

3. The context: what is driving the development of private standards?

There is a variety of reasons for the proliferation of private standards. These are described in brief below.

3.1 PERCEIVED FAILURES IN PUBLIC GOVERNANCE

Private standards have been introduced in areas where there is a perception that public governance is falling short. This perception has been particularly prevalent in terms of the sustainability of natural resources and in terms of overall food safety, particularly on the occasion of food scares.

Food safety is traditionally the prerogative of government regulatory and inspection agencies. However, high-profile food scares in the last decade (Box 1), such as the bovine spongiform encephalopathy (BSE) case, and in relation to fish and seafood concerns related to various toxins and contaminants or the misuse of antibiotics in aquaculture, have lowered public confidence in the ability of government agencies to guarantee that the food consumers have access to is safe. This is particularly relevant to imported food, especially products originating in countries where local food safety assurance systems are perceived to be weak.

Food safety failures have considerable impact on retailers and brand owners.⁴ Product recalls and bad publicity are damaging to a firm's reputation, with subsequent negative implications for consumer confidence and future sales. To insure against food scares and to counter any perceived public institutional shortfalls (at home or abroad), firms are signing up to voluntary private standards or developing their own. Most of these are based on mandatory government requirements, but they tend to be prescriptive rather than outcome-based, and often include detailed requirements related to quality and traceability.

The protection of natural resources is also the prerogative of public authorities. However, there is a perception that governments are not doing enough to protect those natural resources, including the sustainability of the world's fisheries. While governments have the primary responsibility for fisheries sustainability, it is a responsibility that is increasingly seen as one that should be shared with other stakeholders in the supply chain. Support for private ecolabelling schemes is an indication that retailers and commercial brand owners are assuming some part of this responsibility (Box 2).

Non-governmental organizations concerned with the state of the world's fisheries have shifted their focus to increasingly target industry players. As well as trying to influence the purchasing decisions of consumers and lobbying governments to improve their performance, in the last decade they have developed private environmental standards or ecolabelling schemes to encourage fishers and fish farmers to adopt more responsible practices.

⁴ Food safety failures also affect firms not directly responsible for the failure. For example, a recent recall in the United States of one brand of peanut butter saw sales of peanut butter overall drop 25 percent: "Peanut butter recall hurts even safe brands", *International Herald Tribune*, 9 February 2009, p. 14.

BOX 1

Major food scares**Introduction**

Salmonella, *Listeria*, *E. coli*, mad cow disease, dioxin, foot and mouth disease, avian influenza, beef, fish, shrimp, peanut butter, tomato, spinach – every few months, there is a new food-borne threat to worry about, or a grocery favourite to avoid or being recalled from the supermarket shelves. In a world as technologically advanced and heavily regulated, food should not be so complicated. However, even as consumers have become better versed in home food safety techniques, globalization of food production, processing and supply have increased the risk of food-borne illnesses and the mass hysteria that follows their spread across borders and countries. Thus, a century after the idea of food poisoning first entered the public consciousness, some of the same mysterious food safety battles are still being fought. It is estimated that food safety problems in the United States alone account for about 76 million illnesses, 325 000 hospitalizations and 5 000 deaths annually.

The term food scare is generally associated with spiralling public anxiety over food safety incidents and escalating government and media attention that supplements such events. Food scares can be categorized into microbiological-, contaminant- or animal disease-related outbreaks. The following are examples of major food scares that have occurred in the last 30 years.

Microbiological-related scares

Many food-borne illnesses are caused by bacteria, such as *Salmonella*, *E. coli*, *Listeria*, *Campylobacter*, or viruses (e.g. hepatitis A virus) that enter the food supply. The infected people develop symptoms that vary in severity. Although rarely, some food-borne illnesses can be fatal.

Botulism is a very rare food-borne illness caused by the consumption of food (meat, fish, vegetables) containing the botulinum toxin. The toxin accumulates in food as a result of bacterial growth resulting from malpractices during handling, processing or distribution. The disease can vary from a mild illness to a serious disease, which may be fatal within 24 hours. In severe cases, patients develop neurological symptoms such as visual impairment (blurred or double vision), loss of normal mouth and throat function (difficulty in speaking and swallowing, dry mouth), lack of muscle coordination and respiratory impairment, which is usually the immediate cause of death.

