

# New Security Challenges in Asia

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## Chapter 8

### Safe Harbor in a Risky World? China's Approach to Managing Food Safety Risk

*Elizabeth Wishnick*

With its booming, export-oriented economy, China typically is viewed as an engine of economic globalization. Transnational linkages also affect the Chinese state, however, by making it vulnerable to a wide range of new hazards, such as food safety risks, that arise as the unanticipated consequences of economic development. This chapter addresses Chinese risk management in the context of ongoing debates about China's contribution to global governance. After outlining the 2008 scandal over melamine contamination in milk in China, the paper examines the international response. It is argued that Chinese governmental practices pose unique challenges to food safety risk management. Three dimensions are examined: government-business relations, the role of information in risk management, and state-society relations.

Although food safety is a Chinese domestic policy concern, the globalization of the food and drug industries and China's emergence as a key player within these sectors have put the safety of Chinese food and pharmaceutical products on the foreign policy agenda of the United States and

other countries. This was brought home in 2008 when at least eighty-one Americans died after taking Chinese-made counterfeit heparin, a blood-thinning drug made from pig intestines. In a July 2011 report, the U.S. Food and Drug Administration asserted that "the safety of America's imports of food and medical products remains under serious threat" as our reliance on imports from China, Mexico, and other countries far outpaces our capacity to monitor them.<sup>1</sup> Food safety issues have become a subject of United States-China diplomacy, providing new avenues for cooperation and creating new irritants in relations. Accordingly, this chapter also examines the role of international organizations, the United States, and other countries in managing food safety risks originating from China.

### China and Global Governance in a Changing World Order

China's role in the global order has been the subject of considerable debate in both the United States and China. More than five years ago, former deputy secretary of state Robert Zoellick challenged China to become "a responsible stakeholder." According to Zoellick, because China benefited from its involvement with the international community, now that it has emerged in a much strengthened position, the Chinese government has the responsibility to contribute to the resolution of global problems.<sup>2</sup> After initially focusing on economic integration (pursuing membership in the World Trade Organization and Asian regional economic groupings), over the past decade China has taken a series of important new steps such as expanding its role in United Nations peacekeeping operations and enhancing its soft power by establishing 400 Confucius Institutes in 108 countries that provide funding to promote study of the Chinese language and culture. In January 2010, China participated for the first time in a multinational naval effort to combat piracy off the coast of Somalia.

China's growing global engagement has led some American scholars to suggest that China could play a leading role, along with the United States, in solving the world's problems. Such a group of two (G-2) would give China a new role as "a legitimate architect" of the emerging economic order<sup>3</sup> and encourage China's more active involvement in conflict resolution in the Middle East and the Korean Peninsula.<sup>4</sup> Elizabeth Economy and Adam Segal argue, however, that the need for United States-China bilateral cooperation does not alter the fact that the international community must

cooperate multilaterally to address some of the challenges posed by China itself on a range of global issues, including climate change and food safety.<sup>5</sup>

Some observers contend that, as China becomes more integrated regionally and globally, greater convergence between Chinese attitudes and Western norms about the use of force and other key security issues will develop. Others caution, however, that China's greater global engagement may have limited effects and may not be indicative of emerging agreement on standards of international behavior.<sup>6</sup> Finally, some analysts question whether integration in the liberal order will meet the needs of rising powers such as China, which may seek to fashion the international system in their own image.<sup>7</sup> Some scholars argue, for example, that the Chinese leadership is promoting its own values, a "Beijing Consensus" that would supplant the Washington Consensus, predicated on the belief of the superiority of a free market economy and a democratic political system.<sup>8</sup> In the wake of the 2008 financial crisis, critical statements made by some Chinese officials who questioned the wisdom of continued reliance on the U.S. economic model and the dollar lent credence to the viewpoint that China is advancing an alternative agenda.<sup>9</sup>

Although China is dissatisfied with what it perceives as U.S. hegemony in world affairs, what role China proposes to play remains unclear. Despite new signs of multilateral political and security engagement, China continues to place an emphasis on bilateral relationships to solve global and regional problems. This stems from the state-centric view of global politics that dominates Chinese policy analysis, despite the recognition of the increasing importance of transnational security threats and nonstate actors. Moreover, some Chinese observers are skeptical about the ulterior motives of global governance, which they see as seeking to institutionalize Western values and interests in the guise of developing frameworks and institutions to resolve global problems.<sup>10</sup>

The Chinese leadership's conception of a "harmonious world" has been promoted both to reassure the West of Beijing's peaceful intentions and to propose an alternative world order, one more in keeping with China's preferences for domestic and international governance. Chinese officials assert that their vision for a "harmonious world" presupposes a democratic international system, which they understand to mean the promotion of open and fair multilateral mechanisms for economic and collective security, respect for a diversity of political systems, and noninterference in the domestic affairs of other countries.<sup>11</sup> This concept of a "harmonious world"

is fundamental to China's vision for the Shanghai Cooperation Organization (SCO), for example, the regional security organization that includes China, Russia, and the Central Asian states. The SCO rejects efforts to impose Western political frameworks—which the group calls “the export of development models”—and seeks instead to protect the diversity of civilizational approaches and promote “harmonious development.”<sup>12</sup>

