Food safety has been a state prerogative in France since the beginning of the twentieth century. Yet it became a major political issue only recently, gaining top priority on the political agenda in the wake of the BSE crisis of 1996. Two reasons account for this. First, the BSE crisis revealed important dysfunctions in both beef industry practices and their supervision by the state, echoing similar dysfunctions in the UK and later Germany, and undermining public trust toward food products. Second, the blood transfusion scandal of the mid-1980s, with its political and administrative repercussions, promoted health safety as a priority on the political agenda along with issues of political accountability. To most observers, BSE seemed to reproduce the same mechanisms as the blood transfusion scandal, albeit in a different sector, but typical of a snowballing of crises (see chapter 1, this volume). Food safety became a subcategory of the more general theme of health safety.

This implied that the regulation of food safety was in some ways to adopt the more general features of a modern and efficient system of health safety regulation. The key words were, alongside *accountability*, *transparency*, *independence*, and *excellence*. These principles suggested an explanation of the previous crises and subsequently a solution: the scandals were the result of a regulatory regime marked by policy capture by private interests, a lack of transparency in the decision-making process, the absence of any diversity or discussion among experts, and insufficient resources and willpower in controlling the implementation of rules. Hence, only by providing independent expertise, a clear separation between risk assessment and management, possibilities for discussion and debate, and a clear definition of responsibilities and control
mechanisms could such crises be avoided in the future and food safety be regulated efficiently. The 1998 law on health safety clearly upheld these principles to create a set of agencies in charge of risk assessment. Concerning food safety, AFSSA (Agence française de sécurité sanitaire des aliments) was to act as an independent agency assessing risks on the basis of expert knowledge, while the InVS (Institut de veille sanitaire) was to trigger alerts in case of epidemics due to food contamination and identify the culprits. These two agencies were added to an already extremely complex and fragmented “regulation regime” (Hood, Rothstein, and Baldwin 2000) comprising a set of central ministries (namely agriculture but also consumer affairs and health), their respective field services, public-funded research centers, public and private laboratories (at the national or local level), professional technical centers, local government, the whole range of private actors (in the agrofood business), and consumer associations. Beginning in 1999, a series of crises in the field of food safety (dioxins, Coca-Cola, Listeria) played a role in stabilizing the central features of the new regime. The ministry of agriculture, heretofore in charge of food production policies, succeeded in maintaining ownership of food safety as a public problem against the ministry of health and its adjoining agencies. But the latter succeeded in imposing a stronger scientific expertise in the decision-making process.

This chapter argues that food safety regulation in France is a clear case of contested governance. The food scandals and crises all had to do with who should make decisions, and when and how they should be made. A break was called for from the previous corporatist model of comanagement characteristic of the agricultural policy sector, based on close relationships between public officials and representatives of the agrofood business. But the introduction of a new system of regulation implied strong shifts within this model, which caused tensions and conflicts. A break was also necessary with the way expertise was heretofore conducted within the public decision-making process. Once again, such a shift fostered contestation.

Hence, the answer to the question, “On what basis is food safety to be regulated?” seems to indicate that scientific risk assessment and a recourse to the precautionary principle when risk cannot be assessed have become predominant. But the question, “How is food safety regu-
lated?” immediately points to the complexity of a regime in which agricultural issues still predominate and call for a more careful balance between health safety and economic interests. In its first part, this chapter shows that the transformations brought about in 1999 remain limited in scope and that tensions between public authorities have not altered a regulation regime dominated by the ministry of agriculture and its different partners.

The question, “Who should regulate food safety?” then calls for an assessment of the role of the agrofood business in managing and ensuring food safety. The second part of this chapter shows that public and private interventions are closely linked and progress jointly. Yet contestation is perceptible in the labeling of food products, where competition arises between public and private actors.

Finally, to answer the question, “Where is food safety to be regulated?” it is necessary to look at both the national and European levels. Although there seems to be an agreement around the issue of an open market for food products and the role of science in reducing trade barriers, conflicts arise within the procedures created precisely to base regulation on sound science and thus help lift potential obstacles to the free movement of goods. The third part of this chapter addresses contested governance between the different levels with regard to the guiding principles of risk assessment, along with the pressure exerted on the different regime components by private interests and public opinion.

Varying Trends in Public Regulation

The BSE crisis resulted in the creation of a new agency, which potentially challenged the previous regulation regime prevailing in food safety as well as in food production. AFSSA achieved important results in providing independent expertise on these matters but was not able to contest the ministry of agriculture’s hold on the decision-making process.

AFSSA: A New Actor in the Risk Regulation Regime

The French food safety agency AFSSA was created by the law of July 1, 1998, relative to public health surveillance and the monitoring of products intended for human consumption. It was a direct answer to the BSE
crisis and to the dysfunctions it revealed. But its origins are also grounded in the development of public health policies going back to the beginning of the 1990s in France. After the blood transfusion scandal, it appeared necessary to reinforce the expertise and management capacities of the ministry of health by creating independent agencies in charge of regulating health safety in drugs, blood, and transplants. These agencies were to provide scientific risk assessment to help set health regulation, improve the transparency of the decision-making process, and resort to the precautionary principle when confronted with scientific uncertainty; the administrations in charge of economic functions were to be separated from those with control and police missions (Tabuteau 2002). These developments were led by a team of civil servants in the ministry of health and by the Senate commission on social affairs. With the BSE crisis, several parliamentary reports suggested the creation of a new agency dedicated to food safety (Mattei and Guillem 1997, Huriet and Descours 1997).

