

**Taste, Traditions, Transactions, and Trust:
The Public and Private Regulation of Food**

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1. Introduction: Contested Governance and the Seven I's

Why is especially the governance of food so often contested? For one, of course, because *interests* diverge. Different countries have different food industries. Some have specialized in large scale mass production, others in smaller and more specialized high quality niches; from that e.g. their dependence on chemical additives or exclusive quality seals may differ. And thus they develop different interests regarding food standards. Still, interests cannot do the full explaining. Interest differences underlie conflicts in many policy fields. How come that governance of food is often much more contested than other policy issues? That is because the governance of food does not only touch upon/threaten interests; but also upon *ideas*, deeply held beliefs about what is important in life, because it touches upon the identity of communities and societies. The ideas concern not only the substance of food regulations, but also their form and the organizations from which they originate; i.e. not only the *what*, but also the *how* and *by whom*.

Such cultural ideas and values (nr.1) form the basis of the other six 'i's that constitute institutionalization:

2- *institutes*, i.e. organizations that produce the valued food, such as a pasta or wine industry, and the organizations that service that industry, such as research and educational institutes, standardization bodies, quality control agencies, sector-specific financial institutes, trade associations

3- *interdependencies and inter-linkages*, between the institutes, through governance mechanisms such as markets, hierarchies, networks, clans, associations, and public-private partnerships

4- together these develop *information* and knowledge, competencies (in personnel, patents, publications, which provide competitive advantages)

5- *interests*, which the institutes develop, in part based on their information and competencies, e.g. interests in their survival and growth

6- *incentives*. Investments in institutes and ideas motivate people to invest further in what they already have, that is, along familiar lines, to exploit their competitive knowledge advantages

7- *institutions* or social rule systems that help perpetuate all the former items, e.g. by giving them preferential treatment over rival interests, like foreign food industries or health interests.

Together, the seven i's of ideas, institutes, inter-linkages, information, interests, incentives and institutions form relatively well-established systems, clusters, or industrial communities that help explain why some regions, once they develop a particular specialization, tend to maintain that specialization. Examples would be the chemical industry along the German Rhine, the lawyering industry in Delaware, and gambling in Las Vegas; and in food the industries of French wine, Dutch dairy, British beef, or Swiss cheese. The system-character gives such communities resilience, resistance against threats, and contributes to the contestation over food standards.

In this paper I want to investigate first the cultural roots of food governance in ideas and values. This extends to the definition of 'risk' regarding food safety; risk is in part a social and cultural construct. Secondly, I will identify and compare the variety of institutions that societies have created over time to reduce the risk and uncertainties involved in food transactions, both private and public. Cultures differ not only in their tastes for food, but also in their 'tastes' for institutions they trust best to insure them that they get what they want. Nevertheless, one can perceive a long-term trend. In most cultures sooner or later the state got a role in setting minimum and/or graded food quality standards. These national public food standards mirrored national cultural preferences. They are a major part of the clusters of seven i's in food.

Thirdly, I will investigate how the clusters - especially their food quality control institutions - are being uprooted by external changes such as the internationalization of food markets. It may still be feasible to enact, monitor, and enforce national food governance as long as food producers, consumers and regulators come from the same society, that is, are

located within the same jurisdictional boundaries. However, it gets more difficult when that is no longer the case.

Internationalization makes it on the one hand more difficult for consumers to be sure what they eat. Information asymmetries increase, the sense of risk and uncertainty gets heightened, and trust in what markets offer them decreases. Together with the increasing diversity in tastes in national societies this increases the need for food standards, agencies, and enforcement; on the other hand national state regulation becomes less effective. Thus, internationalization squeezes food regulation between increasing diversity in demands for standards; and less capacity to monitor and control such standards. One possible solution, international food standards, is often contested, given the diversity of cultures and clusters with different food ideas and interests.

The central argument of this paper is: As cultures, societies, markets, and states become ever less congruent, food quality regulation by nation-states becomes less effective. That will make it more necessary to rely again on non-state institutions (more 'backward' forms in the process of the evolution of control): quality standards and monitoring procedures by supermarket chains, commercial standardization bodies, international trade associations. They can easier 'internationalize' than national governments. National governments can try to export their standards (as in the 'California effect'), but even then the vehicles for such diffusion are often private organizations and institutions. Thus more reliance on private and semi-private institutions is needed, as long as there is no world-wide state authority. As the advantages of state regulation - and the reason why it historically came to replace private regulation - were economies of scale and of trust, this increases the number of agencies, levels, and agents of quality control; making control into a booming industry, that provides work for ever more people.

2. Food, Risk, and Culture: 'De Gustibus ... est Disputandum!'

The importance of food for social and cultural life is demonstrated by the fact that eating together almost universally symbolizes and strengthens community bonds, or is at least meant to do so. In most religions joint meals are important rituals: the Holy Supper in Protestantism, the celebration of the Eucharist in Roman Catholicism, Passover in Jewish religion, the Ramadan (not eating during the day, feasting at night) in Muslim belief. Families experience and emphasize their bond by having the daily meal together around one table. In business, political, and diplomatic life, consultations and negotiations between strangers are 'lubricated' with shared wining and dining.

But tastes differ. Germans love pork, Muslims won't get near it. The French relish 'tripe', Americans won't touch it. Portuguese love 'coquille St. Jacques' (scallops), for Jews they are not 'kosher'. Italians 'live to eat', the Dutch 'eat to live'. Some people are gluttonous debauchers, others abstemious anorectics. Some are omnivores, others dainty gourmets. Yet others are choosy for different reasons: eko-freaks insist on free-roaming chicken eggs; vegetarians and animal liberators are horrified by the thought of gelatine in their pudding. British supermarkets have lots of shelf-space for frozen peas, but hardly any for frozen spinach; in Germany it is the other way around.