Although China shares many of the problems of developing states, as the world's second-largest economy it has emerged as a key player in the Group of Twenty (G-20). For Cui Liru, president of the China Institute of Contemporary International Relations, the eclipse of the “old dominating mechanism of the G-7 (-8)” and increasing prominence of the G-20 shows that a new, more balanced global governance mechanism is emerging.<sup>13</sup>

Chinese scholars have noted, however, that the more cooperative and multipolar world order poses additional challenges for their country, because China's leaders now must decide how and when to use their country's growing economic power globally.<sup>14</sup> This will require trade-offs, such as balancing Chinese global interests with those of the developing world. However, as the December 2009 Copenhagen summit highlighted, the growing divide on climate change between developing countries with larger and smaller economies makes it difficult for China to claim it speaks for the developing world as a whole.

Chinese leaders recognize that building a harmonious world will be no easy task, given the complicated mix of development, traditional security, and nontraditional security challenges their country faces. As the 2008 Chinese government white paper on defense explained, China faces unprecedented opportunities for peaceful development, economic globalization, and mutually beneficial economic cooperation, but also continues to confront traditional and nontraditional security threats. To cope with the latter, the white paper states that China would enhance its military capabilities as well as its national emergency management system, developed to respond to natural disasters and nontraditional security risks.<sup>15</sup>

In the face of unprecedented opportunities and challenges, China will hold high the banner of peace, development and cooperation, persist in taking the road of peaceful development, pursue the opening-up strategy of mutual benefit, and promote the building of a harmonious world with enduring peace and common prosperity; and it will persist in implementing the Scientific Outlook on Development in a bid to achieve integration of development with security, persist in giving due consideration to both traditional and

non-traditional security issues, enhancing national strategic capabilities, and perfecting the national emergency management system.

In contrast to Western views, which emphasize the role of nonstate actors and transnational pressures, Chinese perspectives on nontraditional security emphasize the continued need for the state to provide protection for society against human security threats as well as the continued importance of maintaining sovereignty in the face of such challenges.<sup>16</sup> In light of a series of national emergencies in recent years, such as the 2003 severe acute respiratory syndrome (SARS) crisis, the 2008 Sichuan earthquake, and the 2008 melamine crisis, Chinese scholars and policymakers have begun to discuss the importance of public administration and risk management in disaster response.<sup>17</sup>

The concept of social risk first emerged in the 1980s in the work of European social theorists. The German sociologist Ulrich Beck pioneered the concept of a “world risk society” that he saw arising as a result of the unintended environmental consequences of rapid economic change.<sup>18</sup> In Beck's view, risk is both driven by increasing wealth (the ecological damage caused by the industrialization process and excess consumerism) and directly related to poverty (in terms of inadequate access to resources and their unsustainable use).<sup>19</sup> Because the dual nature of risk speaks to the development challenges that China now faces, scholars inside and outside China have turned to the concept of risk to capture the nontraditional security challenges that emerge from the modernization process itself.<sup>20</sup> For the Chinese government, managing risk requires hard choices, given that the very development process that creates risks for society is viewed as a priority for state security. Moreover, unlike Western societies that were the focus of the studies of social risk by European scholars, Chinese society has much less autonomy to respond to risk.

The Chinese government has focused on addressing the risks associated with poverty, and international agencies such as the World Bank credit its leaders with lifting half a billion people out of poverty from 1981 to 2004.<sup>21</sup> Given the challenge of poverty reduction in China and its large rural population, until recently the Chinese government has focused on achieving security of grain supplies to ensure food security, safeguard social stability, and avoid dependence on foreign imports, rather than on reducing food safety risk. However, the decentralization of the food industry in China and its inadequate regulation have exacerbated food safety risk for Chinese and foreign consumers alike.



Although China participates in many global efforts to improve food safety, as we will see in the 2008 case of milk contamination, Chinese government practices are at odds with global norms of transparency and accountability in food safety, with detrimental consequences for domestic consumers and a globalized food chain. In keeping with its understanding of a democratic world order as meaning opposition to interference in its domestic affairs, China's reluctance to release or publicize information about food safety incidents creates new challenges for global governance of food safety.