In 1982, an outbreak of botulism caused the death of one person in Belgium, following the consumption of canned salmon that was traced back to a cannery in Alaska, United States. This led to the examination of the entire 1980 and 1981 production records of the Alaskan salmon canning industry and a series of recalls involving more than 50 million cans of salmon worldwide. An earlier outbreak of botulism caused the death of two women in Detroit, Michigan, United States, in 1963, following the consumption of canned tuna. Tuna sales fell 35 percent nationwide, forcing the industry to set up a tuna emergency committee and to launch a US\$10 million campaign to revive confidence in tuna products. Moreover, this case led the United States food control authorities and the canning industry to embrace the Code of Good Manufacturing Practices (GMP) and Hazard Analysis and Critical Control Point (HACCP) system as early as 1973.

Contamination-related scares

The last three decades have seen great concern worldwide over the presence in food of unacceptable levels of antibiotics (e.g. nitrofurans in shrimp), hormones (growth hormones in beef), pesticides (nitrofen in poultry and eggs) and other contaminants such as dioxins,

Major food scares (continued)

polychlorinated biphenyls (PCB) or polycyclic aromatic hydrocarbons in edible oils. The carcinogenicity of the chemical contaminants creates great anxiety, whereas the increasing resistance of many bacteria to most strains of antibiotics (which in turn are becoming less effective at treating human microbial infections) has raised concern over antibiotic residues.

Whereas the discovery of contaminants in food and drinks, such as the detection of carcinogenic benzene in Perrier bottled water in 1990 or poor-quality carbon dioxide in Coca-Cola in 1999, create major public outrage, media hype and impressive product recalls, the most spectacular scare remains the 1999 dioxin food scare when a PCB- and dioxin-contaminated batch of transformer oil entered the food chain via an animal feed mill in Belgium. This was then fed to broilers and subsequently recycled into pig feed, thus affecting poultry, eggs, pork and bacon products throughout Europe, with export of poultry and pork being halted from Belgium, France, Germany and the Netherlands. Netherlands and Belgian pigs and poultry farms were again placed under quarantine owing to another dioxin scare in January 2006, when restrictions were placed on a total of 582 farms. More recently (2008), high levels of melamine were found in infant formula, milk powder and pet foods in China, owing to its deliberate and illegal addition to increase the protein content of these products causing the death of many babies and children and 50 000 becoming ill. Given the importance of food exports from China, many other countries were seriously concerned and discovered alarming levels of melamine in various food products tested.

Animal disease-related scares

The main animal disease-related food scare worldwide remains bovine spongiform encephalopathy (BSE), or mad cow disease, which first appeared in the United Kingdom in 1986. Other epizootic-related incidents such as foot and mouth disease (FMD) or avian influenza have recently caused public concern and outrage worldwide.

It is known that BSE is a condition that causes nervous system degeneration in cows and can lead to Creutzfeldt-Jakob disease (CJD), a similar illness in humans. Since 1986, nearly 200 people have died from CJD around the world. More than 168 000 cases of BSE in cattle were confirmed between 1986 and 1996 in the United Kingdom alone, affecting more than 35 000 farms. Although the United States has seen no more than a handful of the bovine or human forms, even the remote possibility that the disease may have migrated into the food supply can cause severe panic. In April 2008, the United States Department of Agriculture asked for a recall of school lunchmeats in 26 states. No evidence of the contamination was found but the distributor Westland/Hallmark recalled 143 million pounds (about 65 million kg) of ground beef, making the incident the largest beef recall in United States history.

Certification to a private standard offers trust when there is a loss of faith in regulatory systems or the administration of those systems, either at home or in exporting countries. Moreover, private standards are considered to be more flexible and responsive to changing market conditions, whereas the public regulatory process is seen as less nimble.

