

“Establishment of Japan’s Geographical Indication (GI) Protection System”

December 2014

MAFF

Ministry of Agriculture, Forestry and Fisheries

Content

1. Background of Introducing Japan's New GI System
2. Outline of Japan's New GI Act
3. Future Schedule Leading up to the Enforcement of New GI Act

1. Background of Introducing Japan's New GI System

1-1 Measures of Regional Branding for Agricultural, Forestry and Fishery Products and Foodstuffs

○Natural characteristics such as regional climate and soil conditions and characteristics of human nature including history and culture, form unique agricultural, forestry and fishery products and foodstuffs. By highlighting these characteristics, value is added to these products.

Example: 「Choshu Kuro-kashiwa」

(Yamaguchi Prefecture)

「Kurokashiwa Kei」



○The genetic resources of the protected species, Kuro-Kashiwa has been utilized to create the first original jidori (local chicken breed) named “Choshu kuro-kashiwa” of Yamaguchi prefecture.

○The registration of the “Choshu Kuro-kashiwa” image trademark allowed related-businesses to cooperate and organize themselves in to associations.

○Due to the brand gathering fame, high prices were maintained while demand increased.

○In order to maintain/strengthen the brand value and raise visibility of the brand, a system authorizing dealing stores of the brand to be registered as “Choshu Kuro-Kashiwa dealer” was begun.

Example: 「Ichida Kaki (persimmon)」

(Nagano / Iida City/ Shimoina County)



○With the nationwide fame of the sophisticatedly sweet “Ichida Kaki”, Chinese produced dried persimmons named “Made in China Ichida Kaki” appeared on the market.

○To prevent imitation and protect brand image, a regional collective trademark has been registered.

○To promote the brand value, and to thoroughly manage hygiene control issues “Ichida Kaki Quality Standards” including; “hygiene control manual” and a “hygiene control checklist” were introduced.

○The registration of regional collective trademark also strengthened the regional unity. The 1st December is the “Ichida Kaki Day” involving the region in PR activities and also contributes to the revitalization of the region.

1-2 Outline of the Regional Collective Trademark System

Objectives

Maintain confidence from businesses, enhance industrial competitiveness and support the economic revitalization by protecting the regional brand

Regional Collective Trademarks

This system allows cooperative groups to register for a regional collective trademark, which consists of a region name and a products name, in case a certain degree of fame has been regionally established.

Region name + Common name of the product

Registration requirements for regional collective trademarks

- Eligibility of the group
- Close association between the name of the region and the product
- Well-known due to the prior usage by the applicant
- The trademark does not solely consist of common name of the product

Current status of the Regional Collective Trademark

【Decision of registration (as of 8 April 2014)】

Number of Decision of registration: 566

(Among them 304 are agricultural, forestry and fishery products and foodstuffs)

Infringements

Civil Claims

In case of an infringement of the trademark holder's rights

- Claim to stop or prevent the infringements is possible
- In case of claims for damage compensations, estimations of the damage costs as well as presumption of negligence can be made

Criminal Penalties

Infringement of the regional collective trademarks:

Imprisonment with work of not more than 10 years or a fine of not more than 10 million yen or a combination of these two.

A person deemed to have infringed on a trademark:

Imprisonment of not more than 5 years or a fine of not more than 5 million yen or a combination of these two.

Right of Prior Use

Protection of pre-application users



Such users can use the trademark for own purpose continuously

(Reference) Example of Products Registered as Regional Collective Trademark

Soka Senbei (Rice-Cracker)

【Trademark holders】

Soka Senbei Cooperative
Soka Region Hand-Baked Senbei
Cooperative

【Designated products】

Senbei produced in the region of Soka
City



Arida Mikan (Mandarin Orange)

【Trademark holders】

Arida Agricultural Cooperative

【Designated products】

Oranges produced in the region
of Arida, Wakayama Prefecture



Kobe Beef (Beef)

【Trademark holders】

Hyogo Prefecture Meat Industry
Cooperative Association

【Designated products】

Wagyu (Japanese beef)
produced in Hyogo Prefecture



Seki-Aji / Seki-Saba (Horse Mackerel / Mackerel)

【Trademark holders】

Oita Fisheries Cooperative

【Designated products】

Seki-Aji and Seki-Saba from
Saganoseki.