### Case Study: The 2008 Melamine Crisis Reexamined

On September 10, 2008, just after the close of the Beijing Olympics, China's official news agency reported that Sanlu Group, a state-owned enterprise and the largest seller of baby milk powder in China, was being investigated after infants in Gansu province developed kidney stones from drinking the product.<sup>22</sup> Intermediaries had laced the milk with melamine, a compound found in plastics and fertilizers. At the time, milk in China was tested for nitrogen to assess its protein content and the addition of melamine artificially boosted the amount of nitrogen found in the milk.<sup>23</sup>

Sanlu initially denied responsibility, then undertook a partial recall of 8,210 tons of milk powder produced prior to August 6. China's Ministry of Health initiated a total recall on September 13, prompting Sanlu to issue an apology.<sup>24</sup> China's top leaders then took an unusual series of steps to reassure the public. Free checkups for affected children and hotlines for parents were promised, President Hu Jintao visited a dairy farm to emphasize the need for vigilance about food safety, and Premier Wen Jiabao pledged a major government effort over the next two years to address food safety issues.<sup>25</sup> After apologizing on behalf of the government, Premier Wen promised: "We will never let the same situation repeat with any kind of food product,"<sup>26</sup> a promise that has proved impossible to keep.

More than three years after the Sanlu crisis first broke, melamine continues to be found in Chinese dairy products, despite the actions pledged by Chinese leaders and officials. In April 2011, Chinese police seized 26 tons of milk powder produced in Inner Mongolia and then resold to two other companies for use in ice cream because the product was contaminated with melamine.<sup>27</sup> In January 2010, Chinese authorities closed down one of the companies implicated in the 2008 scandal, Shanghai Panda Dairy

Company, when melamine was found again in its products.<sup>28</sup> This followed the arrest just two weeks before of three executives in a Shaanxi province dairy company that produced melamine-tainted milk powder.<sup>29</sup>

Ironically, as a "major brand," Sanlu had been exempt from quality control inspections and the quality of its products had just been showcased on *Weekly Quality Report*, a television program sponsored by China's quality control agency, the Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ).<sup>30</sup> Ultimately twenty-two Chinese companies, including other leading brands such as Mengniu, Yili, and Bright Dairy, were implicated in the scandal, which sickened 294,000 Chinese children, killing six.<sup>31</sup> In the wake of the 2008 scandal, AQSIQ eliminated inspection exemptions for so-called "major brands" and its director resigned. A leading group on food safety was formed within the State Council, which launched a national investigation of Chinese milk products.<sup>32</sup> New safety and quality standards were also introduced for dairy products and animal feed.<sup>33</sup>

For her company's part in the scandal, Sanlu chairwoman and Shijiazhuang Party Secretary Tian Wenhua was fired, along with more than 36 other local party and state officials. Tian was ultimately sentenced to life in prison, and two intermediaries received death sentences for selling melamine-laced milk to the dairy companies. It became clear at Tian's trial that the company had been receiving complaints about the milk since 2007 and that she knew about the melamine contamination since at least May 2008.<sup>34</sup>

### *The International Response to the Melamine Crisis*

Dairy products constitute a small proportion of the food the United States imports from China, and mostly involve ingredients derived from milk, such as the casein substances used in coffee creamers, sports drinks, and power bars. Although in general the United States exports more food to China than it imports, China now is the third largest source of agricultural and seafood imports to the United States, after Canada and Mexico. The globalization of the food industry has proved to be a considerable challenge for the U.S. Food and Drug Administration (FDA), which is responsible for monitoring 80 percent of U.S. food imports. Typically the FDA inspects only 1 percent of these imports due to budget constraints.<sup>35</sup> From 2001 to 2007, only 33 Chinese food producers were inspected, out of a total of 1,034 inspections worldwide.<sup>36</sup> According to the FDA, it would cost more than \$3 billion (approximately \$16,700 per inspection) to inspect the

189,900 overseas facilities that produce and process foods destined for the U.S. market.<sup>37</sup> This is simply not feasible, considering that the FDA's entire fiscal year 2008 budget for food protection came to just \$620 million.

In response to the concerns over melamine contamination in Chinese milk products, the FDA announced on November 13, 2008 that no Chinese milk products would be allowed into the United States until China could certify that they were free from melamine contamination.<sup>38</sup> The FDA has the right to refuse foreign shipments of foods that violate American safety standards. In fiscal year 2006, the United States refused 0.15 percent of Chinese food products, with seafood products constituting half of the 700 refused shipments. The Chinese government has interpreted the relatively low refusal rate as an indication that 99 percent of China's products are safe, although this does not take account of the extremely small proportion of inspected goods.<sup>39</sup>

Although the Chinese government assured Japan that no goods containing contaminated milk were exported to Japan, several companies found evidence of melamine in various types of pastries and other foods imported from China.<sup>40</sup> This led to product recalls and prompted two major Japanese food companies to suspend imports of Chinese milk products entirely. Coming just after a dispute over tainted dumplings imported from China in early 2008, the melamine contamination demonstrated that food safety was becoming an increasingly problematic issue in China-Japan relations.<sup>41</sup>

In the European Union, all imports of Chinese baby food containing milk products were banned. The EU also called for tests on all products containing more than 15 percent milk powder, even though European imports of such foods are relatively limited.<sup>42</sup> However, other polities found evidence of melamine in a much wider range of foods. In the last quarter of 2008 alone, Hong Kong reported contaminated fish feed and eggs; the United States complained of melamine in hog feed; and, after testing Chinese ingredients used in a wide range of processed foods, Malaysia found evidence of melamine in baking powder. Previously, in 2007 China had already admitted to problems with melamine in pet food.<sup>43</sup>