If there is something that is culture-dependent, then it is food. It is often a source of pride for a society. Germans boast about their beer brewed according to the centuries-old purity law; the British cherish their 'bangers'; and Italians their whole cuisine. Food can even become so important that it becomes the basis of a belief system and defines a cultural community: vegetarians, macrobiotics, the Jews.

As cultures differ in what they find tasteful, so do they in the priority they give to different criteria, like composition, origin, safety, healthiness, taste, freshness, non-perishability, exclusiveness, quantity, or price. That implies that risk is not an absolute criterion, but a social and cultural construct. Risk perceptions differ. For Muslims, eating pork is a much greater risk than eating rotten lamb. To die is less serious than not to get in heaven. The threat is so great, that an Israeli rabbi has proposed to scare Palestinian suicide bombers

off with bags of pork fat hung in busses (Volkskrant 13-02-2004). The 'precautionary principle' means quite something else for Muslims. It could mean not touching Dutch chicken filet, cause there is a chance that it has been 'blown up' with water and pork protein to increase the weight by up to thirty percent, something which cannot be detected afterwards. Frenchmen are willing to trade-off the risk of contracting tuberculosis from the use of raw unpasteurized milk (though 'pasteur'ization was a French invention!) in cheese production, in order to enjoy the pronounced tastes of camembert or pont l'evêque.

Also the current obsession with safety defined as chemical composition (typical perhaps for a society in which scientific knowledge is so dominant) seems to be a social construct. A recent study found that 23,000 Dutchmen die every year of food related causes, but only one percent thereof (100) from unsafe or poisonous food. The rest die from overeating unhealthy, e.g. too fat food. The sober living Seventh Day Adventists live on average ten years longer (Rougoo et al 2003: a.o. 25) (Even the food guru Atkins died indirectly from being too fat (Volkskrant 12-03-2004.) How much greater will the difference be in the US, where obesity is a much more visible problem.

Over time, these cultural preferences and risk definitions have found expression in what a society defines as being in need of regulation. Thus Muslim countries obviously have regulated food production and distribution in line with their belief-system. Unclean animals cannot be kept, slaughtered and sold. But even in Western Europe differences can be found. Typically, the French and Italians have been more concerned with taste and quality grading, the Germans more with safety and (chemical) composition, and the Dutch more with everything that affected trade interests, including honesty in trade. Americans value liberalism and contract freedom: They rather prefer information and labeling than that they would ban specific products.

German regulations have from a very early date on been concerned with *composition*. Symbolic for this tradition is the Reinheitsgebot (beer purity law) enacted in 1516 by Wilhelm IV, Earl of Bavaria. It stated that 'in the future in all cities, markets and in the country, the only ingredients used for the brewing of beer must be barley, hops and water. Whosoever knowingly disregards or transgresses upon this ordinance, shall be punished by the Court authorities' confiscating such barrels of beer, without fail.' (Eden 1993). Later, when yeast was discovered as the factor behind the creation of alcohol and CO₂ gas, the law was amended to include yeast. However, factors that are truly crucial to the taste of a beer, the quality of the ingredients, the lagering times, pasteurization, filtration and carbonation, were not regulated.

Since then, chemical composition of food, additives, preservatives, coloring agents, etc. has become a major topic in German food regulation. That may have to do with this strange paradox regarding chemistry in German culture. On the one hand the chemical industry has been one of the strongest industries in the German economy, responsible for many path breaking innovations, such as aniline and all its derivatives (dyestuffs, pharmaceuticals), or synthetic rubber. On the other hand there is a rather 'romantic' obsession with everything 'natural', and suspicion of things artificial or synthetic, testified also by the strength of the German environmental/green movement. As yet, the Germanic countries Germany and Austria are among those with the strictest regulation of biotechnology.

France and Italy, by contrast, have nurtured self-images of a sophisticated cuisine and emphasized *quality defined as taste*. Food is important in these societies. It is a major topic of conversation in all walks of life, and much daily time is spent on lengthy lunches and dinners. The cultural importance of 'good food' is reflected in the importance of the criterion 'taste' in the regulatory system. The French were the 'inventors' of restaurant grading, and their Michelin guide and its system of stars is still the most prestigious worldwide. Both countries have invested a lot in a well-developed regulatory system of quality grading and protection of names of origin. The system of 'Appellation d'Origine Contrôlée (AOC)' has been developed for wine, champagne, cognac, and cheese, and has been extended to other products, such as

olive oil, honey, pastis, bio-beer, and even lavender. They certify (and grade) not only the taste-quality, but also the origin of the products ('produits du terroir'). And regulate in detail where, when, how long, under what conditions and how precisely the grape or olive can be harvested, what the maximum yield per hectare can be, how many days have to be waited before pressing, what the minimum sugar content must be after fermentation, under what conditions the aging process is to take place, in what kind of barrels, at which temperature, from when on it can be marketed, how it ought to be labelled, etc. On top of that, final grading and certification is done by a tasting committee. (Colman 2003)

Modern *Dutch* food regulations were created, opportunistically, with foreign *trade interests* in mind. Their emergence was actually a response to typical short-sighted individual commercial behavior: fraud and adulteration; perhaps typical for a nation with a long-standing merchant tradition. It is not for nothing that most of the sayings in the English language that involve the 'Dutch' have something to do with being thrifty and cheap: 'to go Dutch', 'Dutch treat', Dutch comfort', Dutch bargain'. And indeed, Dutchmen are more than their neighbors price buyers. This is also apparent from comparative advertising. While Belgian, French, German, Austrian, Italian food advertisement stress quality and enjoyment, advertisers in the Netherlands appeal often to the price-consciousness of the consumers.