1-3 Issues of Regional Brands and Trademarks

- Regional brands face some issues in quality control and managing infringements
- The trademark system which the government takes charge of registering the name of the product, has difficulties in solving those issues

Issues of Regional Brands

- Brand value has not increased due to no **unified quality of standard**
- Example of a product
 - Production started from the 1970s
 - Due to a boom, the name of the region name became well-known, but **quality standards varied vastly among producers**, and the **low quality products are decreasing the evaluation by the consumers**.
 - Authorization stickers were established by the local community and promoted by producer groups through their websites, but are not very effective in eliminating the low quality products.
- **Free riding** on brands
- Example of a product
 - Production started from the 1960s
 - Due to the unsuitable soil conditions of volcanic ash soil, compost from livestock had been utilized to improve fertility of the soil to raise quality. It gathered nation-wide fame, but **substandard products used the name and were free riding the fame of the brand**.
 - Regional municipalities, together with the agricultural cooperative are currently considering countermeasures.

Trademark System

- Efforts to secure the quality of products is merely voluntary under the trademark system, and **cannot be made institutionally liable for quality**

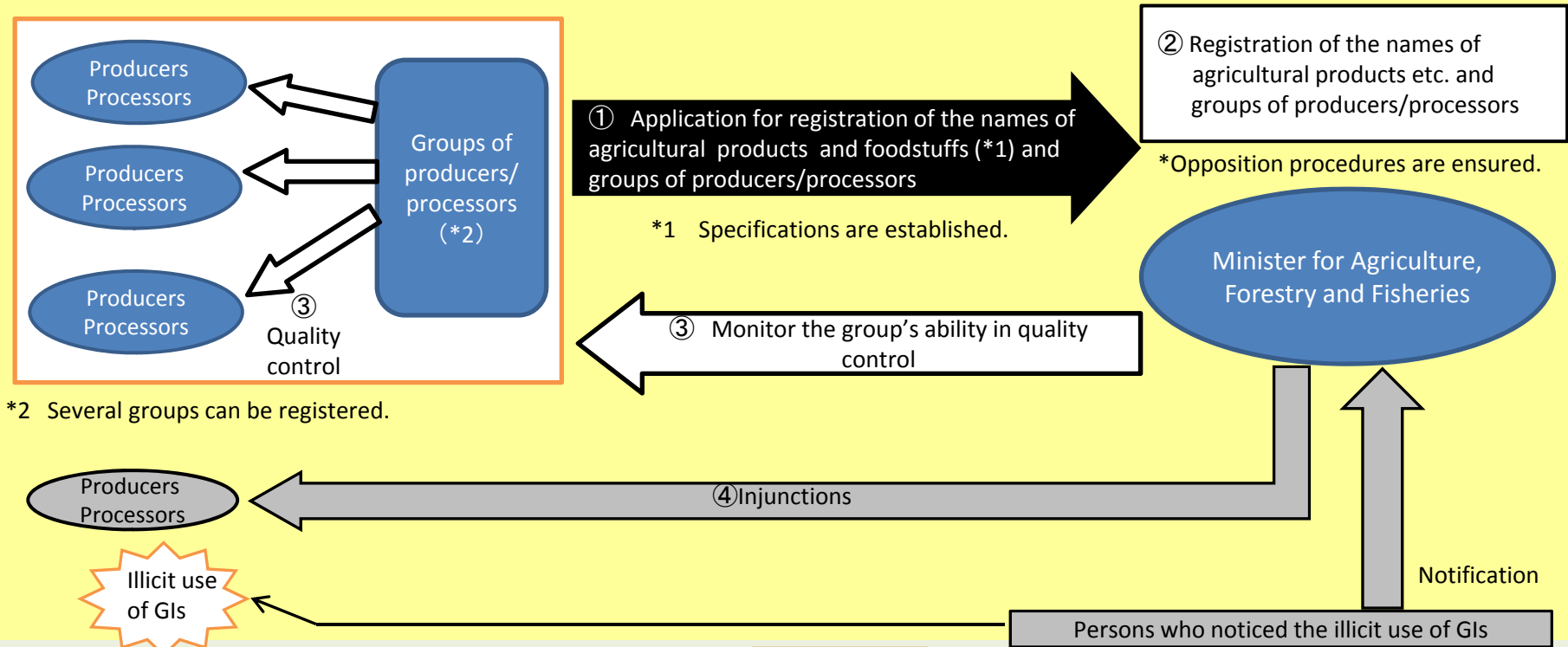
- Trademark rights are private rights and infringements must be **dealt with independently**. There are limitations to the actions that can be taken by agricultural, forestry, and fishery producers.