3.2 CONSOLIDATION AND COALITIONS IN THE FOOD BUSINESS

The increasing consolidation and concentration of food firms, mainly in industrialized countries, has resulted in a market dominated by fewer but increasingly powerful global firms. In the last decade or so, retailers have gradually replaced manufacturing and processing firms as the dominant market players. In terms of fish and seafood

sales and marketing, while large brand owners remain important, supermarket chains increasingly dominate market terms and conditions. The food service industry is also important, especially in the United States.

BOX 2

Who is responsible for fisheries sustainability?

A global online survey of 25 420 consumers in 50 countries asked those consumers: “Who should assume responsibility for ensuring fish stocks are not overused?” In response:

- 67 percent of respondents said “governments”;
- 46 percent said the “fishing industry”;
- 28 percent said “fish manufacturers and processors”;
- 16 percent said “retailers of fish products”.¹

¹ Nielsen Global Online Survey, March 2009. Presentation by J. Banks, Nielsen, at OECD/FAO Round Table on Ecolabelling and Certification in the Fisheries Sector, The Hague, April 2009.

To take advantage of the positive image of the health benefits of fish and to develop the concept of the “one-stop shop” (consumers being able to buy every food item under one roof), retailers are expanding the fish sections in their shops. They are also trying to offer a greater range of fish products, including pre-prepared, ready-to-serve meals. While there are differences between markets, in the countries that form the Organisation for Economic Co-operation and Development (OECD) the majority of fish is now sold in supermarkets (FAO, 2007a). In the United States, the food service sector is also important with an estimated two out of three fish meals eaten outside of the home.⁵ In Europe, large supermarket chains account for more than 80 percent of fish sales in some member countries (European Commission, 2008).

Consolidation has been particularly marked *within* the retail sector. The OECD estimated that in Europe the five largest retailers accounted for more than half of all sales (OECD, 2006). Large retailers have significant bargaining power in relation to other businesses in the supply chain. Private standards are a key mechanism for their translating requirements – both product and process specifications – to other parts of the supply chain. The OECD estimates that voluntary private standards cover about 70 percent of all retail trade (Fulponi, 2006). Highly specified standards reflect their need for large and stable supplies of products of consistent quality (in all of its dimensions).

In terms of food safety standards, there has also been an emergence of coalitions of food firms. In general, these coalitions continue to compete on issues of quality, price, level of service, and product range, but have agreed that food safety is a pro-competitive issue and, hence, should be dealt with in a collaborative rather than competitive way. There are clearly efficiencies in setting shared standards that can be benchmarked and mutually recognized as opposed to each firm “reinventing the wheel”. Moreover, serious food scares are likely to have a greater impact on those firms directly responsible. Indeed, they can taint a whole sector or even a country’s reputation. Hence, food firms see merit in ensuring that the whole food safety system functions well. Therefore, most standards set by coalitions of food firms are international in scope.

⁵ J. Connelly, National Fisheries Institute, Integrity in the seafood value chain. Presentation to the IAFI World Seafood Congress, Morocco, October 2009.

3.3 INCREASING VERTICAL INTEGRATION AND COMPLEXITY OF SUPPLY CHAINS

The increasing vertical integration in supply chains in most areas of the food industry is also stimulating the growth of private standards as B2B tools used in the context of procurement contracts and as a means to define relationships between retailers and suppliers. The level of integration of supply chains has implications for the application of safety and quality standards.

Fish and seafood supply chains have traditionally been less vertically integrated than supply chains operating in other food sectors, such as fruit and vegetables (OECD, 2006). While poorly documented, it appears that this situation is beginning to change as large retailers develop more direct links with producers, especially in aquaculture, and private contracts replace the traditional structure of the “importer–wholesaler–retailer pattern” (FAO, 2008).

More retailers are developing direct links with producers, as are other major seafood buyers such as those in the catering industry. For example, at an OECD/FAO workshop on globalization, the vice-president of a significant United States seafood buyer confirmed that its “strategic focus is to shorten supply chains by contracting directly with the producer” (Bing, 2007). As supply chains shorten, the onus is increasingly on producers to verify that their products meet certain standards. In the case of capture fisheries, this means verifying that the fish and seafood is from a well-managed fishery – certification to an ecolabelling scheme is a means of providing this verification. In the case of farmed fish, it means proving that products meet safety, quality, animal-health and social standards and do not have undue impacts on the environment. Certification to an aquaculture standard provides this burden of proof.