A long-time major food regulation was the *Landbouwkwaliteitswet* (Agricultural Quality Law; basis orig. 1890s). It stressed purity and honesty, in the interest of long-term trading interests. Its origins go back to the first regulations of dairy products in the 1890s, which came about in response to problems of adulteration of butter and cheese. The invention of margarine facilitated falsification. Mixing became such a common practice that around the turn of the 20th century the word 'Dutch butter' became a euphemism for a mixture of butter and margarine. Cheeses were tampered with as well. The new milk centrifuges made it easier to skim the fat of the milk for butter production, before such milk was used for cheese production. In this way the same amount of milk could be used both to produce butter and cheese. Such cheese was however almost completely made up of water. Hence it became known as 'civil engineering works' (*waterbouwkundige kunstwerken*). The difference with good cheese could not be seen when the cheese was young. But after a couple of weeks it collapsed. A much publicized lawsuit in England in 1903 against a Gouda cheese with only 1.6 % fat and 57 % water did the reputation of Dutch dairy products abroad certainly no good. Such adulteration was also of concern for industry. As the reputation of Dutch agriculture and dairy worsened, they lost their traditional export markets, the surrounding industrialized nations. Ever since, trade interests have dominated Dutch food standards.

Countries differ also in *where* something is regulated. And this is linked to *what* are considered the most important criteria for regulation.

Originally - when food chains were still short - food was only regulated at the place of sale to the final consumer, the shop and restaurant. 'Leaders became laggards' here as well. Countries that were first with food quality regulation as regards safety, were also the ones that stuck longest to this concentration on the place of final sale, as did Britain until 1984 (Coates 1984).

Societies with a more sophisticated food culture, like France and Italy, that had an interest in rating quality levels, introduced at an early date regulation in the food production and processing phase. The area from where grapes could be harvested for a specific wine, champagne or cognac were regulated, the processes of harvesting, fermentation and aging, the storage conditions in the wine cellars, etc. were all prescribed in great detail. Obviously, cultures that have religious rules as to the process of food preparation - e.g. the slaughtering of animals - regulate also this phase of the production chain.

Where something is regulated is often linked to which government department is responsible - provided it is the government who does the regulation. If it is the department of agriculture, this may point to early state involvement (agriculture is a relatively old department), or to the importance of producer interests, e.g. in export reputation. Thus food regulation in the Netherlands has been largely the domain of the Ministry of Agriculture.

Where consumer interests at the final retailing stage were protected by regulation, this was usually the responsibility of a Ministry of Consumer Affairs, or a Ministry of Health.

3. Culture and the *How* of the Governance of Risk: The Diversity of Institutions of Economic Governance

Given the importance of food for life, health, identity, culture, it is important for people to know what they eat. But how to be sure? Typically, transactions involving food are characterized by information asymmetries. The seller knows more about the quality than the buyer. Where, when, and under what conditions was it harvested, preserved, processed, stored, mixed? These asymmetries provide countless opportunities for fraud and deception. Food adulteration has been a practice since time immemorial. Bread has been diluted with plaster, bonemeal or lead-white; milk with ditchwater; and beer was given a more hop-like flavor with arsenic (Rougour 2003: 24). Consumers, who are cheated, lose trust in the goods and their suppliers. Conflicts arise, between customer and supplier, and between competitors, because customers may refrain from engaging in more transactions. Thus in time the market for such goods may get destroyed. As - in a modification of Gresham's law - the bad producers drive out the good producers. This gives also producers an interest in market institutions that could reduce risks of adulteration and increase the trust in products and producers.

Countries have differed also in their preferences for specific sources of food regulation. Nowadays, governments play a large role in food regulation; however, this was not always so; and neither has the state a monopoly in this area. Also markets and civil society have tried to standardize and regulate food quality. Often state regulation was preceded by societal self-regulation. However, sooner or later the state got involved, because private regulation turned out to have certain disadvantages, from which state regulation suffered less. Let us look at the various 'sources' from where food quality regulation can and has emerged. I'll discuss them in a certain logical order.

3.1. Individual strategies

Logically speaking, reduction of information asymmetries starts with the individual consumer. For some criteria and foodstuffs *sensory inspection by the consumer himself* goes some way. More difficult is quality assessment on criteria that are not immediately observable to the senses, such as the origin in space and time. Even more difficult is individual evaluation of conservation techniques or chemical composition.

Individual strategies to counter distrust and reduce uncertainty cost time and money, They are literally 'transaction costs', which tend to be high, because the individual cannot profit from economies of scale. Therefore, they can seriously frustrate transactions.

In order to avoid this, societies have over time developed institutions which serve to reduce such transaction costs and which aid in reducing risk and uncertainty, thus facilitating transactions and increasing prosperity. Building upon typologies made earlier by Williamson 1975, Ouchi 1980, Streeck and Schmitter 1985 and Hollingsworth 1993, several allocation and coordination principles, which can perform these functions, can be distinguished, see table 1.

Table 1. Comparison of Economic Coordination Principles

| Coordination Principle | | | |
|------------------------------------|----------|------------|-------------|
| 1- The Market, Commercial Services | | | |
| 2- The Community or Clan | informal | horizontal | private |
| 3- The Association | formal | horizontal | private |
| 4- The Firm Organization | formal | vertical | private |
| 5- The Court | formal | vertical | semi-public |
| 6- The State | formal | vertical | public |

3.2. The Market, that is: Commercial Services

The market itself has provided some solutions to the problems of information asymmetry and risk and uncertainty. An example are registered brand names with high quality reputations attached to them. They may be particularly effective in markets where transactions are frequent, such as food.