Need to establish a new system to overcome the issues

2. Outline of Japan's New GI Act

2-1 Outline of the Act for Protection of Names of Designated Agricultural, Forestry and Fishery Products and Foodstuffs

○ For the purpose of establishing GI protection system in Japan, the “Act for Protection of Names of Designated Agricultural, Forestry and Fishery Products and Foodstuffs” was enacted in June 2014.



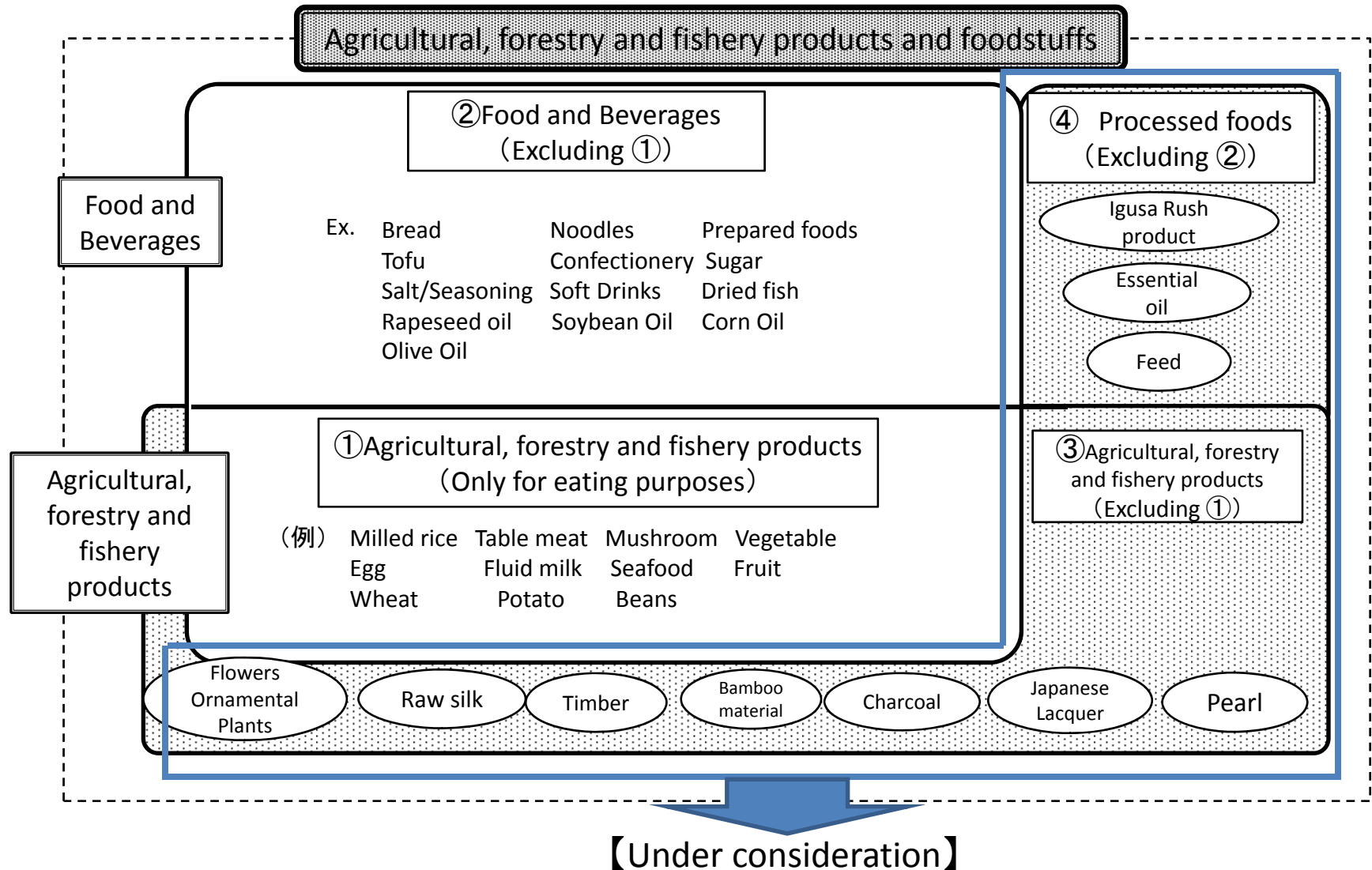
Objectives

