Retail Driven Food Safety Regulation

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Abstract

This chapter discusses the increased role of corporate retailers in global food safety regulation and its consequences for food producers. Retail-driven private food safety regulation started in the early 1990s and has become increasingly important in global food regulation. Major European retailers took the lead in the establishment of private food safety standards with third party certification. These retailers require their suppliers throughout the world to participate in this system of private food governance. The first of these standards were developed by national retailers associations. The British Retail Consortium was a front runner here. Later the food standards crossed borders and were adopted by retailers and producers in other countries.

The chapter introduces the dominant transnational retail-driven standards with particular attention to the dissemination outside Europe and the power of retailers in the governance structure of the standards. Today the distribution of the standards still reflects the geographic pattern of their origin. In its early days large corporate European retailers were in complete control but after a short or longer period of time other stakeholders were included in the governance structure of the schemes. However, the major standards are still retail-driven in two ways: retailers own the standard and retailers promote the adoption of the standards by requiring compliance from their suppliers all over the world.

Retailers are engaged in food safety regulation for several reasons, including assuring high product quality, building confidence and protection against liability claims. Although compliance with these retail-standards is not legally mandatory, for many food producers non-compliance is not really an option because it is required by the market (i.e. the supermarkets). The globalization of food supply chains, the increased economic power of corporate retailers and the

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shifting balance between public and private food governance enabled large international supermarket chains to become powerful food regulators.

Keywords
Food safety • Private standards • Public regulation • Food retailers

4.1 Introduction

The structure of the regulation of food safety has changed considerably in the past decades. The former command-and-control regulation by national states has been complemented by private and hybrid forms of regulation. The global system of food regulation has been transformed in two ways: a shift from national law to law of the European Union (EU) and other transnational governmental organizations and an increase of various forms of private governance. In the 1980s in most Western European countries food regulation was mainly the domain of the national (or local) government and governmental food inspectorates. Several developments form the background for both transitions. Food supply chains became increasingly international, promoted by faster and cheaper transportation, improved techniques for preservation and cooling of fresh food, growing public purchasing power and changing consumer demands. Several food scares and incidents (such as bovine spongiform encephalopathy (BSE), E-coli outbreaks, dioxin in chicken and milk, and salmonella infections) created public concern about food safety and pressure on governments to tighten up regulations and enforcement. In addition, governmental regulation has been criticized for being inefficient, ineffective and taking the wheel from citizens and businesses. A final development that has contributed to the changing food governance system is the increased power of multinational food retailers.

Both governmental organizations and food industry responded to food scares and growing distrust in existing regulatory arrangements. The European Union obtained a prominent role by strengthening its food safety legislation and establishing the European Food Safety Authority and the Food and Veterinary Office. At the national level, several European countries have established new regulatory agencies or reformed existing agencies to oversee the national food control activities. In the United Kingdom (UK) an independent government department, the Food Standards Agency (FSA), was set up in 2000 to protect the public's health and consumer interests in relation to food. The FSA took over a number of functions formerly carried out by Department of Health and Ministry for Agriculture, Fisheries and Food and the Irish, Scottish and Welsh administrations.

Food industry and civil society organizations criticized governmental food controls for being not adequate. For example, in 2002 Dutch associations of food manufacturers, food retailers, and consumers with joined force voiced their concern about insufficient governmental action in response to food scares and decreasing consumer trust. They argued the necessity of giving more priority to food safety and

to establish a strong and independent food safety authority.[1] Food industry not only demanded governments to reform their food controls, they also engaged in private food safety regulation. In global food supply chains particularly major food retailers play a dominant role in these regulatory arrangements. In this chapter we investigate the role of food retailers in food safety regulation. This includes three main questions. 1) What are the characteristics of these private food safety arrangements: What did retailers do to regulate food safety? What are the forms of the regulation? What is the scope of these regulations? What is the role of retailers in the governance structure? 2) Why did retailers take the role of legislator instead of leaving food safety regulation to governments? 3) Why did food producers comply with these retail-driven regulations? This questions needs to be addressed because compliance with private regulations typically is not legally mandatory.

The next section deals with the development of retail-driven private food safety regulation from the 1990s onwards. The dominant transnational retail-driven standards are introduced with particular attention to their dissemination outside Europe and the power of retailers in the governance structure of the standards. Section 4.3 discusses the reasons for retailers to engage in food safety standards. Subsequently, Sect. 4.4 deals with the reasons for food producers to comply with food safety standards. The final section concludes that major European retailers did play and do play an important role in food safety regulation.