Furthermore, enterprising businessmen have found market niches in selling information about and certifying the quality of the products, processes, and organization of other entrepreneurs, including in the food business, and sometimes even certifying the producer himself. Uncertainty reduction has become big business. Firms have specialized on the collection of information (detectives, credit registration bureaus, consultancy firms, marketing agencies), on the evaluation of it (credit rating organizations), the distribution of information (advertising, more neutral: consumer organizations), the certification of the truthfulness of information on behalf of transaction partners (accountants, auditors, notary publics), the drafting of contracts (lawyers and notary publics), their monitoring and enforcement (assault groups, debt collection agencies, process servers, bailiffs), or the covering of calculable risks (insurance companies, options trade).

However, commercial solutions have their problems. Commercial businesses are also prone to the seductions of opportunistic and corrupt behavior. They are often paid by only one of the transaction partners and ‘whose bread one eats, those word one speaks’. And who controls the controllers, the accountants, risk analysts and insurers? Again the market, through competition for reputations?

Furthermore, private solutions usually require the backing of an external authority. A trade mark needs protection against copying by free riding lower quality producers, who destroy the reputation. Bad products drive out good products, and bad entrepreneurs good ones. The problem is particularly great with generic products which are individually difficult to distinguish - and food has often that characteristic. Think of milk, bread or vegetables.

A third problem of market solutions is that, where uncertainty reduction requires generally accepted standards, market competition can create problems as it tends to produce a plurality of standards, i.e. confusion. The customer prefers one universal standard over a best one. Efficiency requires an organization with a monopoly position on setting standards.

Finally, commercial solutions still imply transaction costs. ‘Outsourcing’ to specialized organizations offers economies of scale over individual uncertainty reduction strategies. But yet other forms of uncertainty reduction, by institutions to be discussed below, can provide further savings.

3.3. Community, Trust, Norms and Values

A ‘cheaper’ means to save on transaction costs is ‘trust’ between partners. An efficient economy runs - like society in general - largely on trust.

Trust is not self-evident. It cannot be based on a belief in the 'natural' goodness of man. Certainly not in capitalism, where competition tempts if not forces transaction partners to cheat others.

It is neither something that can easily be created. It is present, or not. Trust is more likely found in a 'community' with a certain identity. The social structure of that community is the institution that reduces uncertainty and transaction costs. Subsequently Ouchi (1980), Piore and Sabel (1984), Sabel (1992), Porter (1990) and Fukuyama (1995) have pointed to the importance of clan and culture for economic transactions. One strategy is hence to conclude transactions preferably with people whom one trusts because they belong to the same religious, ethnic, or extended family community. A Turkish consumer might feel safer buying meat from a Muslim butcher. Trust is enhanced by the diffuse and multiplex character of relations in such groups. The members have relations in different roles, and these offer ever so many channels for social control, social interdependence, and hence punishment for cheating.

Communities are also sources of social norms, including in economic transactions. Jews won't trade on the shabbath, Calvinists were expected to be thrifty and not to indulge in luxuries. That too increases the predictability of the intentions and choices of transaction partners. Many cultures and religions have norms that condemn deceit, and thus mitigate mutual distrust.

Reliance on community, trust, and informal social norms has also disadvantages. Transactions remain restricted to within a certain homogeneous social group. Thus the scale of transactions is limited. Furthermore, cultural norms and values usually do not suffice. Agencies are needed to back them up, to clarify, monitor and enforce them. This could be a religious organization, but where their social power is limited, others are needed.

3.4. Associations

One possibility is self-organization and self-regulation by the sector concerned. It may form associations, which enact and try to enforce 'laws', that is, internal rules. The medieval guilds were a prototype. They had elaborate quality standards and could effectively monitor and enforce them, thanks to the compulsory membership of producers, which gave them an effective sanction: expulsion meant loss of livelihood.

Most modern day trade associations miss such effective sanctions. Nevertheless, many sectoral associations do try to set enforceable standards. There is an abundance of them. I mentioned already the French wine *syndicats* and the Dutch dairy associations. In addition, there are also quality certificates provided by consumer associations, such as an association of housewives. They add to, and often compete with, standards and certificates provided by commercial standardization bodies.

3.5. Hierarchies

In the absence of community and trust - as in an internationalizing and consequently more anonymous market - and with too high costs of commercial uncertainty reduction, entrepreneurs can also limit uncertainty through mergers and take overs with transaction partners. Transactions that were to take place before on a market henceforth take place in a bureaucratic organization, which thus increases in importance as allocation and coordination mechanism. Actors actually enter into transactions with themselves, and this allows them of course to reduce uncertainty about intentions and possible opportunistic behavior of others. Greater size means also more market power, and allows economic actors to influence or even steer developments on markets, which reduce uncertainties for long term investments. This is all of course common knowledge since the work of Williamson (1975).

Powerful firms can however also reduce risk and uncertainty for the final consumer by formulating, monitoring, and enforcing quality standards for their networks of suppliers that

they control. In food, the concentration in retailing has had such effects. Large supermarket chains have become major quality regulators of the food chain.

3.6. The Courts and Case Law

Many economic transactions sooner or later give occasion to conflicts, over the quality of the products, or the observation of contracts. Such conflicts can end up for some arbitrator for settlement. Already early on, the state has - given its responsibility for social order - provided such arbitrators: the judiciary financed and employed by, but relatively independent from, the other state powers. For the enforcement of its decisions the judiciary relies on the legitimate monopoly of the state over the exercise of force. As judges orient themselves in their decisions to earlier decisions in the interest of legal equality, these have acquired power of precedence. The accumulated decisions have produced de facto regulation: case law, which regulates economic transactions. Even governments that are otherwise wary of intervention in the economy, have in this way, willy-nilly, become market regulators.