① **Protecting the Producer's interests** (Intellectual Property of the region)
Adequate evaluation of agricultural, forestry and fishery products and foodstuffs, and retain and increase the value inherent in those products

② **Protecting the Consumer's interests**
Protect the authenticity of the high value added agricultural, forestry and fishery products and foodstuffs and secure demand

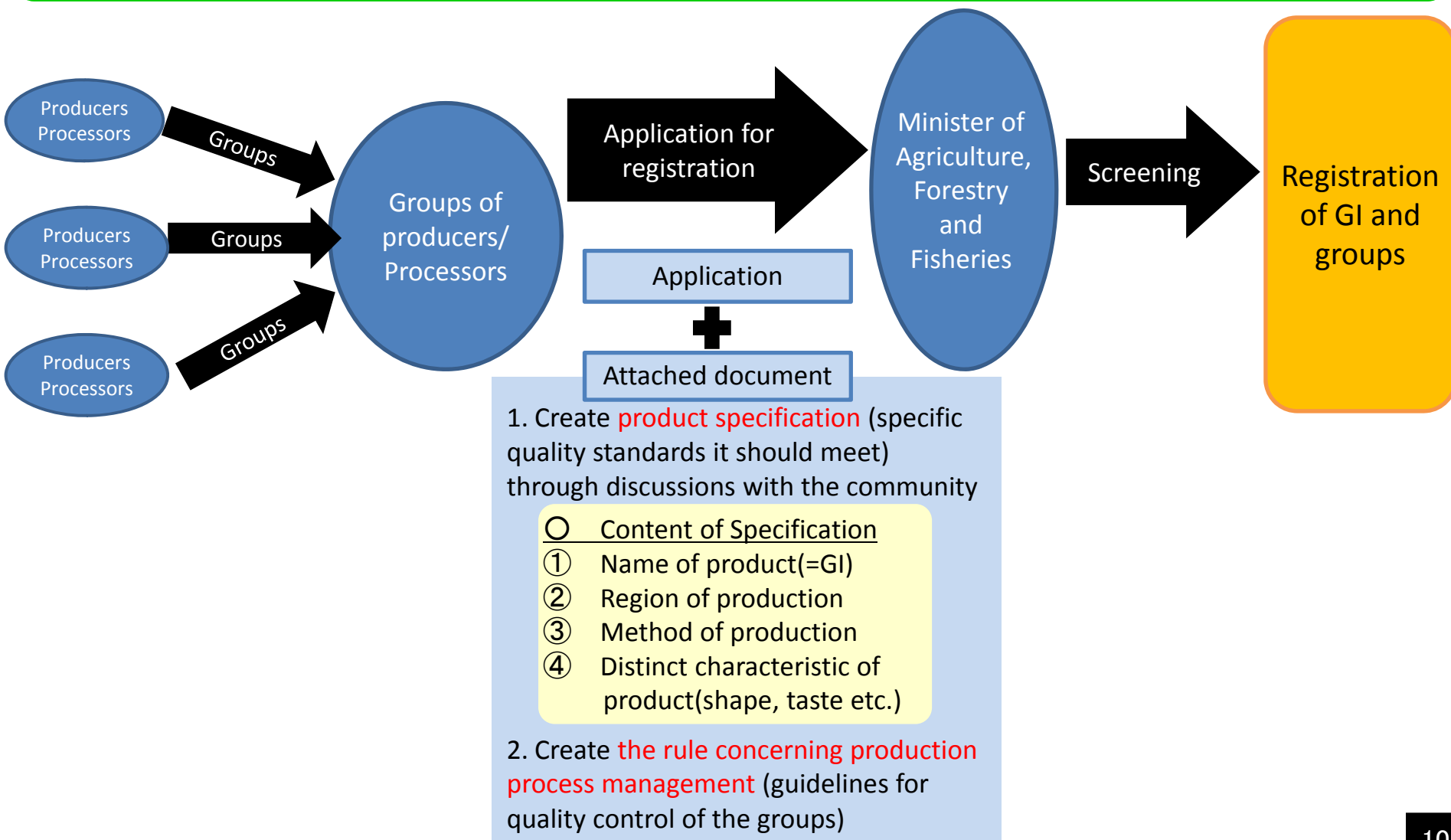
2-2 Scope of Agricultural, Forestry and Fishery Products and Foodstuffs under the New GI Act