4.2 The Emergence and Dissemination of Retail-Driven Food Safety Regulation

The growing role of retailers in food governance is significant in various analyses of the development of food regulation. Marsden et al. (2010) distinguish three phases in the development of food safety regulation in the United Kingdom (UK) since the 1980s: 1) state-centered regulation focusing on food hygiene and public health (up to the mid-1980s), 2) two tier approach: state-centered system remains for non-corporate producers and retailers next to privately regulated supply chain for corporate retailers up to 2000, and 3) complex public-private model of food governance. In the second and third phases major retailers play a key role in food governance in the UK. Burch and Lawrence (2005) have analyzed the shifting distribution of power in the global agri-food supply chain: in the first food regime (from 1870 onwards) nation states and farmers were the main drivers, in the second food regime (from 1950) processing companies were the main drivers and in the third food regime (emerging from 2000) retailers are the main drivers (see also Smith et al. 2010). In the current food regime the power in agri-food supply chains has shifted away from manufacturers of branded food products to the global

[1] Manifest Nva: food industry (VAI, Nederlandse Voedingsmiddelenindustrie, en SMA, Stichting Merkartikel), retail (Centraal Bureau Levensmiddelenhandel), and consumers (Consumentenbond), January 14, 2002 (http://www.cbl.nl/. Accessed December 16, 2002).

supermarket chains. Both Marsden et al. and the food regimes theory stress the powerful key position of large supermarkets.

Henson (2008) observes that systems of public and private food regulation differ across countries and supply chains. In the UK the system is characterized by strict public regulation, the dominant position of multiple food retailers and private standards audited by third-party certifiers. Conversely, the United States relies heavily on legal liability; manufacturer brands maintained their leadership position and retailers are less important than in the UK.

Food retailers and food manufacturers have developed initiatives for decreasing food safety risks and increasing consumer confidence in safe food. In the 1990s several large food manufacturers and supermarket chains in Europe developed their own quality control system. A company quality control system often included requirements for suppliers in order to control the inputs. The corporate supermarkets want to make sure that the goods they purchase will meet particular standards and qualifications. These goods may be raw materials, parts of or semi-finished products for further manufacturing, or end products ready for sale. For example, in the 1990s several British and Dutch supermarket chains contractually obliged their suppliers to meet a comprehensive quality assurance standard including unexpected inspections at farms, gardens and plants (e.g. Albert Heijn in the Netherlands, Tesco and Sainsbury in the United Kingdom) (Havinga and Jettinghoff 1999; Havinga 2006). Examples of such supermarket standards include Tesco Nature's Choice, which was introduced in 1991 by the British retailer Tesco.[2]

Since the 1990s private retail-driven standards have expanded dramatically. Several private collective standards were created. Food retailers joined forces to harmonize supplier standards. Regulation of food safety by retailers using quasi legislation as an instrument to force trade partners to take food safety measures, evolved from regulation originated from one supermarket chain to regulation of united supermarkets, monitored by independent certification and inspection organizations. National private certification schemes have crossed borders and became global or transnational. Currently dominant transnational retail-driven standards are the British Retail Consortium (BRC)[3] Global Standard for Food Safety, the International Featured Standards Food Standard (IFS), the Safe Quality Food Standard (SQF) and Global Partnership for Good Agricultural Practices (GlobalG.A.P.) (Fuchs et al. 2011; Van der Kloet 2011).

The BRC Global Standard for Food Safety was originally developed in 1997 by the British retailer's organization for own-branded food products. Its aim was to assist retailers in their fulfilment of legal obligations; under British law retailers had the legal obligation to take all reasonable precautions and exercise all due diligence in the avoidance of failure (Havinga 2006). The BRC standard is now a supplier

[2] Tesco still has a company food safety scheme with 15,000 certified firms (www.tesco.com/nurture. Accessed July, 2012).

[3] http://www.brcglobalstandards.com/.

requirement of many supermarkets all over the world. The standard can be applied to any food processing or packing operation where open food is handled, processed or packed and aims 'to guarantee the standardisation of quality, safety and operational criteria and ensure that manufactures fulfil their legal obligations and provide protection for the end consumers'.[4] In course of time the BRC has developed three other standards covering consumer products, packaging manufacture, and storage and distribution next to the Food standard. Initially only retailers were involved in the decision making process of the standard. Later also representatives of food manufacturers and certification bodies were included in the technical committee of the standard; although the retail organization BRC remains the owner of the standards. The scope of the standards has been extended fourfold:

1) Geographically: not only British supermarkets adopted the standard but also supermarket chains in other countries and food manufacturers all over the world require their suppliers to comply with the standard.
2) Scope food: the scope of the standard is not limited to supermarkets own brands anymore. The standard is also used for processing and packaging of other food products.
3) Scope beyond food: the scope has been extended to include not only food production. BRC developed standards for non-food, for packaging, and for storage and distribution.
4) Participation: initially only (British) retailers participated in the committees of the standard. Now also representatives of food manufacturers and certification bodies participate in committees that discuss the content of the BRC Food standard and which revisions are needed.