For the regulation of product quality, tort and liability law have acquired great importance. Consumers who feel cheated, or otherwise suffered from food products, can and do sue producers in court. This has led to a veritable litigation industry, especially in very litigious societies, as the American. In continental European countries the importance of tort litigation is increasing, forcing producers to elaborate, strengthen, and bureaucratize their internal quality control systems.

3.7. The Regulatory State

In many societies and cultures sooner or later the afore-mentioned sources of food governance were not effective or efficient enough, forcing the state to get directly involved.

Why the state? It has always been in the 'business' of reducing risks and uncertainties to the life of its citizens. Many of the public goods it provides do just that. This holds first and foremost for the original and still primary - Hobbesian - task of the state: the protection of its citizens against threats to their life, liberty and property, be they from domestic or 'foreign' origin. In the old days, Hadrian's, the Chinese, and medieval city walls created visible borders around - and thereby defined - the 'group' to be protected; and watch towers, castles and soldiers aided in keeping threats, varying from wandering dogs to foreign enemies, out. Nowadays institutions such as the coast guard, airport security checks, and satellites do in principle the same. Other public goods regulate the 'grid' (see the group-grid model of Douglas and Wildavsky 19...), the relations within the demarcated 'group'. They protect against internal threats: the police against brigands and thieves; infirmaries and hospitals against infectious diseases; and food regulators against 'unwholesome' food and its producers: adulterers, swindlers, fiddlers, and crooks.

Statutory food regulations have been as old as food markets. In ancient Greece and Rome there were already laws against the coloring and flavoring of wine. In Western Europe laws against adulteration of food and drink arose in the later Middle Ages. Famous landmarks are the British impure food laws from 1226 (Coates 1984: 145) or the Bavarian Reinheitsgebot for beer from 1516. The first 'modern' legislation dates from the latter half of the 19th century: in Britain from 1860 (the Food Purity Law), extended in 1874, in Germany 1879, France 1885, Belgium 1890, the Netherlands 1889.

Direct occasion for such intervention were usually scandals and crises, which destroyed the trust in specific products and producers. History abounds with them: the Dutch dairy scandals around 1890 mentioned earlier; the economic crisis of the 1930s that sparked the development of the French system of *Appellation d'Origine Controlée* (from 1935 on); in the 1980s the Austrian scandal of mixing 'anti-freeze' in their wine (to sweeten it). The recent animal epidemics (BSE, foot and mouth disease, pig and chicken pests) led to a tightening of veterinary inspections, animal feed standards, and got European institutions yet more

involved in food regulation, occasioning now the establishment of a European food regulatory agency.

The scandals reduced the trust of the public in private forms of regulation. They made it clear that private solutions to the risks and uncertainties of the market do have problems. Detectives and other reputation rating agencies threaten the privacy of economic actors; accountants - supposed to be independent and neutral - turned out to be subject to temptations of favoritism; customs and norms of clans and communities can be quite strict market-entry barriers; associations suffer from the threat of free riders and have difficulty in enforcing self-regulation; and a proliferation of competing private standards can become self-defeating as they may obfuscate markets rather than increase transparency.

Often, a first reaction of the state to deficiencies of private risk and uncertainty reducing institutions in food markets has been to support them. It does so of course already with the basic legal infrastructure (property rights, contract law, judicial conflict resolution) without which markets, commercial risk reducers, communities, and associations could not function. Furthermore, it increases public trust in commercial risk and uncertainty reducers, such as accountants or insurance companies, by holding these themselves to standards; it helps self-regulating associations solve collective action problems by recognizing them.

Eventually it supplemented or replaced private by public regulations. Where the market and commercial organizations produced a proliferation of standards which threatened to make markets again intransparent, it set uniform and authoritative standards: for weights and measures, pricing units, vocational training or university degrees, and food quality certificates. And it created its own enforcement organizations, such as national, regional and/or local food inspectorates.

Of course state regulation has its disadvantages. State agencies are further removed from the businesses and markets they are to regulate. That makes for greater 'principal-agent' problems in the administration and enforcement of regulations. The greater distance between regulator and subject may also imply less legitimacy and hence stronger incentives to evade or circumvent them. That forces regulators and courts (which enforce the rules) to increase the degree of specificity and detail of the regulations, which in turn feed sentiments about the 'ridiculousness', 'unreasonableness' (Bardach and Kagan 1982), or inflexibility of state regulation. That gives rise to political calls for 'deregulation', until the next scandal sets a new cycle of (re)regulation in motion.

3.8. Public-Private Combinations

These 'state-failures' have given rise to mixed public-private regulations and enforcement organizations, in an attempt to combine the advantages of both private and of public regulation. Thus the state provided backing for self-regulatory trade associations, e.g. by giving them privileged access or statutory powers such as compulsory membership or the authority to apply disciplinary law. Examples in food markets are the French wine quality regulations, enacted and enforced by private *syndicats* of local wine growers, but recognized, authorized, and backed by the French state; or Dutch dairy quality standards, specified and enforced by a sectoral trade association, which is governed by employers' and employee associations, but which has a status under public law, and which has resources such as compulsory membership and the authority to regulate and tax industry, making their regulations formally equal to statutory law.

3.9. Economic Governance and Contestation

Cultures and societies differ in their preferences for these various sources of food quality regulation. Commercial solutions are more readily accepted in liberal economies like the US or the UK. Hence, not coincidentally, many of the internationally known quality rating agencies are located in these countries, like the major accountancy firms or Standard and

Poor's. Reliance on community and trust depends on the distribution of trust in a society. From Fukuyama (1995) we know that societies differ in whom one trusts: family members, strangers, organizations, or the state. Chinese and Italians trust their family and local or professional community, but distrust society at large, including the state. Hence they rely more on communities as sources of regulation: artisanal and professional communities, industrial districts. Germans, Japanese and Americans have more trust in people and agencies beyond their family, including associations and the state. Hence the state can be more important in these societies as source of legitimate regulation. Regulation by large abstract private firm hierarchies is also more common in these societies, whose economies are dominated by such hierarchies. Self-regulation by associations is more generally accepted in corporatist countries like the Netherlands, Austria, or Germany.