The creation of AFSSA was destined to follow the same guiding principles mentioned above and untangle the close relationships between powerful agrobusiness lobbies and state officials. Economic stakes were no longer to prevail over health safety issues. After a heated debate between the administrations, ministries, and members of Parliament over the institutional structure and the powers of the agency, the law was passed, and AFSSA was created on April 1, 1999, as a governmental agency reporting to three ministries: health, agriculture, and consumer affairs.

The agency’s objective is “to ensure food safety, from the production of raw materials right through to distribution to the consumer.” It has three main missions: (1) the assessment of nutritional and health risk for all categories of foodstuff; (2) a research and scientific support function, notably for animal health and diseases of animal origin; and (3) specific responsibilities in terms of veterinary medicines. Regarding risk assessment, AFSSA can receive referrals from its three supervising ministries and from consumer associations. It can also have its own self-referrals. Three types of questions can be addressed to the agency. First, AFSSA must be consulted on all food safety draft legislation: laws, decrees, orders, and transpositions of European regulation. Second, it must be asked for recommendations on individual decisions relating to an indus-
trial license (e.g., new additives or mineral water licenses). Third, it can be asked for advice in emergency situations or on general issues.

Despite the senatorial commission’s wish, but due to pressures from the ministry of agriculture, the law separates risk assessment from risk management, the latter remaining in the hands of the central administrations. AFSSA is thus closer to the German Bundesinstitut für Risikobewertung (Federal Institute for Risk Assessment) (BfR) than to the British Food Standards Agency (FSA). But the law also provides for a close articulation between them: despite the fact that the agency does not have any police or control powers, it issues opinions, formulates proposals in terms of risk management, and assesses the inspection systems in terms of their efficiency or quality of their suitability to the objectives being pursued and of their independence. The agency has access to the information gathered by the authorities and can request measures to be implemented. But central government authorities make the final decision, free to follow or not the agency’s recommendations.

**Enhancing Scientific Advice: Positive Change**

An evaluation of AFSSA’s first four years of existence shows mixed results (Besançon 2003). Before the BSE crisis, the food risk assessment system was composed of different scientific committees under different ministries. The 1998 law gave the agency the task of rationalizing the system of expertise and defined three founding principles (already used to reform the European expertise system in 1997): excellence, independence, and transparency of risk assessment.

First, the creation of the agency allowed the dedication of more means to expertise than was the case when risk assessment was managed directly by the ministries: a special department with a staff of sixty was created, responsible for the assessment of nutritional and food safety risks. This department coordinates the work of 250 scientific experts belonging to ten external specialized committees on different types of food-related risks. These experts, drawn from a variety of disciplines and institutions, are appointed following public calls for application. When it receives a referral, the agency can ask a permanent scientific committee for advice or create an ad hoc working group. To accomplish its missions, AFSSA can also rely on the work of thirteen research laboratories employing 600 people. The new means allocated to food safety and the
mix between internal and external expertise have improved the quality of risk assessment, which has become more collective and based on peer review.

Second, risk assessment has become more independent from political and economic interests. The agency has allowed a clearer separation between risk assessment and political decisions, so that there is formally less possibility for scientific opinions to be influenced by economic or political considerations. Representatives of the private sectors have been excluded from the new expert committees, and the research programs are exclusively publicly funded. Experts working for the agency have to declare their potential conflicts of interests, and these are made public.

Third, the expertise system has become more transparent. Due to the implementation of quality management procedures important progress has been made in tracing the assessment procedure from the question asked by the policymaker or the administration to the expert scientific opinion. Whereas the opinions of the former committees were not always made public, all the recommendations of the agency’s figure on the agency’s Web site.

AFSSA has proved to be efficient during several food crises that have occurred since 1999. In its first year of existence, French authorities were faced with crises caused by dioxins in chicken and eggs, intoxications due to Coca-Cola, and two Listeria epidemics. In each case, the agency gave a scientific opinion on the level of risk for public health that was immediately followed by risk managers. Policymakers could refer to scientific advice made independently and transparently. The agency succeeded in being recognized by the public authorities and public opinion as a full participant in regulating food safety (Besançon, Borraz, and Grandclément-Chaffy 2004). Moreover, the agency gained an international reputation when, at the end of 1999, the French government decided, on the basis of an agency recommendation, to maintain the embargo on British beef, thus opposing the expertise of the Scientific Steering Committee of the European Commission.

AFSSA allows not only better management of crises but also better management of food-related risks. Since 1999, it has published a number of recommendations on BSE risk control measures based on the precautionary principle. Following the development of the BSE epidemic,
AFSSA advised new protective measures, such as the withdrawal of risk material in cattle (e.g., central nervous tissue, vertebral column, intestines), the implementation of detection tests, and the ban on animal proteins used in animal feed. Such recommendations helped the ministry of agriculture manage the second BSE crisis in October 2000 and restore trust in public opinion toward beef and the policy process. The agency has also launched long-term assessment processes, such as the classification of foods in terms of *Listeria* risks, the risks of avian influenza for humans, and the risks and benefits of GMO. Since 2001, AFSSA has also helped the ministry of health to promote a policy on nutrition, the *Programme national nutrition santé*, by setting consumer and industrial guidelines. Some of these issues, such as the reduction of salt in prepacked food and the reduction of added sugar and fat to fight obesity, are examined in collaboration with professional representatives and consumer movements, which can provide data useful to the risk assessment.