### Governmentality and Risk Management:

#### State-Society Relations in China and Response to Global Risks

One of the more contradictory aspects of the Chinese government's response to food safety, environmental, and health risks has been its effort

to involve society in resolving such risks,<sup>44</sup> while simultaneously increasing controls on the nongovernmental organizations (NGOs), public interest lawyers, journalists, and Netizens who are trying to call attention to these hazards. Scholars disagree about the degree to which the Chinese government is prepared to grant society a role in addressing the country's problems. Shaoguang Wang from the Chinese University of Hong Kong argues, for example, that the Chinese public is increasingly involved in agenda setting, to the point that the Chinese political system can no longer be called authoritarian.<sup>45</sup> Steve Tsang contends, however, that government responsiveness to public demands demonstrates the Chinese leadership's intent to retain control by preempting threats to political stability, a system he terms "consultative Leninism."<sup>46</sup> Within mainland China, scholars note the limited latitude that NGOs enjoy with respect to the state, although some argue that the NGOs and the government may have complementary interests.<sup>47</sup> A study by Kang Xiaoguang of Renmin University and Hang Heng of Zhengzhou University found that the Chinese government imposes "graduated controls" over NGOs depending on the degree to which individual groups are believed to benefit society or challenge the state.<sup>48</sup>

Michel Foucault coined the term "governmentality" to refer to the evolving process of redefining "what is within the competence of the state and what is not, the public versus the private."<sup>49</sup> In his view, the empowerment of civil society does not necessarily entail the weakening of state power. For Foucault, government involves more than assertions of sovereignty. Like the captain of a ship sailing in dangerous waters, the state's ultimate purpose is to find safe harbor and ensure the welfare of the population. To safeguard the population, the government relies on its own regulatory capacity and the support of institutions and groups outside the state, acquires information about emerging risks, and develops a security apparatus.<sup>50</sup>

As Nikolas Rose notes, part of the rationality of government is to evaluate what issues it should be responsible for and what should fall into the purview of firms, institutions, and localities. Accordingly, such groups are increasingly being asked to take responsibility for risk management.<sup>51</sup> Thus, a division of labor may develop where elements of society perform certain functions on behalf of the state and address particular risks. This does not mean that the Chinese state retreats as the role of nonstate actors increases. Instead, the state regroups and responds to the environment in new ways.<sup>52</sup> In the case of China, however, unlike in Western democracies,<sup>53</sup> it is much more difficult to argue that the empowerment of society reflects the rationality of government. In China, where society



is state-led,<sup>54</sup> the Chinese Communist leadership typically interprets the independent exercise of power by groups within society as a challenge to its rule and seeks to coopt organizations such as NGOs, labor unions, entrepreneurs, and religious communities to prevent them from being separated from state control.

The following discussion explores the relationship between China's governmentality and its management of food safety risk during the 2008 melamine crisis. Four dimensions of Chinese governmentality are considered here: government-business relations, the role of information in risk management, and the roles of Chinese and international society in risk awareness. A concluding section examines the implications for United States-China relations.

### *Government-Business Relations*

In food safety, market factors constrain risk management. The Chinese food industry is increasingly a mix of state and private actors, all responding to market pressures. Moreover, the expansion of the role of the market has set limits on the government's ability to mobilize and implement new directives in response to a crisis.

The Chinese dairy sector has been booming in recent years, now that China's burgeoning middle class has discovered the health benefits of milk drinking. China is the world's third largest producer of milk, much of it generated by small companies struggling to remain competitive.<sup>55</sup> The Chinese dairy industry is remarkably fragmented and decentralized, involving a combination of public and private, large-scale and small-scale businesses engaged in fierce competition with one another.<sup>56</sup> Millions of small-scale farmers sell their product to intermediaries who collect the milk and then sell it to producers.<sup>57</sup> Chinese government regulations have been calling for consolidation of dairy firms, but the market share belonging to the ten largest processors declined from 50 percent in 2003 to 40 percent in 2008, with the rest divided among hundreds of smaller, less profitable firms.<sup>58</sup> The increased competition has benefited the larger producers, which earn the lion's share of profit and attract foreign investors.

Chinese analyses of the 2008 melamine crisis link food safety problems to the increasingly marketized economy and proliferation of small-scale producers. In the 2008 case, intermediaries competing for market share added melamine to hide the poor quality of their milk and boost sales,

although it is unclear whether farmers actively connived with these brokers to receive a higher price for their milk.