These differences in the legitimacy accorded to different sources of regulation are also sources of contestation, especially when it comes to the enactment of common international standards, as in the EU or WTO.

4. Internationalization Trends

National public or mixed public-private regulations of food quality however experience a loss in effectiveness and efficiency - and with that a loss of legitimacy - because of globalization, which breaks up the congruence between the territory of societies, markets, cultures, and regulatory states. The following internationalization trends are important in this regard.

4.1. Multi-culturalism: Increasing Diversity of Consumer Preferences

First of all, the increased mobility of people over the globe. Many Western countries have become more and more multi-cultural. Individualization has added to this cultural diversity. The autochthonous population harbors more and more subcultures, some of whom identify themselves by the type of food they eat: vegetarianism, veganism, macrobiotics.

The increased cultural diversity means that country and culture coincide less and less. Food quality gets measured by a greater diversity of standards. And thus the information needs of the population as to how the various products score on these standards increases. It also gets more difficult for national regulations to reflect cultural preferences, typical for that country.

While populations become more multi-cultural they become at the same time more vocal and demanding. There is a revolution of rising expectations among ever more assertive citizens - both as voters and litigants in court - in democratic societies. They hold states responsible for providing solutions to ever more risks and uncertainties.

4.2. Globalization of the Food Chain

Mutual knowledge, the reputation mechanism, and norms and values can generate trust, as long as the transactions take place in local communities, where partners meet regularly, and where they share common cultural values. That gets more difficult when distances increase, when parties are anonymous to one another, and when they come from different cultures. But that is exactly what has happened with internationalization, growth of world trade, and hence increase in global interdependencies between people. This is most visible in the products we consume. They come from everywhere: apples from Australia, beef from Argentina, cod from Iceland. It has been estimated that an average good has traveled 4000 km before it reaches its final consumer. That increases information asymmetries and opportunities for swindling.

The food production chains become ever longer and connect many countries. Manure from Chili gets transformed into US corn, that into Belgian cows and milk, that into Dutch

cheese, a leftover, whey powder, turned into French calves and bonemeal, that into British beef, ad infinitum. It is difficult to follow ingredients in these ever longer food chains, notwithstanding the attempts at 'tracking and tracing'.

Contaminated food or unsafe chemicals or pharmaceuticals may spread quickly, and may be difficult to trace. Where food is moved in living form, as plants or animals, it may spread pests and infectious diseases fast, in particular in the dense population concentrations typical of the bio-industry. The recent epidemics of BSE, pig and chicken pests, AIDS and SARS are cases in point.

4.3. Composed Foods

Not only do ever more products come from further away; they are composed of ever more components, whose origin may be difficult to trace. Even basic foods get decomposed, transported, and recomposed, with possible changes in the process. Fruit juice gets dehydrated at the source, transported, and at the location of consumption liquid is again added; plus additives as preservatives or vitamins. Which raises suspicions. Does the fruit fibre in grapefruit juice really come from grapefruits, or from cucumbers, as the rumor goes?

Hemophiliacs use a medicine of Bayer, Factor VIII, which contains the blood plasma of more than ten-thousand patients (New York Times 19/5/03). Food concentrate for beef is made up of a large number of recycled and waste products, from old ground bread, way, to vegetable waste, rejected candies and - before the BSE scandal - bone meal from butchered congeners. Conversely, a slaughtered cow can end up in 50,000 different products, not only meat and sausage, but also glue, paper, and congeners. These are ever so many components whose quality, safety, and reliability has to be checked.

Even if not dangerous, the intransparency of composed foods can still pose a problem. Namely for cultures and communities that ban certain 'raw materials'. For Muslims pork is 'haram' (unclean), as is meat from other carnivorous animals. They can only eat 'halal' (clean) animals: beef, veal, goats, sheep, fowl. That poses already a problem for ground beef, is it really 'pure ground *beef*'? But who knows that for Muslims forbidden ingredients *could* also have been used in licorice, peppermint, cheese, ice cream, and cakes? (Volkskrant 6/10/03).

Muslims and Jews have also process standards, derived from their conviction that animals should not suffer unnecessarily. Muslims require that the animal must be killed by a slit of the throat by a sharp knife, a civilizing rule. However, in a time of global food chains and complicated composed foods it becomes problematic. How to know whether the jelly, that has been certified to come from sheep bones, is also from sheep slaughtered in such a specific humane way? Now we have even more humane animal killing methods. But religious norms get ossified - being an identity symbol - and are not easily updated when more humane methods become available.

4.4. The Globalization of Information

Of course risks and uncertainties to life are nothing new. It is probably even right to say that objectively the risks and uncertainties were much higher in the past. Diseases, poisoning, epidemics, conflict, war, crime, etc. resulted in much shorter life expectancies than people have today. What is new is:

- People, at least in the industrialized nations, got used to ever higher levels of security
- With new science and technologies came not only new dangers, but also more knowledge about the various threats and risks: the carcinogen character of certain substances, the long-term effects of smoking
- This has enhanced a belief that it is possible to reduce risks and uncertainties. That they are no fates, that one better accepts

- With new ICT and media technologies news travels instantaneously around the globe, including information about events elsewhere that could threaten our security, such as food scares and scandals: the mad cow disease, or food-borne poisoning from Listeria

Such information has 'direct effect'. Demand for products, suspected of disease, experienced steep drops in demand, threatening to annihilate whole sectors. Even the news that non-poisonous but nevertheless suspected 'unnatural' foods, such as GMOs, may be included in certain products, has led to consumer boycotts.