- ①- ④ are agricultural, forestry and fishery products and foodstuffs which are covered by New GI act
 - ① and ② are subject to all
 - ③ and ④ are subject to be designated individually in Cabinet Order, and a total of 10 items are under consideration to be specified (however, alcohol, pharmaceuticals, quasi-pharmaceutical products, cosmetics and regenerative medicines are excluded)



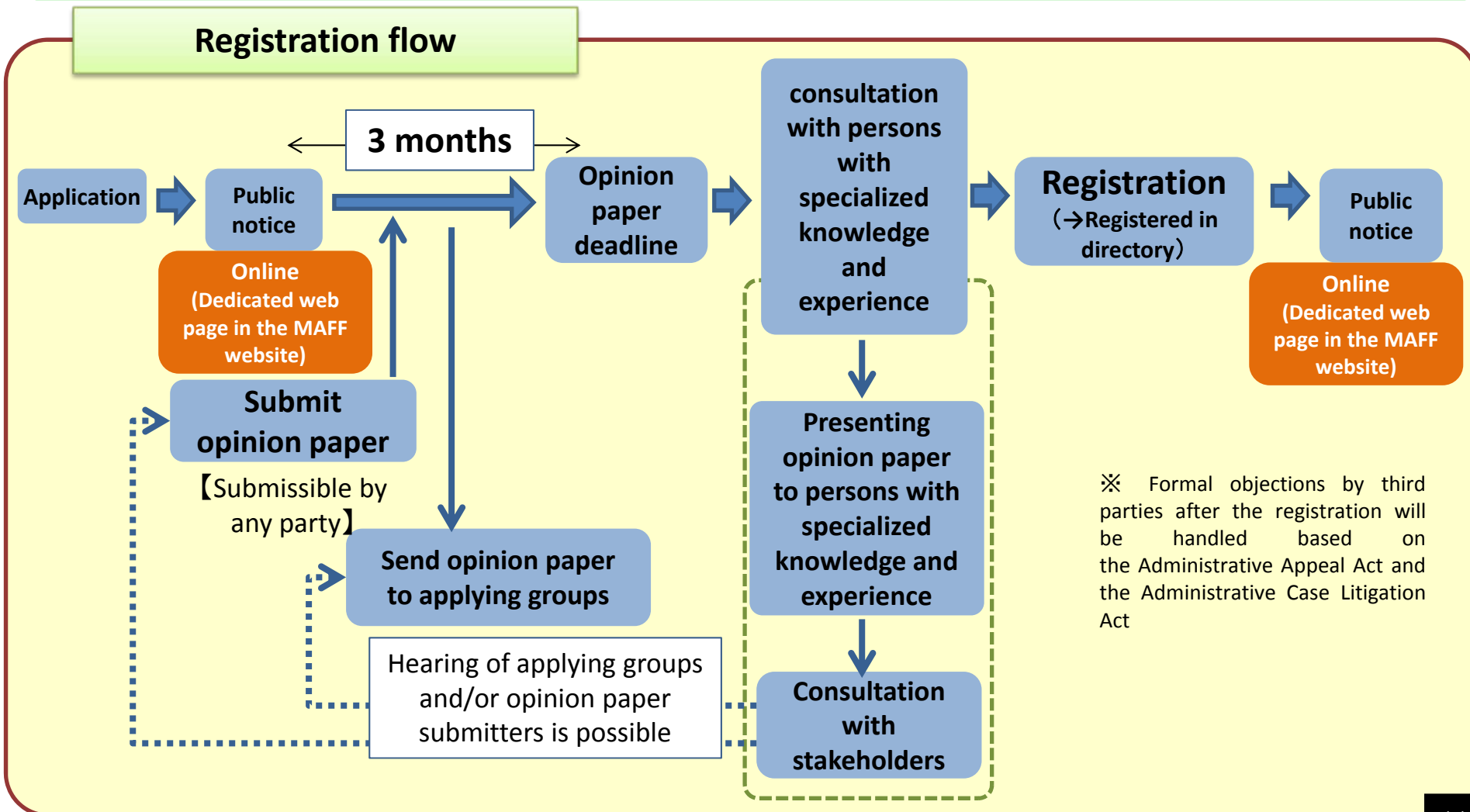
2-3 GI Registration Procedure

- ① Groups of producers/processors apply for GI through submitting the application and the attached documents (product specification and the rule concerning the production process management)
- ② After the screening process by the Minister of Agriculture, Forestry and Fisheries, the GI and the respective groups are registered→quality standards based on the specifications are registered as well