To create a more stable market, increase overall profitability, and pool the costs involved in improving safety, a group of scholars at Renmin University advocated the formation of dairy cooperatives.<sup>59</sup> They note that currently 65 percent of milk producers are household farms and that 80 percent have between one and five cows.<sup>60</sup> According to a quality control official from Hebei Province, a key milk-producing region, small-scale producers face numerous disincentives that dissuade the majority from having their products inspected.<sup>61</sup> Western analysts note, however, that practices at China's large-scale factory livestock farms also present a wide range of threats to food safety due to the prevalence of poor environmental conditions, contaminated water and soil, and unsafe use of veterinary additives in sick animals.<sup>62</sup> In general, Chinese scholars urge their government to take a more comprehensive, "farm-to-table" approach to food safety, monitoring sites of food production in addition to inspecting final products.<sup>63</sup>

Foreign analysts focus, conversely, on the challenges to food safety caused by the state's involvement in the economy. Coverage of the melamine crisis noted that overlapping political and business responsibilities created disincentives for reporting food safety problems, especially during the Olympics, because the chairman and general manager of Sanlu, the state-owned company at the center of the crisis, also served as party secretary of Shijiazhuang, the city where the company was located and employed 10,000 people.<sup>64</sup> In terms of food safety regulation, foreign experts note that China has sought to improve government practices, but that producers and suppliers throughout the food industry also must be involved in food safety. Instead of being fully responsible for food safety, the Chinese government should work with food producers and suppliers, which need to be encouraged to play a bigger role.<sup>65</sup>

### *Information and Risk Management*

The Chinese government has been inconsistent in its position on the role of information in risk management. After the 2003 SARS crisis, the Chinese government appeared chastened about the need to provide greater information on public health emergencies. New legislative reporting requirements were instituted, scholars urged improved flows of information to the public, and legislation granting the public the right to know—that is, to request and

receive information from the government about issues of public concern—was passed on May 1, 2008.

On April 29, 2010, the Chinese legislature amended the state secrets law, a move that the official news agency characterized as promoting transparency by standardizing classification procedures. However, the law also strengthens requirements for Web-based companies to report leaks of state secrets, part of a series of recent legal measures the government aimed at preventing the Internet and cell phones from being used to spread information considered politically or socially harmful.<sup>66</sup> Indeed, political considerations continue to impede the public's right to know, as the scandal over melamine-tainted milk showed. As evidence of a problem with the milk supply mounted in the spring and summer of 2008, Chinese authorities quashed reporting of the issue due to their desire to avoid unfavorable publicity in the run-up to the Olympics, and only publicly acknowledged the problem after the games concluded.<sup>67</sup>

Chinese consumers often lack the knowledge to make informed decisions about the quality of products and, consequently, it may take considerable time before they realize that there is a safety problem.<sup>68</sup> In the 2008 melamine case, again, local media followed up on initial complaints about tainted milk products in June and July 2008, but then faced pressure by central party authorities to cease publishing such negative stories in the months leading up to the 2008 Olympics.<sup>69</sup> National news outlets such as Xinhua did not report the problem until after the Olympics, and then only after the New Zealand government had raised the issue on September 9.<sup>70</sup>

Chinese experts agree that consumers need to be informed more clearly about product safety, although they disagree on the mechanisms required. Some advocate a greater governmental role in establishing a database on food safety and developing an early warning system.<sup>71</sup> According to Zhao Naiji, a Guangzhou scholar, the government must protect consumers from opportunistic producers characteristic of a market economy, who may withhold safety information in order to get a better price for their products.<sup>72</sup> Nonetheless, he notes that overlapping responsibility for food safety by multiple agencies (the Ministry of Agriculture, the Ministry of Commerce, and the Ministry of Health, as well as AQSIQ) often leads to conflicts of interest, resulting in difficulties sharing information within the government, let alone with the public.<sup>73</sup> Others suggest that establishing a small group within the government to deal with food safety crises would improve its ability to collect and distribute information.<sup>74</sup> Such bodies have been set up since the melamine crisis, with inconclusive results. In 2009, a

National Food Safety Rectification Office, headed by Health Minister Chen Zhu, was established. A Food Safety Commission, chaired by Vice Premier Li Keqiang, also was created under the State Council in February 2010.<sup>75</sup>

The Chinese government response to recent food safety crises has emphasized improved official oversight, but some scholars contend that the media also can play a useful role in informing the public about food safety. An analysis of media coverage in Shanghai during three major food safety incidents—the 2001 mooncake-filling controversy, the 2004 powdered milk scandal, and the 2008 melamine crisis—found a lack of in-depth reporting, predominant reliance on government sources, and a focus on government remedies.<sup>76</sup> Noting the tendency of the Chinese media to accentuate the positive (*baoxi bu baoyou*), the study found fault with coverage of the food safety incidents for failing to involve expert analyses or adequately address the plight of victims.<sup>77</sup>

According to the authors, the media play a powerful role in the discussion of food safety—they can publicize information that is useful to the public but can also affect the fortunes of an entire industry or cause panic. Because coverage tends to emphasize government efforts to combat food safety problems and relies to a large extent on government sources, the study notes that, in practice, media coverage of such incidents typically serves two main purposes: crisis control and image control for the government.<sup>78</sup> As the authors point out, however, greater transparency in the media and multifaceted discussion involving input from experts and the public would help prevent future food safety crises from occurring.<sup>79</sup>