Other retail-driven food standards expanded similarly. The IFS Food standard was initiated by the German retailer's organization in 2002. In the second edition the French retailer's organization joined the initiative, since then the formal organization is a joint German-French retail project. Retail federations from Italy now also participate in the IFS standard. Both BRC and IFS are developed and applied predominantly by European food retailers. The American supermarkets decided not to join one of the two standards owned by platform organizations of European retailers, nor to develop their own food safety standard. Instead, at the request of its retail members in 2003 the American Food Marketing Institute acquired the Australian food safety standard SQF. The Safe Quality Food standard started as a public voluntary standard in 1994 and was formerly owned by the West-Australian Department of Agriculture. The SQF certification program includes both food processing and primary production.

European retailers also developed GlobalG.A.P. (Global Partnership for Good Agricultural Practices) as a certification program for primary produce. It started as

[4] http://www.brcglobalstandards.com/ (Accessed November 14, 2013).

EurepGAP in 1997 at the initiative of 12 European supermarkets and retailers.[5] Their aim was to take first steps towards the harmonization of their own standards and develop one European standard for Good Agricultural Practices (Van der Kloet 2011).

The European retailers also engaged in another process to harmonize retailer food safety standards. They established the Global Food Safety Initiative (GFSI) in 2000 in order to agree on globally accepted food safety standards. The GFSI retailers decided not to develop a single global food safety standard but to benchmark existing food safety standards. The initiative sets baseline requirements for food safety standards and intends to improve efficiency costs throughout the food chain. By now, eight food safety standards have been benchmarked to be in compliance with the GFSI Guidance Document (sixth edition). One more scheme that was recognized against the fifth edition of the GFSI Guidance document is still going through the benchmarking process against the sixth edition (See Table 4.1).

In 2007 seven major food retailers agreed to reduce duplication in the supply chain through the common acceptance of any of the GFSI benchmarked schemes: Carrefour, Tesco, Metro, Migros, Ahold, Wal-Mart and Delhaize (Sansawat and Muliyil 2011:4). Later other retailers followed (See Table 4.2). Most major international food retailers currently support certification against one of the major food safety schemes (See Table 4.2). Retailers have a key position in these food standards as BRC, IFS, SQF and GlobalG.A.P. are owned by retail organizations. Other stakeholders such as food manufacturers, wholesalers and certification bodies do participate in technical committees and working groups of the food schemes (Fuchs et al. 2011). In the past years the GFSI also recognized some schemes that are not initiated and managed by retailers, such as the Global Red Meat Standard, CanadaGap, FSSC22000, Global Aquaculture Alliance Seafood Processing standard and Primus GFS.

Certified firms are unequally distributed over different countries and regions. Table 4.3 shows that the majority of firms that are certified against BRC, IFS and GlobalG.A.P. are European. This reflects the European origin of these standards. Third party certification against GFSI recognized schemes (particularly SQF, and also BRC) is increasing in the USA. The share of certificates in Asia, Africa, and South America is growing. Recently a Chinese food safety standard, China HACCP, has applied for recognition by the GFSI. GFSI is promoting the implementation of GFSI-recognized standards outside Europe for example by organising food safety events in China, Japan, Brazil, Chile, South Africa and India. Both GlobalG.A.P. and GFSI have initiated a program to assist small producers to implement the GlobalG.A.P. or a GFSI recognized scheme; these programs focus on developing countries.

[5] Member of the Euro-Retailer Produce Working Group (Eurep) were: Tesco, Safeways, Sainsbury's, GB Supermarkets, Continent, Delhaize, ICA Handlarna, KF, Albert Heijn, Martinavarro, APO and Promodes.

Table 4.1 Characteristics of food safety standards recognized by the Global Food Safety Initiative[a]

Standards	Current standard owner	Initiated by	Start date	Date of first recognition	Product range
BRC Global Standard for Food Safety[b]	British Retail Consortium (Association of British retailers)	British retailers (BRC)	1998	2000	Any food processing or packing operation where open food is handled, processed or packed
IFS Food Standard[c]	IFS Management GmbH (non-profit company owned by retail federations from Germany and France)[d]	German retailers (Hauptverband des Deutschen inzelhandels HDE)	2003	2003	Post-farm gate stages of food processing
SQF	Food Marketing Institute (Association of US food retailers and wholesalers)	West-Australian government	1994/ 2003	2004 or 2005	Primary production, food manufacturing and distribution
Global G.A.P.	Foodplus GmbH[e]	European retailers	1999	Between 2005 and 2009	Fruits and vegetables, meat and aquaculture fish
Global Red Meat Standard	Danish Agriculture and Food Council (non-profit association of farming and food industry)	Danish Agriculture and Food Council	2006	2009	Red Meat supply chain
Food Safety System Certification 22000	Foundation for Food Safety Certification (not-for-profit organization)	Dutch Certification Organizations (developed Dutch HACCP)	2009	2009[f]	Processing or manufacturing animal products, perishable vegetal products, products with a long shelf life, (other) food ingredients like additives, vitamins, bio-cultures and food packaging material
Global Aquaculture Alliance Seafood Processing Standard	International non-profit trade association		1997	2010	Aquaculture seafood
Canada GAP	CanAgPlus (not-for-profit corporation)	Canadian Horticultural Council	2008	2010	Fresh fruits and vegetables