Value chains are also increasingly complex. Raw materials are sourced globally, while processing might be outsourced to a country that is neither the producer nor where the product will be eventually sold (such as China). This requires more sophisticated systems for ensuring traceability and guaranteeing that sanitary and hygiene standards are maintained at every stage of the value chain. These traceability systems (chain of custody) are built into the frameworks included in most private standards related to food safety and quality. Ecolabelling and certification schemes also include chain-of-custody requirements to ensure that fish from sustainable fisheries are not mixed with product from other non-certified sources. Where private standards schemes include a comprehensive assessment and/or audit model and effective chain of custody systems sitting behind them, they offer additional guarantees of traceability and good governance. Private standards are attractive to retailers and brand owners because they reduce the need for buyers to conduct their own expensive validation and/or audit processes of suppliers.

3.4 A SHIFT IN RESPONSIBILITIES FOR FOOD SAFETY FROM GOVERNMENT TO BUSINESS

Governments, particularly in OECD countries,⁶ are attempting to cut red tape and reduce compliance costs to business, including by replacing command-and-control-type regulation with more enabling or performance-based regulatory frameworks. Public authorities have been increasingly engaging industry in the implementation of good practices to ensure safety and quality, and requiring them to provide assurance (records) that they have done so. This has shifted more responsibility to business for developing food safety management systems, and reduced the reliance on government inspection services. While there is considerable variation between countries in this area,

⁶ Public management reforms driven by the activities of the World Bank and the International Monetary Fund have seen a similar dynamic in some developing countries.

the trend is towards risk-based safety and quality management and less end-product testing.

Under this scenario, fish producers, processors and distributors are responsible for implementing good practices, sanitary arrangements and HACCP plans (FAO, 2005). The HACCP system is recommended by Codex and required by many governments. As a systems-based approach, it requires processes to be monitored throughout the food chain, from production to distribution. However, the onus is on private sector firms to develop and implement internal food safety management strategies. In this context, private standards might be seen as a reflection of those firms assuming and extending this responsibility.

A relatively new development is that of governments using private market certification schemes to gain traction in their own policy frameworks. For example, the Government of the Netherlands is funding its fisheries to become certified to the ecolabelling scheme operated by the Marine Stewardship Council (MSC), to complement its regulatory activities aimed at encouraging more responsible fishing practices. The Food and Drug Administration (FDA) of the United States has a pilot scheme that might enable expedited entry of imported shrimp, based on its certification to a private certification scheme. These examples are described in later chapters. They are indications that the public/private interface is changing, and that private standards and certification schemes are an important part of that dynamic.

3.5 PRODUCT LIABILITY AND DUE DILIGENCE

Alongside the trend towards more performance-based regulation sit more stringent liability laws. These potentially encourage producers and retailers to develop private standards that are more prescriptive than government regulations. The United Kingdom's "due diligence clause" of the Food Safety Act, 1990, is perhaps the most direct example of this type of legislation. Liability laws mean that the "firm itself must now undertake the verification or present evidence that they undertook all possible steps to prevent the product from causing harm or contamination" (OECD, 2006). Studies in the United States and in the EU indicate that fish and fishery products are responsible for a significant proportion of food safety alerts (FAO, 2005). Due-diligence-type regulations are likely to affect fish processors and retailers, inducing them to take extra precautionary steps to ensure the safety of their products and to avoid potential litigation. This is particularly true in relation to brand and private label products,⁷ where the product is directly linked to the name of the firm (see Box 1).

3.6 PRIVATE LABELS – PROCESSED PRODUCTS

Private standards tend to apply less to fish sold on open commodity markets and more to processed and packaged products, especially those carrying a private label (retailer's own brand). Private labels are a growing feature of the food industry. It has been estimated that in European countries, including Germany, Switzerland and the United Kingdom, private-label brands account for more than 40 percent of all products sold.⁸ Private labels are in essence an attempt to build reputation by promoting products carrying the retailer's name. They also allow the retailer to compete with, and to reap the margins usually accruing to, commercial brand owners. While they were originally marketed to consumers as value-for-money items, retailers might now offer

⁷ For the purposes of this technical paper, a 'private label' product is a retailer's own brand product, or what is often described as a 'house brand' product (e.g. Tesco's Natures Choice brand). 'Brand products' are those manufactured by commercial brand companies (e.g. Birds Eye in the United Kingdom).