### *The Role of Chinese Society in Risk Awareness*

Although risk theorists typically predict a societal upsurge against behavior that causes risk, in practice Chinese society faces many constraints in calling attention to food safety issues. As was noted above, the Chinese government limits press coverage of food safety incidents, leaving the public with inadequate information to make informed consumer choices and providing disincentives for companies to self-regulate.<sup>80</sup>

After the 2008 melamine crisis, some families of sick children filed suit, but the Chinese government pressured judges and lawyers not to take on product liability cases linked to the incident.<sup>81</sup> Some 3,000 of the plaintiffs accepted a \$160 million (1.1 billion yuan) out-of-court settlement from the dairy companies (\$29,200 for the death of a child, \$4,000 for children who developed kidney stones or acute kidney failure, and \$300 for



children who suffered less severe symptoms).<sup>82</sup> A group of 550 parents petitioned the government to research the long-term health consequences of melamine exposure.<sup>83</sup> Others pressed on with civil suits against these firms as well as the retailers who sold their products, but only six of these cases had been accepted by late November 2009, and hearings were later postponed indefinitely.

Frustrated by the mainland system of justice, some claimants then filed suit in the United States and Hong Kong, but their suits and claims were rejected in both instances.<sup>84</sup> As one disappointed parent told the *South China Morning Post*, there would not be such food safety incidents if mainland residents "could seek justice from a fair and open legal system and the perpetrators were properly punished."<sup>85</sup> Although twenty-one people were convicted and two were executed for their role in the melamine scandal, Li Changjiang, the former head of AQSIQ, was appointed to a new, high-level position just fifteen months after being dismissed over his agency's handling of the melamine issue.<sup>86</sup> There are very few NGOs representing the rights of consumers or organizations encouraging industry to adopt best practices. One of the more established groups, the China Consumers Association (CCA), founded in 1984, is a national, state-organized NGO with 3,000 branch offices. The CCA promotes corporate social responsibility and assists the public with product liability cases. According to the group's annual report, in 2008 it received 638,477 complaints and obtained RMB 661.8 million (\$98.5 million) in compensation for victims. Regarding food safety, the CCA claims to have conducted some investigations of problematic milk powder manufacturers, participated in testing of milk products, and commented on the food safety law.<sup>87</sup>

However, the Chinese authorities have sought to limit society-led efforts to address food safety incidents. On July 17, 2009, alleging violations of nonprofit law, Chinese authorities closed the Open Constitution Initiative (Gongmeng), which helped parents of sick children ultimately receive more compensation than initially proposed by the government. The group was assessed a huge bill of 1.42 million yuan (\$207,900) for alleged late payment of taxes and its leaders were briefly detained.<sup>88</sup> A few months later, on November 13, Zhao Lianhai, a parent of a child sickened by melamine-laced milk, was detained by the Beijing police after setting up a Web site, "Home for Kidney Stone Babies," and organizing an online parental support group, "Milk Powder Group," on a popular social networking Web site. In March 2010, Zhao was tried for "creating a disturbance,"<sup>89</sup> and, on November 10, was finally sentenced to two and a half years for "inciting

social disorder" through his Web site, his meetings with journalists, and his efforts to organize other affected parents.<sup>90</sup> As the above discussion shows, there were real limits to the accountability of the Chinese government to society in the aftermath of the 2008 melamine contamination scandal. Autonomous actions by individuals and groups were stymied, and only state-led efforts to provide a one-time settlement and information were tolerated and produced any redress for the victims.

### *International Society and Food Safety in China*

In the 2008 melamine crisis, international actors played a key role in informing Chinese and global publics. Fonterra, the New Zealand minority shareholder in Sanlu, first expressed concern to its local partners about milk contamination on August 2, 2008. When company officials failed to inform local authorities in Hebei Province, Fonterra raised the issue with the New Zealand embassy. Unfortunately for milk drinkers, Fonterra's warning came during the lead-up to the 2008 Olympic Games, when the Chinese Communist Party requested caution in reporting food safety issues.<sup>91</sup> Once New Zealand officials completed further investigations, they informed Prime Minister Helen Clark on September 5, who then directly informed the central government in Beijing on September 9.<sup>92</sup> The New Zealand government's role as a whistleblower was never reported in the Chinese media, however.<sup>93</sup> Fonterra, which had a good record for food safety in New Zealand, then found itself the target of criticism at home and (unsuccessful) lawsuits by Chinese victims.<sup>94</sup> The value of its shares plummeted and, once Sanlu went bankrupt, the New Zealand partner ended up having to write off the joint venture as a \$200 million loss.<sup>95</sup> Although the company defended its behavior against accusations of being slow to respond, insisting it was following established procedures by going through channels and notifying the local partner first, Fonterra later contributed \$8.4 million to a Chinese charity providing health care for mothers and infants in rural areas.<sup>96</sup>

