of Report