All these factors, caused by the mobility of information, enhance citizens' expectations towards the state: they expect politicians to act, to ward off any imminent threats, and to use all available scientific knowledge and other resources and powers of the state to do so. This is further reinforced by the diffusion of information through the mass media and the internet about the reactions and demands of citizens elsewhere. A veritable 'race of rising expectations' is the result.

5. Shifts in the Mix of Public and Private Regulators

5.1. Diversity in Demand and Proliferation of Private Food Regulating Agencies

Trend nr. 1, the increased diversity of consumer demands to food, has led to a rise of new private information and quality control institutions. In shops, newspapers, and on the internet one is greeted by a bewildering amount of quality certificates, that all praise specific products and scream for attention. Food producers launch new brands that pretend to satisfy the need of consumers for certainty as regards safety, health, animal friendliness, environmental responsibility, fit with specific belief systems. Commercial agencies dive in this market for 'information' and try to build a reputation as reliable certifier, and to get producers to accept (and pay) for their certificates. Consumer and sectoral producer associations try to do so as well. There are certificates from the Dutch Association of House Wives, or the Dutch Association of Smoked Sausage Manufacturers.

An interesting case is provided by the growing Muslim community in Western Europe. The need of Muslims to identify 'halal' food has produced over thirty private hallmark providers for halal food in the Netherlands. One of them is the 'Stichting Halal Voeding en Voedsel' (HVV) (Foundation Halal Food and Nutrition) in The Hague. It provides information, and has a HVV-inspection service, which inspects the production of halal food and provides food, if approved, with the 'Halal Tayyib' certificate. It is supervised by a council of Islamic mullahs. The fierce competition between certifiers is exemplified by the name of a competitor: 'Total Quality Halal Correct Certification'.

Screening food on 'halal' is time consuming and costly. It adds to transaction costs. Someone has to foot the bill, the producers. Understandably, this does not make the certificates popular with them. Thus competition has emerged between certifiers. Some try to gain 'customers' by price competition, at the cost of precision of standards and monitoring. Thus, while some longer established ones are quite precise, others certify every product that does not contain pork. Thus, what has threatened to happen among producers is now also happening among commercial certification providers: the bad ones drive the good ones from the market. And the long term perspective is a loss of trust of the Muslim community in the reliability of 'halal' certificates. Which of course destroys the market for commercial certifiers. This has already led - as so often in the past - to calls for government intervention. By the Muslim community. But also by the commercial 'halal' certifiers, who want a government certification of their certification institutes. They want simplification of the intransparent world of Muslim certification bodies; but, not surprisingly, each certifier wants its certificate and criteria to become the state-authorized one.

It remains to be seen how long public authorities can resist getting involved. The certifier of biological produce, SKAL, provider of the EKO-certificate, is since 1992 backed by EU-regulation.

5.2. National Public Regulation needs Private Assistance for Enforcement

Governments are however responding to increased demands from consumers, based on the new uncertainties, produced by the globalization of the food chain, and the increasing complexity of composed foods.

The traditional response of nation-states to foreign threats has been to try to keep them out: by erecting, maintaining, and enforcing borders - the very essence of a *territorial* state. The reactions to new threats to food safety have been traditional: borders were closed to foreign imports. The French banned British beef, the Americans Canadian beef. Furthermore, new *national* food regulatory agencies were established or existing ones were reformed.

However, this strategy of building national 'fortresses' becomes increasingly difficult in a globalizing world. States punish each other for protectionism; and national food regulatory agencies cannot easily regulate, let alone enforce, food standards along the long international food production chains.

The internationalization of food chains gives national states an interest in extending control beyond their territory. Economically or politically powerful nations can and do impose their standards on other nations, through trade relations (the 'California effect', Vogel 1995) or political pressure. More frequently used however are less asymmetric forms: attempts to establish international standards through supra-national organizations, such as the European Union and the WTO. Quite a variety of harmonization measures have been identified: formal negotiated harmonization, soft harmonization, the open method of coordination, mutual learning and imitation, etc.

What this literature overlooks is that mere export, harmonization, or convergence of paper regulations does not suffice. What counts is whether and how these 'rules-in-the-books' are translated in 'rules-in-action'. In the end, actual enforcement and compliance are the Achilles heel of any regulation. They have to be applied and enforced on the street levels, shop floors, harbors, airfields in other countries by local authorities there. Standards still measurable on products can be checked at the borders, but this is impossible for process standards or product-standards that can no longer be identified. In such cases countries have to *trust* the street level bureaucrats in other countries, and the value of the certificates and licenses that they have given off: the Thai inspector who controls the hygiene of shrimp peeling.

Mutual trust between countries in their enforcement practices and value of certificates is complicated because the discretionary authority of street level bureaucrats and their enforcement styles differ significantly between countries. American enforcement officers have limited discretion, and apply regulations in an indiscriminating way, making the full force of the law fall equally on all subjects of the regulations, without much concern for individual circumstances. This practice is often experienced as 'regulatory unreasonableness', but serves the maintenance of universalistic values: all citizens/firms are equal for the law (Bardach and Kagan 1982; Vogel 1986). British, Dutch or Italian rule enforcers have much more discretion, and are able to take account of individual circumstances in rule application. They can overlook transgressions, give exemptions, bargain with the subjects of regulation, be flexible in sanctioning, and see themselves more as educators than as policemen. Elsewhere I have written more about such national differences in regulatory enforcement styles (Van Waarden 1999a, 1999b).