Other major international brands—such as Cadbury, Lipton, Kraft, Mars, and Lotte—had to recall products made with Chinese milk. Some thirty countries, including the United States and the European Union, banned products containing milk or milk powder from China until exporters could demonstrate they were free of melamine. The Chinese government criticized the bans at a meeting of the World Trade Organization, arguing that they had no rational basis.<sup>97</sup> Indeed, developing countries often claim that

food safety has become a nontariff barrier to trade because developed states falsely raise food safety issues to protect their domestic industries.<sup>98</sup>

Given the high cost and frequent incidence of recalls of Chinese products, some U.S. business analysts suggest that it is the international outsourcing manufacturers and importing companies that should act to ensure product safety. For example, in 2007 Mattel had to recall 21 million Chinese-made toys when they were found to contain lead-based paint, at a cost of \$110 million. Other companies paid millions in settlements connected to the crisis that same year over melamine contamination in pet food.<sup>99</sup> Consequently, it would be more cost effective for outsourcing firms and importers to set up product safety units to develop standards, instruct subcontractors in quality control, restrict the common practice of further outsourcing by Chinese partners, and constantly monitor quality.<sup>100</sup>

International organizations such as the World Health Organization (WHO) and the Food and Agriculture Organization (FAO) also play an important role in promoting information-sharing and setting global standards for food safety, but their impact depends on timely response and compliance. For example, once Chinese and foreign media began covering the 2008 melamine crisis, the WHO asked Chinese authorities for information. The Chinese government promptly provided the requested information through the International Food Safety Authorities Network (INFOSAN).<sup>101</sup> Nonetheless, the information the Chinese government supplied the WHO showed that complaints had been registered about melamine in Chinese milk products at least since December 2007—nine months before the crisis broke.<sup>102</sup>

Moreover, the 2008 milk crisis revealed confusion in many countries about acceptable levels of melamine. Food safety agencies published conflicting guidelines about maximum levels requiring actions such as import bans or recalls. This demonstrated the need for further harmonization of scientific standards for food safety through the auspices of the Codex Alimentarius Commission, created in 1963 by the FAO and the WHO to establish codes of practice for food safety.<sup>103</sup> It took another two years—until July 2010—for the Codex Alimentarius Commission to agree on common standards for melamine in foods.<sup>104</sup> Chinese analysts note the importance of standardization and admit that their country is lagging in this area. According to research sponsored by the Chinese government published in 2010, currently only 40 percent of China's national food safety standards are in accord with international standards.<sup>105</sup>

It is also up to international organizations to hold China accountable for meeting those standards. Human Rights Watch sharply criticized the WHO and the International Olympics Committee for asserting in a 2010 report, *The Health Legacy of the 2008 Olympic Games*, that China should be praised because “no major outbreak of food-borne disease occurred during the Beijing Olympics.” Despite the ongoing cover-up of the melamine crisis at the time of the Olympics and the subsequent repression of activists who sought compensation for the victims, the report calls China's handling of the Olympics “an instructive example of how mass events can be organized to promote health in a value-added way.”<sup>106</sup>

### Implications for the United States

At a time when China has been trying to expand its soft power, regular food and product safety crises have had a negative impact on perceptions of Chinese brands. A Fortune/Interbrand survey taken in the United States after the melamine crisis found that two-thirds of respondents agreed with the statement that “the ‘made in China’ label hurt Chinese brands” due to perceptions of their low quality.<sup>107</sup> Even before the 2008 milk crisis, in the wake of recalls of products from China (poisoned toothpaste, pet food laced with melamine, contaminated seafood, and toys laden with lead paint), a Zogby poll of 4,508 Americans found that only 30 percent believed that Chinese food products were safe to eat, while 82 percent said they were concerned about purchasing Chinese goods due to the numerous media reports about poor product and food safety.<sup>108</sup>

An Associated Press/Ispis poll found that most respondents (79 percent) blamed the Chinese government for product safety problems and 64 percent said that China bore the greatest responsibility for these issues. Nonetheless, 75 percent said that the U.S. government was also to blame and 71 percent responded that consumers looking for the lowest price were at fault as well.<sup>109</sup> Thus Chinese food safety issues have become both a domestic and a foreign policy problem for the United States.

In December 2008, in response to criticism of its performance from Congress, the Government Accountability Office, and the public, the FDA issued a food protection plan to improve food safety and food defense, which enabled the agency to open three new offices in China staffed by 13 employees.<sup>110</sup> The Obama administration has sought to improve food



safety in the United States and on January 11, 2011 signed the Food Safety Modernization Law, which imposes tougher standards on producers and calls for more extensive inspections (although the latter also would require increasing FDA funding levels at a time of overall budgetary constraint).

In addition to improving domestic food safety, U.S. policymakers have expanded cooperation with China in this area. After the May 2007 scandal about melamine in imports of Chinese-made pet food, food safety began to be discussed at the meetings of the United States-China Strategic Economic Dialogue. U.S. Treasury secretary Henry Paulson, who cochaired the meetings, called product and food safety the "No. 1 issue" on the agenda, which also included other highly contentious issues such as the exchange rate of the renminbi and the U.S. trade deficit with China.<sup>111</sup> Concerns over Chinese food safety only serve to exacerbate U.S. dissatisfaction with cheap Chinese imports and their successful challenges to better-quality (but higher-priced) U.S. products.