In most cases, AFSSA’s recommendations have been followed by the decision makers and translated into regulation. They have, in particular, received strong support from the ministry of health, which on these occasions has been able to uphold its role within the risk regulation regime against the ministries of agriculture and consumer affairs by gaining expertise and regulatory powers. Efficiency, transparency, and influence on the decision-making process are thus key factors in the general positive appraisal of AFSSA. The independence of the agency in producing expertise, along with the strong leadership exercised by its CEO, have proved decisive in reestablishing a strong link between scientific expertise and consumer trust. This result was upheld by the highly positive image gained by AFSSA in the media and the strong support expressed by the consumer movement.4

**AFSSA between Risk Assessment and Risk Management**

Despite the agency’s successes, the new system of public regulation still presents a number of weaknesses due to ambiguities in the agency’s institutional position.

AFSSA has to produce independent recommendations, but its scientific independence could be limited by the fact that it is not an
independent regulatory agency but works under the supervision of three
ministries. It is thus highly dependent on the budget the ministries decide
to give it every year. Between 1999 and 2003, the central administra-
tions also took part in the provision of expertise, either as providers of
referrals or as participants to most expert committees to which they fur-
nished data. Furthermore, the research laboratories attached to AFSSA
in 1999 still entertain strong links with the ministries, in particular the
ministry of agriculture, thus reducing the agency’s capacity to launch
major research projects and health safety surveillance programs. All in
all, AFSSA is much more dependent on the central government than can
be expected from an independent agency, a situation that has encour-
aged its staff to promote procedures that guarantee independence in the
expertise process. Yet such procedures offer only partial protection.

Moreover, the role of AFSSA in the decision-making process is still
quite uncertain. AFSSA is like a candle in a (large) black box. The candle
(production of expertise) sheds light on parts of the black box (the deci-
sion-making process), attracting attention on expert advice and giving
the illusion of transparency. But what goes on before and especially after
the intervention of AFSSA remains in the shadows.

Before calling on AFSSA to make a recommendation, there is often the
question of the opportunity to ask for the agency’s advice, since decision
makers could feel bound by it; the problem also concerns the question
addressed to the agency. Even if the agency has to be consulted on all
food safety regulations, in some cases AFSSA has had to force its way
in the decision-making process and demand that the authorities officially
ask for its advice. Such was the case, for example, on the decision to lift
the embargo on British beef (Setbon 2004). In other cases, using its self-
referral powers, AFSSA reformulated the question or even answered a
question it was not asked, as in the case of Listeria in 2000, when it
reduced the level of Listeria acceptable in delicatessens even though it
had been asked its advice on the reduction of “use by” dates (Besançon,
Borraz, and Grandclément-Chaffy 2004). In other words, AFSSA has
attempted with some success to gain ground upstream.

It has had less success downstream, after the recommendation is pub-
lished. There are several reasons for this difficulty in shedding any light
on this part of the process. First, the different ministries, and notably the
In the first case, when the agency makes proposals concerning the measures that should be taken, as it is allowed by the law, it may be accused by ministries of trespassing on policy grounds. The paradox is that the ministries often turn to the agency for advice on measures. This confusion is all the more acute given the status of the recommendations published by AFSSA. These consist of a risk assessment report produced by an expert committee to which is added the general advice of the agency, sometimes with proposals in terms of action to be taken. In a limited number of cases, the staff of the agency was criticized by the experts for providing advice that did not reflect entirely the expertise or took some liberties with the experts’ conclusions. In other cases, the distinction between external expertise (that produced by the expert committees) and internal expertise (produced by AFSSA staff) appeared unclear. Although these tensions are rare, they underpin the ambiguous nature of the recommendations between assessment and management and their tendency to impinge on the regulators’ role by making clear propositions or suggestions.

In the second case, AFSSA has no hold on the production of scientific information necessary to produce expertise. Although it has its own laboratories and research centers, it remains dependent on many other research institutions for scientific data, without having a voice in these institutions’ research policies and programs. It has also to count on its ministerial supervisors for many of the data on which rest its assessment. And the central administrations rarely show goodwill in giving up their data.

Finally, AFSSA lacks the capacity to control, monitor, and evaluate the decisions taken by the ministries on the basis of its recommendations. It has no capacities whatsoever to control the implementation of decisions by administrative services or private firms. The data collected by the inspection services of the ministries of agriculture and consumer affairs or through procedures of self-control in the agroindustrial firms are not made public. In other words, if some progress has been made in the production of information by the agrofood business, this is essentially to the
benefit of control services that will often choose to work with the firms rather than adopt a more rigorous stance toward them.

The second reason AFSSA has had less downstream success is that the separation between risk assessment and risk management is not only controversial but also incomplete. To evaluate an estimated risk, it is necessary to compare the risks and the benefits, the costs and the benefits of a measure of risk reduction, the potential risk trade-offs or the relative risks. In so doing, values are articulated that refer to political, economic, social, professional, and even ethical criteria. Yet this phase is often discarded, and the possibility of consulting the different stakeholder groups (producers, industrials, retailers, consumers) is not clearly organized, contrary to the British FSA.

AFSSA also has little means or legitimacy to introduce economic, political, or social considerations in its risk assessment. It can turn to industrial actors for information on the cost or technical feasibility of a measure before issuing a recommendation, but this is neither systematic nor officially promoted, the agency being careful to maintain its reputation of independence. In fact, this is a major weakness of AFSSA on which political, administrative, and private actors often base their criticism: recommendations founded solely on scientific assessment are likely to be criticized for their high cost, low feasibility, or important social and economic consequences, thus weakening the agency. For example, in October 2001, AFSSA recommended a ban on the consumption of sheep bowels on the basis that BSE might be found in these parts in the future. The French president, opening the annual agriculture exhibition, criticized the agency’s opinion, which he said was not based on scientific proof, and he accused the agency of aggravating public worries and doubts. The implementation of this recommendation could have had a significant economic impact on sausage producers. And despite other advice that was much the same, the government never implemented this recommendation. But if AFSSA attempts to integrate other data, such as technical or economic concerns, it may be accused of making recommendations based on more than strict scientific data (thus losing its legitimacy).