(continued)

Table 4.1 (continued)

Standards	Current standard owner	Initiated by	Start date	Date of first recognition	Product range
Primus GFS	Azzule Systems (data management company)			2010 or before in benchmarking process against GFSI sixth edition	Fresh agricultural produce

Notes and sources:
[a]http://www.mygfsi.com/schemes-certification/overview.html. Accessed November 7, 2013
[b]http://www.brcglobalstandards.com/. Accessed November 14, 2013. Next to this standard covering food BRC also has three standards covering consumer products, packaging manufacture, and storage and distribution
[c]Next to the IFS Food standard other standards have been developed such as the IFS Logistics standard for transport, storage and distribution, the IFS Cash & Carry/Wholesale standard, the IFS HPC standard for Household and Personal Care, and the IFS Broker standard. All IFS standards are developed at the request of retailers, http://www.ifs-certification.com/index.php/en/. Accessed November 14, 2013
[d]The IFS Standard is managed by IFS Management GmbH, a company owned by the German retail federation (Handelsverband Deutschland (HDE) and its French counterpart (Fédération des Entreprises du Commerce et de la Distribution (FCD)). Retailers from Italy, Switzerland and Austria participated in the development of recent editions of IFS
[e]Financial and legal ownership and responsibility for FoodPLUS GmbH is held by the EHI Retail Institute via its 100 % subsidiary EHI-Verwaltungsgesellschaft mbH. EHI Retail Institute is a non-profit scientific institute of the retail industry with 550 members including international retail companies and their associations, manufacturers of consumer goods and capital goods, and various service providers, http://www.ehi.org/en/about-us/company.html. Accessed November 14, 2013
[f]Dutch HACCP is a food safety standard owned by the same foundation and can be considered the predecessor of FSSC. Dutch HACCP was already recognized by the GFSI in 2003

Table 4.2 Retailers supporting the GFSI-recognized food standards

Standards	Ownership	Supporting/demanding certification from suppliers
All schemes recognized by the Global Food Safety Initiative		24 retailers[a] Aeon, Ahold, Asda, Auchan, Carrefour, Coles, COOP, Daymon, DelHaize, Food Lion, H.E.B., ICA, Kroger, Loblaw, Metro, Migros, Pick n Pay, Publix, Raley's, ShopRite, Tesco, US Foodservice, Wal-Mart, Wegmans
BRC Global Standard for Food Safety	Association of British retailers	Website does not provide this information
IFS Food standard	Retail federations from Germany and France[b]	31 retailers[c] Auchan, Aldi, ANCD, Billa, Carrefour, Casino, Conan, Coop, Cora, Edeka, Francap, Globus, Kaufland, E.LeClerc, Lidl, Match, Metro, Migros, Monoprix, NettoPlus, Norma, Picard, Pomona, Real, Rewe, U, tegut, Wal-Mart, Tengelmann, Kaiser's, Superunie
SQF	Association of US food retailers and wholesalers	41 retailers[d] A & P Tea Company, Ahold, Albert Heijn, Big Y Foods, Bottom Dollar Foods, Carrefour, Coles, Costco, CVS Pharmacy, Daymon, Food Lion, Giant Food, Hannaford Bros, Harris-Teeter, H-E-B, Kash n' Karry Food Stores, Lund Food, Metro, Migros, Pathmark Stores, Peapod, Price Chopper Supermarkets, Publix Super Markets, Raley's Family of Fine Stores, Safeway, Sam's Club, Schnuck Markets, Schwans, Sobeys, Supervalu, The Stop & Shop Supermarket Company, Target, Tesco, Tops Markets, US Foodservice, Wakefem Food Corporation, Wal-Mart, Wawa, Wegmans Food Markets, Weis Markets, Winn-Dixie Stores
Global G.A.P.	Foodplus GmbH (scientific institute of the retail industry)	38 retailers[e] Ahold, Albert Heijn, Aldi, Asda, Carrefour, Colruyt, Conad, Coop, Delhaize, Dohle, Edeka, El Corte Inglés, Eroski, Fedis, Freshmark, Globus, Hofer, lea, Kaiser's Tengelmann, Kesko, Lidl, Marks and Spencer, Metro. Migros, Musgraves Supervalu, Norma, Pick n Pay, Rewe, Rimi Baltic, Sainsbury, Spar, Superunie, tegut, Tesco, US Foods, Wal-Mart, Wegmans food market, Wm Morrisons