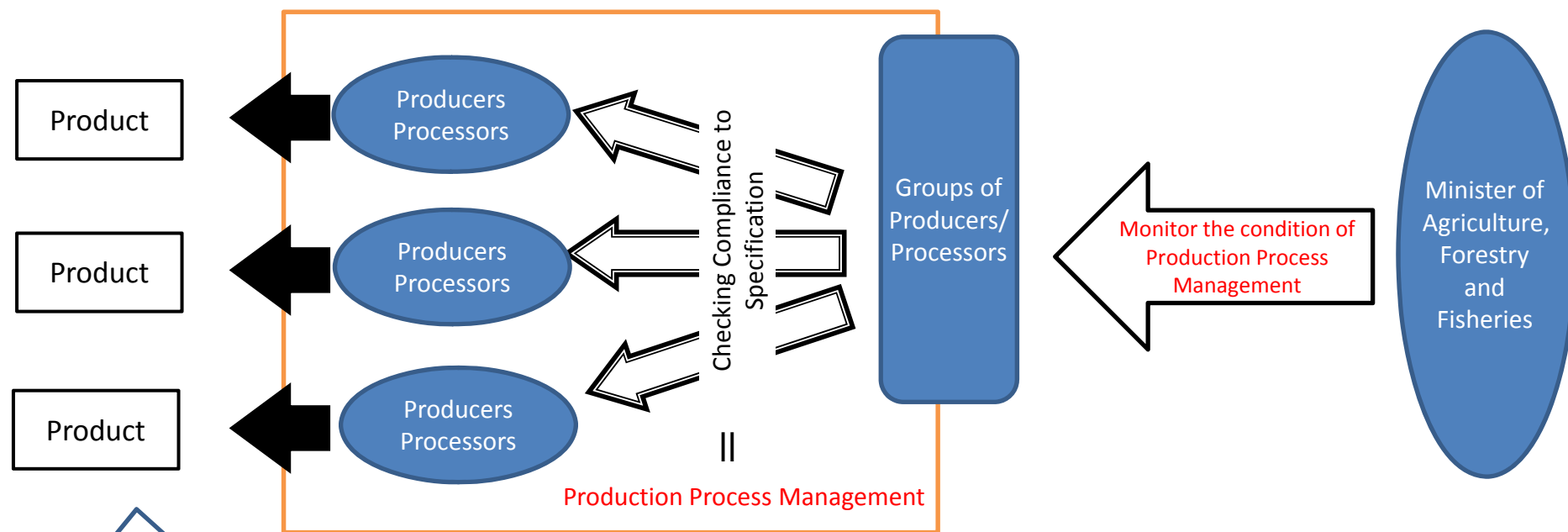
2-4 GI Screening Procedure

- ① Following the submission and public notice of the application, there is a 3 month opinion paper submission period from third parties.
- ② After the paper submission period from third parties, a consultation with persons with specialized knowledge and experience are held, a screening process by the Minister of Agriculture, Forestry and Fisheries follows.



2-5 Quality Control after Registration

- ① Groups of producers/processors provide guidance or conduct inspection to comply with production method stipulated in the specification, based on rule concerning production process management.
- ② Minister of Agriculture, Forestry and Fisheries regularly monitors if the production process management of producers/processors groups is conducted appropriately.