These initial discussions on food safety paved the way for the U.S. Department of Health and Human Services and China's AQSIQ to sign a bilateral agreement on food safety in December 2007. The agreement established mechanisms for information sharing on key Chinese food imports to the United States, including pet food, wheat gluten, corn gluten, low-acid canned foods, and farm-raised fish, as well as on U.S. food exports to China.<sup>112</sup> The agreement also set up a tracking system for containers of Chinese food products bound for the United States and a detention list of potentially risky products. Both sides are required to notify each other within 48 hours of a suspected food safety threat.<sup>113</sup> Moreover, U.S. food safety experts have been working with their Chinese counterparts to help China meet U.S. food safety standards, conducting training programs and helping China establish food additive standards and food safety analysis practices.<sup>114</sup>

In March 2008, six months before the melamine crisis became public, the U.S. Department of Health and Human Services, the FDA, and China's AQSIQ met in Beijing to map out an agenda for action. Because they decided that their initial priority was farm-raised fish (China is the second largest supplier of seafood for the U.S. market), the new agreement did not have an impact on the September 2008 melamine crisis. According to the original timetable established in March 2008, the United States planned to conduct a fact-finding mission prior to the opening of the 2008 Olympics in August, gaining a more thorough understanding of the regulatory environment in China. Based on this assessment, the U.S. side would then conduct

training for Chinese officials in the fall of 2008. However, by that time, the melamine crisis was already in full swing.<sup>115</sup>

Nonetheless, the FDA took a series of unilateral steps to protect U.S. consumers from tainted milk products. Immediately after the Chinese government revealed the presence of melamine in locally produced infant formula, on September 12, 2008, the FDA issued a health information advisory. This was followed by a temporary ban on Chinese milk products on November 13 and the November 27 recall of items containing Chinese dairy products, including cookies, candy, cocoa, and pet snacks.<sup>116</sup> In issuing its advisories and recalls, the FDA was acting on information publicly provided by the Chinese government to its own media and the WHO, not in response to any early warning that should have been provided bilaterally according to the terms of the 2007 United States-China agreement.

## Conclusion

Beginning with the SARS crisis in 2003, the Chinese leadership has become increasingly aware of the need to manage nontraditional security risks, including food safety. Nonetheless, the Chinese government faces difficult trade-offs between state security and risk management due to the relationship between state and society in China. As the international community debates China's future role in global governance, it is important to bear in mind that Chinese governmental practices constrain its ability to respond effectively to emergencies at home and limit its participation in global efforts to manage transnational risks. Its unique patterns of government-business relations, as well as efforts to control information flows about food safety incidents and to restrict Chinese citizens from taking action about them, create particular challenges for food safety risk management.

The private sector within the Chinese food industry is made up of a large number of small producers and intermediaries, who typically are beyond the reach of the state's regulatory apparatus. Although larger state-owned firms should be better regulated, in the 2008 melamine scandal, Sanlu, a large state-owned company, also escaped scrutiny, on the strength of its brand and the political position of its chairwoman. Moreover, contrary to the predictions of the literature on risk, in China the media and society cannot be counted on to demand that the government address food safety hazards. Although the Chinese government recognizes the principle of the public's "right to know," in practice concerns over the negative



consequences of revelations about food safety problems for social stability, the reputation of Chinese brands, and even the legitimacy of the Chinese government lead Chinese authorities to restrict investigative reporting of food safety incidents. News of the melamine crisis, falling right at the time of the 2008 Olympics, would have provided the exact opposite of the message the Chinese government was seeking to promote at the time about the safety of food for athletes and visitors. Subsequent attempts by melamine victims to call attention to their plight also demonstrated the unwillingness of the Chinese government to tolerate any independent activity to achieve compensation, other than those arrangements proposed by Chinese authorities or groups working with them.

International society has played a role in demanding greater transparency and regulation, but such efforts have largely been reactive rather than preventive, partly due to their inability to obtain needed advance warnings, but also due to the apparent reluctance of foreign partners such as Fonterra to press China for needed information and of international organizations to criticize China's handling of food safety incidents. Consequently, for countries like the United States, which depends on food imports from China, the issue of food safety risk management is likely to remain a prominent one on the bilateral agenda. Food safety has proved already to be an irritant in China's relations with the United States and other countries and has diminished the global appeal of Chinese brands. Nonetheless, bilateral measures alone may be insufficient to address food safety risk from China. Given the increasing globalization of the food chain, global food processors must do more to ensure the safety of their ingredients. This will require expanded inspection of food imports by industry and governments, improved domestic regulation of the food industry in the United States and other countries, as well as more effective efforts to engage China multilaterally on food safety issues.

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