The Conseil national de l’alimentation (CNA), an advising committee that represents organized interests, would like to contribute its socioeco-
nomic expertise to the scientific assessment (Kourilsky and Viney 2000). In some cases, the central government has turned to the CNA when AFSSA’s recommendations were not clear. In June 2001, for example, AFSSA published a recommendation to progressively put an end to the systematic destruction of the entire herd when one case of BSE was found. It suggested a step-by-step process in which the cattle would not be killed but simply kept out of the food chain until conditions made it fit for them to enter that chain. The recommendation was technically complex, and the government asked the CNA for advice: two days later, the CNA recommended to continue slaughtering the entire herd. The argument was that any other measure could cause public concern and that the costs of having cattle kept out of the food chain but not killed was too high for stock breeders (a slaughtered herd is subsidized). The minister of agriculture followed the CNA’s advice, declaring that AFSSA’s was not clear enough. In this case, the CNA proved to be both rapid and efficient in delivering advice. Nonetheless, its legitimacy remains weak, in particular given the fact that it comes under the authority of the ministry of agriculture. Furthermore, consulting it is not compulsory, it has no clear procedural rules, there is little actual deliberation among its members, its advice is often asked on very general issues, and its recommendations are published after a long delay. Since 2002, the government has abandoned the idea of promoting the CNA as a forum for socioeconomic interests. In 2005, the latter proposed different scenarios in terms of organizing socioeconomic expertise (CNA 2005), which have still to be enacted by the ministries in charge of food safety.

In most other cases, the consultation of organized interests falls to the ministries, which often rely on preexisting networks, lobbies, and policy communities to make decisions rather than consult with a large panel of representatives. As a consequence, some actors are excluded from the decision-making process (other than the directly concerned economic interests), and the criteria on which decisions are based are rarely made explicit.8

AFSSA thus attracts attention to a specific but very limited moment in the decision-making process. Its recommendations help legitimate the decisions taken, but these can also turn their back on scientific assessment if it is considered too costly or distant from economic realities.
Food Safety in the Field of Food Production

Decisions regarding food safety in France thus remain for the most part with the ministry of agriculture, working closely with representatives of the producers, agrofood industry, and retailers. AFSSA exercises influence on the decisions taken (with some exceptions) but little on their implementation. In other words, food safety, far from becoming a sphere of public intervention in itself, remains under control of the food production regulation regime. This regime has itself undergone recent transformations. The department in charge of food production at the ministry of agriculture (Direction générale de l’alimentation, DGAl) was reformed in 1997 in order to reinforce its legitimacy in the field of health safety. It no longer plays a role in agricultural economic policies but is solely in charge of food product safety. The 1999 law on agriculture enlarged its prerogatives to the control and surveillance of risks. As of 2001, the veterinarian field services gained independence from the other field services of the ministry of agriculture. The ministry has thus been able to use these reforms to enhance its leadership on food safety regulation. It is correspondent to the WTO, and the former director of the DGAl was elected in 2002 as vice president of the European Food Safety Authority (EFSA). The weakness of the ministry of health and the lack of interest on the part of the ministry of consumer affairs for food-related issues facilitated this evolution.

Thus, it is with an even stronger ministry of agriculture that AFSSA must negotiate its role in food safety regulation. The ministry has kept its powers on sensitive issues, using its own scientific committee to assess and authorize chemical substances. It has also fought to keep its leadership in the management of food crises. This became explicit during two Listeria crises in 2000, when AFSSA argued that the presence of Listeria and the risks for human health were the result of a complex system of interdependent relations, from the producers to the consumers, rather than the responsibility of an isolated actor. This implied adopting a general, systemic position, opposed to the sectoral logic of the different ministries defending their respective constituencies. But the latter, and in particular the ministry of agriculture, succeeded in restraining AFSSA to scientific risk assessment and thus preserved its capacity to act within their sector (Besançon, Borraz, and Grandclément-Chaffy 2004).
By creating AFSSA, government and legislators intended to strengthen scientific risk assessment in food safety regulation. And indeed, decisions taken by the public authorities seem more firmly based on scientific opinion. The role of science has been enhanced, giving greater legitimacy to political decisions. As the management of food safety addresses issues of perceived as well as objective risk, AFSSA's success results mainly from its capacity to enhance public confidence in the policy process. But the institutional configuration still holds many ambiguities, allowing AFSSA and its supervisors to play on the boundaries of risk assessment and risk management (Jasanoff 1990). And policymaking, implementation, and evaluation remain in the realm of the ministry of agriculture.

The Public-Private Regulation of Food Safety

If private actors participate in the decision-making process, mostly through professional lobbies, they also play an active role in managing and ensuring the safety of food products. This role has been growing since the 1980s, prior to the major food scandals; but these have offered producers, the agrofood industry, and retailers the opportunity to reinforce their role in food safety. In part, this process is strongly correlated with growing public intervention, in particular in those aspects related to traceability and self-regulation. But this process can also be a source of tension between public and private actors through the issue of labeling. Altogether, the push toward stronger public regulation in the field of food safety has not altered a long-term trend of regulatory delegation to the private sector. In contrast with the situation in the United States described by Grace Skogstad (chapter 9, this volume), public and private regulation go together, either on a complementary basis or in a more contested fashion.