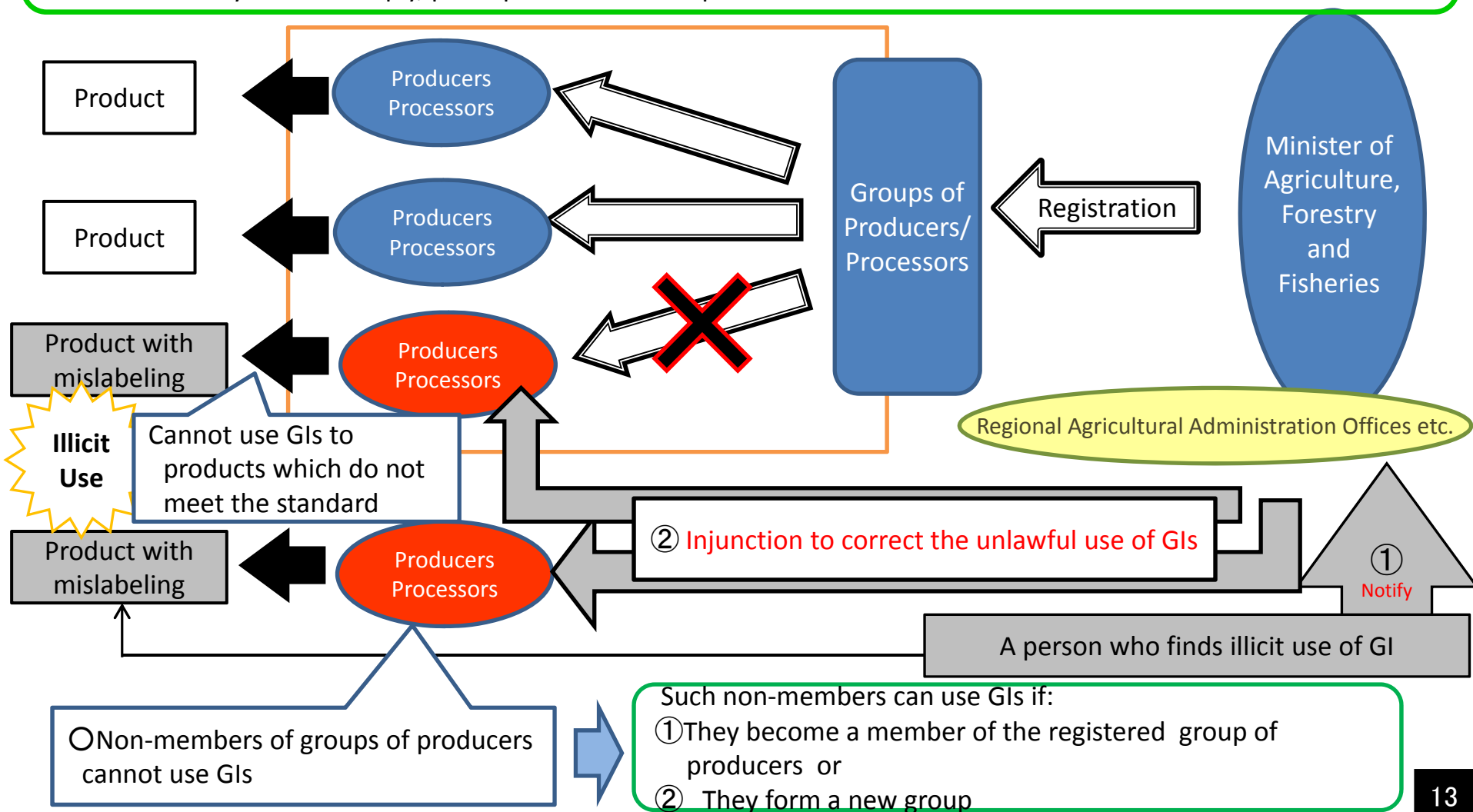


○ **Available GI and GI Mark** only for the product which meets quality standard in specification.