Sources:
[a]http://www.mygfsi.com/schemes-certification/benchmarking/benchmarking-overview.html. Accessed 14 Nov 2012
[b]The IFS Standard is managed by IFS Management GmbH, a company owned by the German retail federation (Handelsverband Deutschland (HDE) and its French counterpart (Fédération des Entreprises du Commerce et de la Distribution (FCD))
[c]http://www.ifs-certification.com/index.php/en/ifs-certified-companies-en/introduction-to-ifs/retailers-supporting-ifs. Accessed October 29, 2012
[d]http://www.sqfi.com/buyers/sqf-buyer-supporters/. Accessed November 14, 2012
[e]http://www.globalgap.org/uk_en/who-we-are/members/retailers-food-service/. Accessed November 14, 2012

Table 4.3 Geographical distribution of certified firms in major global food standards

Standards	Number of certified firms	Proportion of certificates in Africa, Asia and South America (percentage)	Proportion of certificates in Europe (percentage)
BRC Global Standard for Food Safety	15,534 certified sites in 112 countries[a]	20 %	66 %
IFS Food standard	More than 11,000 in 96 countries[b]	No figures available (expanding in US, Brazil and China)	No figures available; majority in Europe
SQF	Approximately 4,000 certified sites in more than 22 countries[c]	6 % (mainly Asia, not Africa)	None
GlobalG.A.P.	123,115 certified suppliers in 96 countries[d]	21 %	74 %
FSSC 22000	2,956 certified companies in 109 countries[e]	39 %	37 %
Global Red Meat Standard	18 certified sites	0	100 % (predominantly Denmark)

Sources:
[a]http://www.brcdirectorv.com/Siteresults.aspx?CountrvId=0&StandardId=972f3b26-5fbd-4f2c-9159-9a50al5a9dde. Accessed October 15, 2012
[b]http://www.ifs-certification.com/index.php/en/faq-en#. Accessed October 24, 2012
[c]https://sqf.etq.com/production/reliance?ETQ$CMD=CMD_CREATE_DOC&ETO$NEW_DOCUMENT_FORM=PUBLIC_SEARCH&ETQ$APPLICATION_NAME=COMPANY_1&ETQ$SCREEN_WIDTH=1440&ETQ$USER_NAME=Anonvmous&ETQSLOGIN_USERNAME=ANONYMOUS&ETQ$USE_SETTING_NAMES=true. Accessed February 15, 2013
[d]http://www.globalgap.org/export/sites/default/.content/.galleries/documents/130124_AR12_web_en.pdf. Accessed February 22, 2012
[e]http://www.viasyst.net/fssc. Accessed November 3, 2012

Herzfeld et al. (2011) investigated the adoption of the BRC Food Technical standard and GlobalG.A.P. at cross-country level. They conclude that the adoption of these standards reflects and reinforces already existing trade relations. Countries with established trade relations with the home countries of the standards (Germany, the UK and The Netherlands), countries with better institutional quality and a high level of economic development are most likely to have high numbers of certified firms. A case study of the New Zealand kiwifruit production revealed a strong relationship with EurepGAP building on the old colonial trade relationship with the UK: New Zealand as Britain's farm (Campbell 2005). Studies of the adoption of standards at farm level suggest that producers' orientation towards exporting, their involvement in producer organizations and vertical integration via contracts are positively correlated with certification (Herzfeld et al. 2011:402).

From the 1990s onwards supermarkets are expanding in developing countries. Authors observe a rapid rise of supermarkets, first in urban areas for wealthy consumers spreading geographically and to low income and poor consumers (Neven et al. 2006; Reardon et al. 2004; Reardon and Gulati 2008). This includes both local supermarket chains as well as internationally operating chains.

The rise of supermarkets in developing countries results in changing market relations (Reardon et al. 2004; Reardon and Gulati 2008). Supermarkets often have more demanding requirements for suppliers with respect to volumes, quality, hygiene, labelling and consistency. Reardon et al. (2004) distinguish four pillars of the new procurement system: 1) Traditional wholesalers are partly replaced by specialized and dedicated wholesalers and logistic firms. 2) Procurement is centralized and regionalized. 3) Sourcing with 'preferred suppliers' to assure consistent supply. 4) Imposition of private food standards for quality and for safety on suppliers.