Given these national differences, countries and agencies that maintain stricter enforcement procedures are hesitant to trust others that are known for having less strict ones. Instead, they will try to control foreign controllers in their control of the observation of the standards considered important. If possible by sending their own controllers and inspectors for double checks; or by having international organizations with a strong reputation sending double checking inspectors over. Yet external controllers of local controllers will always have the disadvantage that they are not familiar enough with local circumstances, customs, people, reputations, networks.

In their efforts to extend food control beyond their borders, states have sought assistance from private food quality control institutions. Some of the arguments why states resorted to involving private organizations in their national regulatory systems in the past (see above on public-private hybrids) hold even more for attempts at international quality regulation.

Why private organizations? First of all, they too have an interest in maintaining consumer confidence and in protecting the reputation of their industries and/or their brand-images, in which a lot of time and money may have been invested. Secondly, private organizations have additional channels for monitoring and enforcement of food standards. This holds in particular for international organizations with hierarchical control over their intra-organizational relations, such as MNOs. But even national private industry organizations dispose over channels of influence: bargaining and contract relations with foreign suppliers.

Multinationals or large supermarket chains can impose food quality standards (in turn perhaps imposed on them by the general public or a national government) on their foreign suppliers (Havinga 2004). When British supermarket chains declared that they would guarantee their customers that their products would not contain GMOs, this was probably more effective in killing the GMO market than if it would have been done through national state regulation.

International and national trade associations can also be important instruments for statutory international quality control. An interesting case is provided by the sector of animal feed, crucial for food safety. Several major recent food scandals were caused by problems in the animal food part of the meat production chain: the feeding of cows with bonemeal (making herbivores in carnivores, even cannibals) in Britain was the base of the mad cow disease problem. And Germany had problems with dioxin residues in animal feed. Here both an international and several national trade associations play a role in the operationalization, implementation, and enforcement of European regulations (Freeriks 2004).

This case illustrates also the long control chains that have developed in the food sector. The European Council for Accreditation has certified in the Netherlands the Statutory Trade Association for Animal Food, which has been given the task by the Dutch Ministries of Agriculture and Economic Affairs, to supervise private commercial certification institutes (CIs), who control external accountant firms, who control internal control departments and internal quality control laboratories that finally directly control the input, throughput and output of animal food producers. And that is then only one stage - be it a crucial one - in the complex food chain. Besides these control layers there are yet the control systems of the customers, that is, the subsequent stages in the food chain: the farmers and their cooperatives, the slaughterhouses and meat packing plants, the supermarkets, and consumer associations.

6. Conclusion: The Control Industry a Booming Business

National food quality regulations used to reflect national cultures. However, globalization tends to disrupt the congruence between society, culture, market, and state. States get on the one hand confronted with much more diverse demands as to the criteria for food quality control, as their countries become multi-cultural. On the other hand nation-states are less able to effectively regulate food as the food chains become longer and international, and these international markets produce complex composed products.

These contradictory tendencies between which states get squeezed: greater diversity in demands for food standards from citizens, less capacity to monitor and control any such standards, are producing a proliferation of food control institutions:

- 1- In reaction to food scandals, and increasing insecurity and distrust, national governments are creating more control agencies, expanding existing ones, and piling new layers of control on top of those already in place;
- 2- They do so for more and more sub-stages along an ever longer international food chain, in many countries. And with the assistance of private and semi-public institutions. Here the term 'multi-level government' acquires a new meaning!

3- In so far as states can not and will not cater to the increased demands for quality certificates from citizens, private organizations increasingly fill this 'market niche'. Food producers create their own 'brands'; and a variety of governance institutions: commercial entrepreneurs, private foundations, consumer associations, trade associations, try to produce and popularize their own quality certificates. The proliferation that this produces, and the resultant intransparency of the world of certifications, leads to a call for certifiers of certifications; and certifiers of the certifiers of the certifiers.

Do more controls mean less feelings of uncertainty, insecurity, unsafety, and fear of swindling? That is the intention of course. The paradoxical reality is that the more controls we create, the more the controllers find and report that not everywhere things are hundred percent in line with often very detailed and formal criteria - if only because in practice sometimes shortcuts have to be taken. This paradox was shown in the Netherlands for increasing control in police work, social security fraud, and enforcement of building and explosives safety. Is the reaction of the public and the media: 'good that we have controls'? Or: 'Nowhere is it safe anymore'? Indeed, more controls produce more information about fraud, unsafety, and poor quality. And those amplify feelings of distrust. To every new scandal or crisis, politicians react with piling one more layer of control on the already existing levels of controllers.

Isn't it a paradox that the more food quality inspectors and tests we have, the more we *can* know about our food quality, the more we *want* to know, the more we feel unsafe, leading to a call for yet another layer of inspectors, controllers, evaluators?

Is this paradox perhaps also a *tragedy*? Of course all those controls and bureaucracy require lots of organizations and functionaries. That means: more costs, for business, for the consumer, for the tax payer.

But one person's cost is another one's job and income. Thus the 'control-industry' has become a veritable growth industry. Distrust has become booming business. I calculated that of the Dutch working population of 7 million, about 2 million are busy with controlling others on behalf of yet others. The decline in employment in agriculture (now only 1 percent in the Netherlands) and industry (a mere 18 percent) has luckily been offset by a growth of work in the service sector; and a large part of that is the 'control industry'.

Economists have long thought that transaction costs have to be made for real transactions. But one can also look at it from the other perspective: Transactions exist in order for there to be transaction costs. They make it possible that people earn a living with reducing risk and uncertainty. The more fraud - or mere threat of fraud - the more work!

Luckily the upward spiral of piling up layers of control on control on control is in principle endless. The demand is insatiable. Every higher level of control can be again distrusted (after a scandal) and call for new controllers. Because, no matter how many controls we build into our systems: in the end we have to trust the last and highest level of controllers.

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