Managing Food Safety

In 1983, the French law on consumer safety asserted the principles of product safety for public health: it reinforced the control powers of state services and required that firms voluntarily implement systems of control. Given the lack of resources to enforce its rules along with a clear
preference for industrial self-control, public intervention defines objectives or thresholds and then expects the private sector to adopt the necessary measures to respect these objectives and ensure they are achieved. This makes it easier for the state to check that the procedures are followed, all the while delegating to private actors the responsibility for exercising controls. This public-private partnership aims to guarantee the safety of food products through a flexible system adapted to the development of innovations and the free movement of goods.

The same strategy was later adopted within the EU with the achievement of the common market. France played an important role in the adoption of European Council Directive 93/43/CEE of June 14, 1993, which fixes general rules of hygiene for food products and requires that firms adopt procedures of self-control based on the hazard analysis and critical control point (HACCP) method. Following this method, private actors assume the safety of their processes, while state field services control procedures at the secondary level. But apart from HACCP, other norms, standards, and quality insurance schemes have also been enacted. Concerned with the procedures adopted by producers rather than by the results, they point to a number of steps and measures that must be followed precisely. They often result in the production of written data based on measurements.

As policy instruments, they serve three purposes. The first has to do with the general regulation frame described above of delegating to private actors the implementation of regulatory measures. The second purpose is also related to regulation. In some cases, regulation exists but fails to achieve any result in ensuring risk reduction. An example is a 1997 decree on the use of sewage sludge in agriculture. Although producers of sludge respected the regulation, farmers, buyers of food products, firms, and retailers refused to use any sludge on the lands they worked on or depended on for their products. Professionals of sewage sludge in agriculture decided to standardize the processes of production, storage, and spreading through an insurance quality procedure, a solution that helped firms and retailers lift their bans. But at a closer look, the procedures consisted mainly of producers of sludge making a commitment to follow regulation, and it gave to insurance quality firms the task of controlling the procedure's application (instead of state field ser-
vicis) (Borraz and d’Arcimoles 2003). This is quite close to the German Quality and Safety standard (chapter 8, this volume). The third purpose has to do with familiar procedures in the agrofood business. Agrofood firms and retailers alike refuse to control their suppliers’ compliance with regulations, considering this to be a state prerogative. Furthermore, they have little trust in the fact that their suppliers actually comply with regulation and that this regulation is effective in reducing risk. The picture is somewhat different once they are confronted with norms, standards, and insurance quality procedures. Not only do they themselves use such instruments, but they believe that through the methods used to elaborate these instruments (a large consultation of the different interested parties rather than a top-down approach), their voluntary nature, and the threat represented by the withdrawal of a certification in case of non-compliance (notified by an independent third party), these instruments are more efficient.

Alongside these evolutions, crises underpinned the need to trace products. Once again, France was at the forefront when it affirmed a general principle of traceability for all food products in the 1999 law on agriculture, a principle picked up by the EU in 2002. Hence, standardization made its way in the food industry before the food safety crises, but public authorities found in these further justifications for delegating more controls to firms, along with greater accountability in case of non-compliance. Standardization is thus part of a general trend in which public authorities are convinced they can achieve better results in implementing regulation through private actors and thus prevent the emergence of new scandals. The crises have encouraged its extension to farm products, submitted before to very specific and often ineffective regulatory measures. Issues of safety, initially foreign to this trend, actually served the purpose of standardization. These elements thus have a common evolution: the management of food safety today is largely run by private actors, under the state’s approval and scrutiny. The emergence of a food safety regulation regime has had little impact on this general trend.

Competing Labels
The emphasis on quality in food products initially had nothing to do with issues of safety. But with the food safety crises and the importance
of perceived risks, quality was considered a path to bring back consumer trust in the safety of food products. Once again, a trend prior to the crises, marked by strong public-private interactions, resulted in stronger forms of delegation to private actors on the part of public authorities. But this process proved to be more contested.

The policy of quality food reaches far back (Stanziani 2005). Before the 1980s, the labeling of French food products was controlled by the state. The labels referred to the origin of the product (place and methods of production) as a sign of quality. The best-known example are the appellations d’origine, created in 1919, which became the AOC (appellations d’origine contrôlée) controlled by the INAO (Institut national des appellations d’origine) in 1935. Other examples are the Label rouge founded in 1960, dietetic products in 1966, biological food in 1981 and 1988, and the “mountain label” in 1985. In 1988, the Commission nationale des labels et certifications de produits took responsibility for delivering certifications of conformity with national specifications. Public authorities and farmers’ lobbies alike had come to the conclusion that these labels could offer a solution to the crisis farmers were going through in terms of outlets for their products and revenues (Sylvander 1995). These “specific quality products” represented in 1995 10 percent of the agrofood market. They were seen as an important source of growth, whereas twenty years before, they were conceived only in terms of compensation for smaller producers.

Hence, quality became an important component of an agricultural policy based on standardization on the one hand and certification on the other. “Through standardization and certification, the politics of quality aims to adapt the structures of agro-food production to fragmented markets. It is also targeted towards a globalisation of quality products inside the European market through harmonisation” (Nicolas and Valceschini 1995, 31). These procedures were important in anticipation of the 1992 common market, and France fought hard to gain recognition by the European Commission of these labels and specifications: labeled products were threatened by the principles of free movement and mutual recognition. By achieving European recognition, French authorities were able to protect smaller producers in certain specific areas.
Meanwhile, these labels came to be challenged by other quality signs, including major retailer brands. Through these, retailers exerted pressure on prices but also imposed on the producers their own quality standards and control procedures. In some cases, these brands were produced solely by the retailers and imposed on their suppliers. In others, they were negotiated between retailers and professional groups in a specific field. Food production saw a proliferation of norms, labels, and signs of quality by which producers, agrofood industry, and retailers guarantee the quality of their products (through its origin, ingredients, or methods used) and its compliance with public regulation. The content of these norms, labels, and signs can be approved by the state, but in some cases they are simply commercial brands or logos, on which public authorities exercise little control.