⁸ "Bad economy spurs higher private-label sales", 22 January 2009, available at www.intrafish.no.

private-label products of the same type but aimed at different consumers: from “basic” value-for-money products to “premium” items.⁹

In the case of private labels, retailers demand more control over the production process: in some cases, they even assume ownership of processing or manufacturing, although in the case of fish and seafood, rarely does ownership extend into primary production (OECD/FAO, 2007). Instead, private standards provide this control mechanism. Retailers themselves say that the growth in private labels is the main driver behind the development of private standards (CIES, 2007).

Product and process standards tend to be more prescriptive in relation to private labelled products as the potential damage to the firm’s reputation of any product failure is greater when the product is directly associated with the firm’s name. Since the early 1990s, the retail market has been conducive to the development of private labelled fish and seafood, typically in the form of processed or frozen products. This trend is likely to grow in response to consumer demand in developed countries for packaged, ready-to-eat or pre-prepared convenience foods. Moreover, as production involves more processing, often in countries that are not the producer or the end consumer, traceability, chain-of-custody, and robust quality and safety controls are crucial.

3.7 CONSUMER DEMAND AND CORPORATE SOCIAL RESPONSIBILITY POLICIES

Civil society and consumer advocacy groups have influenced the agendas of private companies, including in areas relevant to fish trade and marketing. Various NGOs have targeted retailers’ procurement policies through a variety of means, including media campaigns, organized boycotts or protests against certain retailers, or league tables announcing the most ethical supermarkets (such as Greenpeace’s rankings of the sustainability of supermarkets’ seafood supplies). Retailers are no longer just responding to this pressure. Indeed, it has been argued that on the basis of “enlightened self interest”¹⁰, retailers and brand owners are actually driving the demand for ethical products.

Competition in the food retail sector is shifting from a focus on price to competition based on quality (in all its aspects). In this context, retailers differentiate themselves on the basis of reputation or the overall quality image of their “brand”, including through their CSR policies. By adopting private standards and requiring their suppliers to be certified to a recognized international FSMS or ecolabel, retailers can protect and even enhance their reputation and, hence, the value of their overall business. Corporate social responsibility strategies related to fish products fall into two main areas: those relating to safety and quality (including organic, no pesticides or toxic residues and “fresh” or “natural” type claims); and those of a broader nature related to the impacts on the wider environment (e.g. small carbon footprint, sustainable fisheries), or to issues such as animal welfare or social responsibility.

From the perspective of the firm, attachment to an environmental standard provides some insurance against boycotts and bad press from environmental groups and in the media. It also helps them tap into and grow consumer demand for ethical products.

The power of retailers vis-à-vis consumers is further enhanced by the confusion inherent in the proliferation of ethical product differentiators (ecolabels, fair trade, buy local, organics, etc.). This proliferation complicates consumers’ decisions. It has been argued that, as a result, consumers are tending to put their faith in trusted retailers to sift the information for them: “the consumer increasingly wants the retailer to take the responsibility for their decisions ... He or she wants to know that if they shop at

⁹ For example, Tesco has a multitiered system for sales of smoked salmon, from a ‘value’ line to a ‘premium’ brand (Hajipieris, 2007).

¹⁰ Peter Hajipieris, at OECD/FAO Round Table on ecolabelling and certification in the fisheries sector, 22–23 April, 2009, The Hague.

X retailer they can do so with a clear conscience and without having to make further consideration as they shop” (Siggs, 2007). Retailers and brand owners filter the various ethical choices on offer and through “choice editing” decide which private standards to include in their procurement and marketing strategies. Corporate social responsibility policies, including private standards and requirements of suppliers, are an important mechanism for earning and maintaining customer loyalty.