Food retailers are the main drivers for the emergence and dissemination of global food safety standards. However, next to retail-driven standards many other private food standards have emerged initiated by food industry, industrial associations, trading corporations, civil society organizations and alliances between these organizations. Their objectives range from securing safe food to improving animal welfare, protecting the environment, improving working conditions and ascertain labour rights and fair trade. Examples include fair trade labels (Ethical Trading Initiative, Max Havelaar), sustainability programs (Marine Stewardship Council, Carbon Trust), religious food standards[6] (Orthodox Union, OK Kosher Certification, and Ifanca, IHI Alliance), organic food labels (Ifoam, KRAV, EKO), food safety standards (FS22000, Dutch HACCP, Global red meat standard, Qualität Sicherheit, TrusQ), and vegetarian or biodynamic labels (Vegan, Demeter) (see Havinga 2010; Van der Meulen 2011; Van Amstel 2007). Retailers are involved in some of these standards, either as part of the rule-making committee or by encouraging suppliers to comply with the standard. For example the Dutch

[6] In some Islamic countries the government is involved in setting and enforcing religious food laws, such as the Malaysia's Department of Islamic Development (JAKIM).

supermarket Albert Heijn aims at selling only Marine Stewardship Council (MSC) and Aquaculture Stewardship council (ASC) certified fish in its shops in 2015.[7] In some cases retailers also compete with civil society standards, e.g. initiate an alternative standard with other, more convenient requirements (e.g. UTZ certified next to Max Havelaar fair trade).

4.3 Why Do Retailers Engage in Food Safety Regulation?

There are several drivers for retailers to be engaged in food safety regulation: a safeguard against liability claims, an instrument to assure high quality of food products, standardization of product requirements over suppliers, to avoid incidents and unfavourable media attention, confidence-building (build and maintain an image of reliable and responsible company) and outsourcing expensive quality controls.

Current legislation in the European Union explicitly postulates that food businesses are primary responsible for ensuring food safety. Henson (2008) calls this a pull factor for the promulgation of private food safety standards as this establishes a 'legal position' for private standards.

In the United Kingdom, the introduction of the principle of due diligence under the Food Safety Act 1990 is said to have stimulated firms to establish private food safety regulations (Buzby and Frenzen 1999:648; Caswell 1998:416; Henson and Caswell 1999:594; Henson and Northen 1998; Hobbs et al. 2002). British retailers have been required to take all reasonable steps to ensure that the food they sell is safe. Previously, the retailers only had to prove that the food was not compromised while under their control and the manufacturer was held liable for the rest. This shift of the legal responsibility for safe food downstream in the supply chain makes food retailers ultimately responsible for the safety of the products on their shelves. This includes the verification of technical performance at food production sites of retailer branded products. For a due diligence defense against food safety offenses a retailer has to demonstrate that all reasonable precautions are taken. In response all major British supermarket chains did develop initiatives to ensure a certain quality of retail food products by committing suppliers to a specified set of standards. In the British meat industry a quality assurance scheme was set up. The British Retail Consortium developed a set of food safety standards and retailers require their suppliers to be certified against these standards. The aims of the BRC Global Standards are to improve supplier standards and consistency and avoid product failure, and to provide concise information to assist with a due diligence defense (Havinga 2006).[8]

[7] Marine Stewardship Council (MSC) and Aquaculture Stewardship Council (ASC) http://www.wnf.nl/nl/home/bedrijven/strategische_partners/albertheijn2/ and http://www.ah.nl/vis/samenwerking (both Accessed July 11, 2012).

[8] www.brc.org.uk/standards/background.htm. Accessed June 21, 2004.

Similarly, in the Netherlands the introduction of a stricter liability regime by the European Union seems to have resulted in fear for the consequences. This new liability law stimulated the development of third party certification schemes, such as quality assurance certification in the dairy industry and retailer-led certification. The Dutch supermarkets feared possible claims and litigation and they tried to cover themselves by sharpening supplier contracts. Insurance companies raised the premiums. In these circumstances the Dutch retailing sector decided to adopt the British BRC food safety standard; this resulted in the translated CBL-BRC standard (Havinga 2006). As one supermarket quality manager said: 'Looking back I would say product liability was magnified beyond all proportion; after 10 years, there have not been serious liability cases' (Havinga 2006). In the United States liability law plays a less significant role as incentive for quality assurance according to Henson and Caswell (1999:594).

The initial initiatives by European retailers seem to have been driven—at least partly—by liability legislation. However, the moment food safety standards were in place the standards are a driving force unto itself. Although liability claims were not perceived to be a real threat after some time, food safety initiatives flourished ever since. They proved to be very useful instruments for supermarkets (and other parties). Henson (2008) observes 'emerging evidence that the experiences of the Europeans are now serving to 'demonstrate' the efficacy of collective private standards and inducing, at least in part, the evolution of similar governance structures elsewhere, for example the SQF series of standards in the US'.