With the 1996 BSE and subsequent crises, these signs evolved. Quality referred not only to the origin of the product but also to its safety. Retailers, quickly followed by agrofood industry, issued labels for GMO-free products, vegetables that had not been grown on land on which sewage sludge had been spread, food that respected strict methods of production in order to eliminate all risks and other criteria. Often these measures were not based on any legal specifications or scientific data but simply considered that suspicion of a given product or its methods of production, likely to frighten consumers, called for strong measures. Here, the risk is not so much for human health as for the financial stability of firms and retailers that suffered important losses following the BSE crisis.

The BSE crisis also gave major retailers the opportunity to enter into negotiations with producers of fresh farm products (vegetables, fruits, meat, fish) in order to promote marques de filières (brands tied to a specific product). Whereas the previous brands concerned solely industrially transformed food products and were designed to put pressure on the giant multinational food corporations with which retailers were at war, the new brands were worked out with the producers of fresh products and then approved by the ministry of agriculture as certified products. Compliance with the specifications was controlled by third-party certification companies. Thus, Carrefour developed the Filière qualité
Carrefour, which covers more than sixty fresh products, and Auchan has its own policy of “reasoned agriculture,” which certifies 100 products (de Fontguyon et al. 2003).

Organizations such as INAO that placed major emphasis on origins and methods of production were destabilized by the importance given to issues of food safety, on which they had little to say. Quality labels controlled by the ministry of agriculture came under strong pressure: either they included health safety measures but were accused of making decisions based on scarce scientific data and capable of dashing the policies led by other ministries (as in the case of sewage sludge, whose use in agriculture is encouraged by the ministry of environment); or they excluded such measures and were then accused of being too lax, with the risk of losing their legitimacy (Borraz, d’Arcimoles, and Salomon 2001). In a limited number of cases, producers were able to devise a label that combined origin, method of production, and safety; such was the case with mussels (Dubuisson-Quellier 2003).

This shift toward quality labels mixing origin and safety is part of a more general strategy by retailers to enhance their control of the production chain, from farmers to agrofood firms, in order to impose price reductions and a more stringent control on food products. The food safety crises came at a time when retailers were getting the upper hand in their battle with the agrofood industry, and it gave them the opportunity to reinforce its conditions imposed on farmers. In this competition for more stringent safety rules, industry had to adapt quickly, and the larger firms were faster to do so than the smaller ones. Meanwhile, the labels promoted by the ministry of agriculture in close association with the farmers’ lobbies were often outdated and had to adapt to this new situation. In this competition, the smaller firms and farmers were the first to suffer: between the stringent regulation imposed by the state, on the one hand, and the conditions imposed by the buyers, on the other, the costs were often too high. Some small and medium firms were either closed or bought by larger firms in a movement toward concentration.

While in matters of managing food safety, public and private interventions are closely linked and publicly driven, the implementation of food safety through quality procedures is more competitive and partly led by private interests. Contested governance on these matters results
for the most part from the lack of control exercised by public authorities on the labels produced by agrofood businesses, which tend to entertain the confusion between quality and safety issues in the name of consumer information. This has often prompted public authorities to endorse similar confusion in publicly approved labels.

In sum, the regulation of food safety in France is characterized by a strong mix of public and private interventions. Market incentives are closely linked to public initiatives, making it difficult to draw a clear line between the public and private spheres. But the growing role of private interests does not entail weaker public intervention: on the contrary, they tend to reinforce each other, resulting in a tight set of rules and norms.

Regulating Food Safety within a European Regime

If food safety is contested among public authorities and between public and private actors, it is also a subject of discord between the national and European levels of government, even though the reforms engaged at both levels followed similar principles. Hence, it is necessary to frame these reforms within their political context.

Common Trends in Regulating French and European Food Safety

European food safety regulation was initially motivated by the desire to lift all obstacles capable of impeding the free movement of goods. Since the early 1980s, the only derogation possible to free movement was to prove that health safety or consumer rights were threatened. By legally harmonizing these fields, European regulators aimed at lifting these potential obstacles. Yet the definition of common health safety norms did not pursue a high degree of protection in terms of public health but rather resulted from the identification of the lowest common denominator acceptable, based on the available scientific data. Thus, in order to achieve free market rules and procedures, scientific expertise was given a specific role in the regulatory process.

The idea that procedures that rest on expertise are needed in the regulatory process goes back to the early 1990s, with the common market nearing completion and the WTO coming into existence. European member states were prompted to organize their own processes of
expertise under the pressure of a directive on scientific cooperation (Clergeau 2004).

In France, the Centre national d’études et de recommandations sur la nutrition et l’alimentation was founded in 1992 to coordinate existing scientific research institutions. It is on this occasion that the idea of a French food safety agency first emerged, based on two key ideas: to rationalize and legitimate national expertise and to preserve the political authorities’ capacity to define rules (Clergeau 2000). The BSE crisis did not alter this trend. AFSSA, when it was later created, was confined to the production of scientific expertise, while the management of risks remained in the hands of central government ministries. The same story was repeated at the European level. France, along with a few other countries, fought hard to prevent the European Food Safety Authority (EFSA) from having any competence in the field of risk management. Like AFSSA, EFSA is confined to the production of scientific expertise; and the definition of rules and norms still belongs to public authorities.