- Checking method, frequency, and the personnel should be decided by the groups of producers in regard to their guidelines for quality.
- Outsourcing to external organisations is possible

2-6 Measures against Illicit Use

- ① Members of the registered group of producers selling the products with GIs, which do not meet the GI standard
 - ② Producers/processors who do not belong to the registered group of producers, selling the products as GI
- A person who finds these illicit uses may notify it to Minister (Ministry) of Agriculture, Forestry and Fisheries
- Minister of Agriculture, Forestry and Fisheries may issue an injunction to correct the unlawful use of GIs by producers/processors.
- when they do not comply, penal provisions are imposed.



2-7 Penal Provisions against Illicit use on GI and GI Mark


- Injunctions are made against the illicit use of GI and GI mark, if there are no improvements, penal provisions are imposed.

○ Illicit Use of GI

- ① Administrative Measure against illicit user

Injunction by
Minister of
Agriculture, Fisheries
and Forestry

② Violation of Injunction



③ Penal Provisions


- Individual : imprisonment with work of not more than **5 years**
or
(combination of these two possible)
fine of not more than **5 million yen**
- Group : fine of not more than **300 million yen**

○ Illicit Use of GI Mark

- ① Administrative Measure against illicit user

Injunction by Minister
of Agriculture,
Fisheries and Forestry

② Violation of Injunction

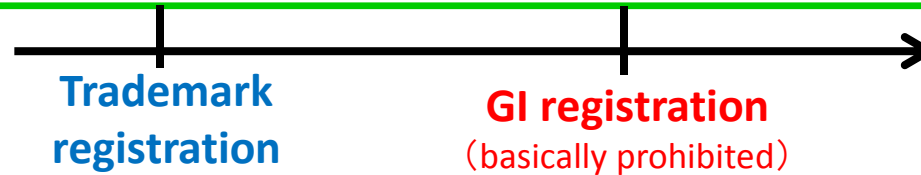


③ Penal Provisions

- Individual : imprisonment with work of not more than **3 years**
or
fine of not more than **3 million yen**
- Group : fine of not more than **100 million yen**

2-8 Relations with Registered Trademarks

- GI registration of the name identical with/similar to registered trademark is possible only when the trademark holder themselves apply, or gives authorization to do so.



Registration

- ① Trademark holders themselves to apply for GI registration
- ② Groups of producers must receive authorization from the trademark holders to be granted GI status

[※ (if the authorization is withdrawn, it can be a reason for GI cancellation)]

Benefits of GI registration by trademark holder

Ex. Trademarked “xx Apples” can benefit by registering for GI

- ① Use of the GI mark

[Proving it is a genuine product which abides by product specification.]

- ② Injunction of mislabeling by the government

[Since the injunction is made by MAFF, the legal fees for the illicit use for GIs are not covered from own expenses]

Points to consider

When registered for GI, the product becomes an asset shared in a community, thus a exclusive use ceases to be possible(Trademarks do not have power over the valid use of GIs)

2-9 What Japan's New GI System Expects to Achieve

[Benefits of introducing the system]

Introducing
the
GI system

○ Differentiation as a regional brand product which is
reflected in the pricing

※ Only products that abide by specific quality standards can receive GI status, which guarantees the quality of regional-branded products

○ Since the injunction against illicit use is made by the government, which enables producers to protect their own brands without legal expenses

○ Only products which abide by quality standards are introduced to the market

※ GI mark helps differentiate the products

○ Overseas expansion of truly Japanese local produce

※ By attaching GI mark on to GI registered products, truly Japanese local produce will be evident, and differentiated in the destination country of export

Regional brand
protection and
utilization
leading to
revitalization
of rural villages

Protection of
consumer's
benefits

Spur export of
agricultural,
forestry and
fishery products
and foodstuffs

3. Future Schedule Leading up to the Enforcement of New GI Act

3-1 Future Schedule Leading up to the Enforcement of New GI Act

○The Act for protection of names of designated agricultural, forestry and fishery products and foodstuffs was promulgated on 25 June 2014 and within a year from that time, will be enforced by June 2015

		Implementing Regulations	Information Sessions
2014	June	GI Act was promulgated	
	July		
	August		
	September		Regional orientation meeting
	October		
	November		
	December		
2015	January	Public comment process on the draft implementing regulations	
	February		
	March	Promulgate implementing regulations	
	April		Regional orientation meeting
	May		
	June	GI Act will be enforced	

Thank you very much for your attention.