Private food safety standards are an instrument for supermarkets to assure high quality of food products and to avoid incidents and the subsequent unfavourable media attention. A standard is an instrument of coordination of supply chains: by specifying and harmonising product and delivery attributes the standard may increase efficiency and lower transaction costs. In international and global supply chains this implies standardization over countries, which induces a convergence with the standards of the toughest market such as the European (Reardon et al. 2004:178).

A collective food safety standard has considerable advantages above a company quality assurance system. Maintaining and implementing a company supplier food scheme including controls on the spot is very expensive and the supermarket has to pay. Using collective food safety standards with third party certification is outsourcing of the costs of quality controls. In collective standards the auditing costs are paid by the businesses that are certified, in this case food manufacturers, farmers and slaughterhouses. Another advantage is that the supermarket can source products in the market and is not limited to preferred suppliers that are included in the company's assurance system. Competition between suppliers allows retailers to pay lower prices.

Engaging in private food safety standards might also be important for supermarkets to restore and maintain confidence of consumers. However, supermarkets do not seem to utilize this opportunity extensively. The dominant retailer-led food safety standards are business-to-business standards and conformity with those standards is not communicated to customers. The BRC, IFS and

GlobalG.A.P. logo's are not printed on product labels. However, many supermarkets do communicate to consumers on their website and in their company magazine that they assure all products in their shop are safe and of high quality.

4.4 Why Do Producers Comply with 'Voluntary' Food Safety Regulation?

Supermarkets (or their wholesalers) must have sufficient buying power to impose private standards on suppliers. A supermarket chain may have olygopolistic power or offer higher pricer or other assistance to producers (Reardon et al. 2004:178–179). Retailers use their economic power to impose food safety and quality requirements on their suppliers. As Grabosky (1994:429–432) noted in his study on environmental regulation, "Large retailers are in a position to register their product and process preferences with suppliers, and the awesome purchasing power that large retailers command often carries considerable influence." Corporate retailers are increasingly powerful in the food chain because of mergers and take-overs. A small number of large grocery retailers have gained a powerful position, both economical and political (Marsden et al. 2010:9). In the UK since 2000 the number of stores operated by the four largest grocery retailers has more than doubled (Tesco, Asda/Wal-Mart, Sainsbury's, Morrisons). This concentration enables large corporate retailers to expand their grip on the global and domestic food supply chain.

In Western countries such as the UK, the Netherlands, and the USA, supermarkets have a large majority share of the food consumers market. By 2006 in the UK, 72 % of all grocery sales took place in supermarkets (Marsden et al. 2010:10). The growing share of own branded products reinforces the strong negotiating power of the retailers (Marsden et al. 2010:134). Large retailers have enormous buying power and require suppliers to meet certain quality standards. Suppliers are dependent on supermarket chains and have to comply with their requirements (Boselie et al. 2003; Gereffi and Lee 2012; Grievink et al. 2002; Havinga 2006; Marsden et al. 2000, 2010). In countries such as the UK, Germany and the Netherlands food producers who are not certified against a GFSI recognized food safety scheme (or another scheme accepted by retailers) are excluded from a large proportion of their market.

Next to the in fact almost mandatory character of third party certification against a 'voluntary' food safety standard, participation may be useful for a producer. It might help in preventing a worst case scenario such as food poisoning or product recall. And these schemes and the certification process offer a structure to organize and manage ensuring a high level of safety and quality. IFS certified firms have reported a substantial reduction in food recalls, complaints, error rate and regulatory issues.[9]

[9] http://www.ifs-certification.com/index.php/en/consultants-en/customer-testimonials/51-global-news/1420-news-2010-08-23-newslettr-en. Accessed February 15, 2012.

Retail-driven private food safety standards are also applied in developing countries. First, because European retailers source some products from these countries and require the same safety and quality from African or Asian suppliers. So Kenyan market gardeners and Thai aquaculture farmers who deliver European (or Western) supermarkets are required to be certified against a standard such as GlobalG.A.P., just as their colleagues in Spain or Norway. Second, the supermarket revolution in some developing countries also contributed to the growing importance of private food standards in the developing world. Not only the export market but also part of the domestic market asks for certification or compliance with such standards. Interviews with vegetable growers in Kenya revealed that import and export firms and certification agencies appear to occupy a key position in the diffusion of food safety requirements worldwide. They act as go-between in the relationship retailer-producer.