The transformation of the food safety regulation regime in France and in the EU rests on two similar principles, followed by a third principle after negotiations within the WTO.

First, public intervention is destined to reduce measures or actions capable of impeding market procedures by fighting technical and sanitary rules that distort competition and by regaining and stabilizing consumer confidence after the food scandals. The role of science, in this perspective, is to provide objective arguments against these market risks. Expertise offers information capable of reducing transaction costs and ensuring optimal market procedures. Public and private interventions in France converge on this matter: risk assessment and standardization rest on two different types of expertise, but both contribute to a reduction in transaction costs, as is also the case in Germany (see chapter 8, this volume). Government interventions at the national and European levels aim at preserving the role of the market rather than introducing social or ethical criteria to regulate food safety.

Second, reforms are limited to what is judged necessary to bring back public trust in food safety policies and keep the market in good working order instead of setting out to radically transform agricultural policy or widen the decision-making process. Reforms in food safety are based on
a strategy of “blame reengineering” (Hood, Rothstein, and Baldwin 2001). After a series of scandals that threatened political authority in France and the EU, governments turned to creating systems capable of protecting them from future crises by turning the public opinion’s attention toward independent institutions; but they did not abandon their prerogatives in order to assume responsibility for their action outside periods of crisis. Thus, public authorities promoted simultaneously independent scientific expertise, on the one hand, and the precautionary principle, on the other. The latter offered the opportunity to postpone the former by integrating nonscientific factors in the decision-making process. The precautionary principle is recognized by European and French environmental law alike. Furthermore, European treaties since Maastricht recognize the right of a member state to maintain more rigorous norms in order to uphold public health. The Amsterdam treaty goes further and authorizes a country, once harmonization has been achieved, to adopt stricter rules if it holds new scientific evidence. In both cases, the European Commission must examine these measures and their possible generalization in the face of the available scientific evidence. The French government has made full use of the safety clauses allowed by the different directives and the opportunities offered by community law.

Finally, within the WTO, the EU and its member states acted jointly to promote scientific expertise in the definition of international rules and to achieve official recognition of the precautionary principle. But the promotion of this principle was accompanied by efforts to legitimate factors other than science in international procedures: namely, cultural, social, or ethical factors that underpin the specific conception of food and agriculture in Europe, based on an original social model (Clergeau 2003). Although this dimension is rarely made explicit between the EU and its member states, it determines the values and attitudes of the different actors and in this sense is also a component of the food safety regime.

Contested Decisions
The French and European food safety regimes thus rest on a triple foundation: the setting of rules and norms on the basis of scientific expertise; the dialectical relationship between independent agencies and recourse to the precautionary principle; and the social, ethical, and cultural
dimensions of food and agriculture. Grace Skogstad (chapter 9, this volume) reaches similar results when describing the divergences or convergences between European and North American food safety regimes.

This may help to explain why a high level of contestation can still be observed, even though the different reforms upheld similar objectives in terms of decisions based on sound science. The apparent convergence in policies should not hide the strong divergences between the different levels of government in terms of dominant values and norms, democratic institutions, or partisan politics. These variables, along with strategies of blame reengineering, result in the reforms producing unintended results and in the maintenance of a high level of contestation (chapter 7, this volume).

The conflict over the embargo on British beef in France offers a case where scientific expertise is at the root of the controversy. The European SSC published in 1998 its recommendation to lift the embargo decided in March 1996 on the basis of the technical scheme for exportation (DBES) elaborated by British authorities. The European Commission decided to lift the ban, and the French ministry of agriculture undertook to transpose this decision into national regulation. AFSSA, which the public authorities had not consulted, managed to have the ministry of agriculture ask it officially for advice; more important, the minister proclaimed that whatever the result, he would follow the agency’s recommendation. In September 1999, the committee within AFSSA charged with BSE produced a text expressing views opposed to those of the SSC. In particular, AFSSA considered that if the British engagements seemed satisfactory on paper, the real issue was how the DBES would be implemented—and on this point, AFSSA felt there was not enough data to prove its effectiveness. The SSC had indeed given its advice under the postulate that the measures were effective but did not feel it was its role to assess this effectiveness. AFSSA considered that until proof was given as to the way the protocols were implemented and until the results could be measured, it was necessary to adopt the precautionary principle since the risk could not be clearly assessed (Setbon 2004). The French government followed the advice and maintained the embargo, thus starting a conflict with the European Commission. In the fall of 1999, the SSC and AFSSA tried to come to an agreement while French and British
authorities negotiated further measures. But in December, AFSSA still considered that the risk of infected beef meat being introduced on the continent existed and that, on this basis, the ban should be maintained. Early 2000, the European Commission decided to challenge the decision before the European Court of Justice. The embargo was finally lifted by France in October 2002 on the basis of the data collected by British authorities showing that the risk was now the same in Great Britain and in France.

In this case, not only did French and European scientific experts diverge on their analysis of the existing data, in part because the questions addressed to them were not the same (Godard 2001), but the French authorities followed AFSSA in promoting the precautionary principle, thus setting a standard for decision making in the field of food safety. This posture was all the more acceptable given that the French beef industry was still weak due to the financial consequences of the 1996 crisis. By maintaining the ban, the French government was able to protect the sector against a drop in consumer trust—public opinion being in favor of the embargo. On other less politicized issues, public authorities did not follow AFSSA's advice to use the precautionary principle, as in the case of sheep bowels. Or, on the contrary, they called on this principle without awaiting the agency's advice, as with processed animal proteins used in animal feed.