For the successful implementation of private standards producers must be capable of meeting the standards. In some cases there are not enough producers that can meet the standards and supermarkets (or their wholesalers) are forced to gradually implement the standards and to increase technical or financial assistance and support programs (see Reardon et al. 2004:179 for examples from Guatemala and Costa Rica). Recently the GFSI introduced the Global Markets Programme to assist small and/or less developed businesses 'through a continuous improvement process to develop to the point where the implementation of a GFSI recognised food safety management scheme could be considered'.[10] GlobalG.A.P. has had a support program for years and recently introduced the localg.a.p. Standard that offers a stepwise approach that covers the minimum requirements for food safety and hygiene. Ideal for emerging growers.[11] The introduction of these lower standards confirms that some producers are not capable of complying with the high standards retailers are requiring. As GlobalG.A.P. writes on its website: 'Retailers around the world are rising to meet the challenge by demanding certification from their producers. But they face a tricky situation when working with emerging producers, who may not be able to achieve GLOBALG.A.P. Certification. And producers without certification for their products have difficulties accessing local and regional markets.'[12]

[10] http://www.mygfsi.com/structure-and-governance/gfsi-technical-committee/gfsi-global-markets-working-group.html. Accessed November 14, 2013.

[11] http://www.globalgap.org/uk_en/what-we-do/localg.a.p./localg.a.p.-Standard/. Accessed November 14, 2013.

[12] http://www.globalgap.org/uk_en/what-we-do/localg.a.p./. Accessed November 14, 2013.

4.5 Conclusion: The Powerful Role of Retailers in Food Safety Regulation

Retailers have become increasingly important in food regulation. Major European retailers took the lead in the establishment of private food safety standards with third party certification. Supermarket chains require their suppliers throughout the world to participate in this system of private food governance. The first of these standards were developed by national retailers associations. Later the standards crossed borders, although the distribution of the standards still reflects the geographic pattern of their origin. After a short or longer period of time other stakeholders were included in the governance structure of the schemes. The major private food safety standards are retail-driven, in two ways: retailers own the standard and retailers promote the adoption of the standards by requiring compliance from their suppliers all over the world.

The emergence of private retail-driven food regulation is a remarkable success. In a relatively short period these standards have gained a very dominant position in global food supply chains. One of the factors contributing to their success probably is that they keep developing in response to criticism and new issues that came up. In 2006 I wrote: "The future will show if food safety regulation by supermarkets is self-reflexive enough to react adequately to criticism and dysfunctioning" (Havinga 2006:529). So far the answer seems to be affirmative. Most standards have implemented integrity programs and extensive requirements to secure serious, impartial and credible certification to refute criticism of lenient controls. Standards have introduced special programs to assist small producers in upcoming markets to bring their standards up in response to criticism that farmers in developing countries were excluded from food markets (and because supermarkets were faced with problems of insufficient supply). Shortly after the horsemeat scandal was on the front pages of the newspapers, the IFS Food standard added to their requirements that checks on authenticity of food products had to be included in food safety management systems. Several standards introduced separate consultancy services (accreditation of auditors requires a strict separation between audit and advice). Standards also adapted their governance structure to allow for the participation of other stakeholders than retailers. The above examples show the flexibility of the private systems.

An issue that will be on agendas in the years to come is the relationship between private and public food regulation. The interactions between these regimes have attracted significant attention of scholars of regulatory governance recently (Levi-Faur 2010). The existence of a powerful transnational private meta regulator such as GFSI places (national) governmental agencies on the second row. The ambition of the GFSI is to further align industry and government efforts in food safety, that is to integrate with the World Trade Organization Sanitary and Phytosanitary Agreement (WTO SPS) and requirements of the Codex Alimentarius. The GFSI is currently seeking to 'actively engage governments in recognizing and accepting GFSI benchmarked schemes' (Verbruggen and Havinga 2014). What will be the responsibility of public authorities participating in hybrid or private types of food governance? National food authorities in countries such as the UK, the Netherlands

and Canada are discussing how they should and could take private certification into account (Canadian Food Inspection Agency 2012; Rouvière and Caswell 2012; Wright et al. 2013).

Will this result in co-regulation, regulatory arrangements in which both public and private actors cooperate? Hybrid forms of food governance are already emerging (Garcia Martinez et al. 2013). An alternative may be that public food authorities act as a meta-regulator for private regulations that meet certain criteria. The public authority audits the private system, including reality checks, to verify that the private system is working adequately. Food businesses that voluntary participate in such a system will not be controlled by the public authorities but by the private auditors. Most likely in the near future public authorities will get more involved in private food safety standards either as meta-regulator or as co-regulator. Some examples of both forms of cooperation are already in place (Verbruggen and Havinga 2014).

Can public authorities rely on private governance for monitoring compliance with public regulations? Will private food regulatory arrangements be responsive to requirements of public authorities? These challenging questions will be at the heart of future discussions.

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