Nonetheless, the case of the French embargo on British beef and the controversy between the UK and the European Commission over the ban on the use of sheep intestines in sausage casings (see chapter 7, this volume) highlight the fact that the resort to scientific risk assessment neither fosters consensual decisions nor automatically promotes a more liberalized internal market. In fact, both cases underpin different approaches to the use of risk assessment in food safety regulation. In France, AFSSA played a major role in promoting the use of the precautionary principle, thus putting forward human health as a priority; but this was acceptable only as long as such advice did not go against deeply entrenched political and economic interests. In the UK, the FSA clearly devoted much attention to public concerns about BSE in sheep along with the long-term interests of the sheep farming industry, but as Rothstein shows, the critical variables are the “varied configurations of
pressures on different regime components.” Thus, the role of scientific expertise cannot be separated from the wider risk regulation regime within which it takes place and the influence exerted by different interest groups, the market structure, and public opinion.

GMOs offer another example of contested governance. Initially France was at the forefront in the promotion of GM crops: the first country to file an authorization, it successfully opposed in 1996 the ban on GMOs asked for by a majority of the other member states. In 1997, it authorized the sale and use in culture of transgenic corn—but banned transgenic soy on the grounds that there existed a risk of contamination for wild plants. The issue was thus managed following scientific risk assessment and under the rules of the common market. But under the pressure of anti-GMO mobilizations in early 1998, led by Greenpeace and José Bové’s Confédération paysanne, public opinion turned hostile to GMOs. Several reasons can account for this: the lack of any social justification for this new technology, uncertainties concerning health and environmental risks, the feeling that an innovation uncalled for was being imposed, criticism toward a food and agricultural model foreign to French cultural traditions. These reasons reflect a mix of ethical and cultural criteria that go beyond scientific risks. The citizens’ conference in June 1998 expressed this general lack of support for GMOs. And in September 1998, the Conseil d’Etat, on the basis of the precautionary principle, annulled the decision to authorize transgenic corn, arguing that proper risk assessment had not been conducted.13 This decision led to France’s joining the opponents to GMOs on the European level since corn had been authorized by the European Commission on the basis of scientific risk assessment. The Conseil d’Etat’s decision compelled the French government to contest European legislation and ask for a reform in the authorization procedures for GM crops. Coupled with new scientific evidence confirming the existence of health and environmental risks, this led to the moratorium decided at the EU level in 1999 (Kempf 2003).

Four years were necessary to reform the authorization, labeling, and traceability of GMOs. During this period, French authorities were able to find a consensus within EU institutions without reopening the debate on GMOs in general. But the reform, mainly concerned with expertise
and market procedures, largely ignored the ethical and cultural arguments put forth by public opinion. Risk assessment was reinforced in the authorization procedure, and legislation was passed on the traceability and labeling of GMOs in food products. In the European Commission’s opinion, this was enough to ensure compliance with mandatory requirements in terms of consumer information and health and safety measures.\textsuperscript{14}

Given the absence of direct political pressure on the European Commission and the lack of any scientific evidence confirming the dangers of GMOs, the Commission, once the new legislation was passed, lifted the moratorium and undertook to authorize GM crops. The French government delayed as long as it could the approval of new GMOs and formed a minority on this issue within the Council of Ministers. In parallel, AFSSA opposed the scientific committees’ and later EFSA’s risk assessments of Bt11 corn, judging that the existing scientific data were insufficient to assess the risks for human health. Thus, it is highly probable that in years to come, new debates will emerge, given that public opinion still remains hostile, while neither scientific controversies nor the divergences between AFSSA and EFSA have declined. Due to the lack of a majority within the European Council of Ministers, the European Commission will go ahead and authorize new GM crops, thus fostering new conflict with some member states.

These issues concern EFSA. The situation of the new agency is not yet clear in regard to the network of national food safety agencies and, more precisely, the role the agency would like the network to play. Will EFSA depend on this network to promote a common approach to risk estimation and evaluation? And will this reduce the opportunities for controversy between the national and European levels of government? Or, on the contrary, will EFSA attempt to produce its own expertise without relying on the national agencies, thus potentially fostering new controversies?

AFSSA could rely on EFSA to affirm its role as a national correspondent, for instance, through the forum of national agency CEOs, thus gaining some autonomy from the French central government. For the moment, French authorities have managed to keep the AFSSA apart from their negotiations with the European Commission. This could change.
Through the network of national agencies, AFSSA could become a spokesman for French industry and consumers at the European level, a role these interest groups are awaiting the French agency to play actively. Hence, AFSSA looks toward the European level to find new leeway and in due time may be in a position to defend a European viewpoint against national interests.

Conclusion

Food safety emerged as a political theme when agriculture and food production were undergoing deep transformations, mainly under the impulse of European policies. In a sense, the BSE crisis and the debate around GMOs revealed, as much as they partook in, the calling into question of the common agricultural policy. They also revealed the growing number of individuals and organizations claiming a voice in agricultural practices (notably consumer and environmentalist movements). As the Introduction to this book suggests, they became “entangled in larger controversies about multilevel regulation and trade liberalization.” But this did not lead to radical reform of agricultural and food production policies.

The BSE crisis, along with mounting criticism against agricultural practices degrading the quality of water and controversies over the use of sewage sludge, pig manure, or urban waste, contributed to the idea that farmers were becoming a threat to the health of the French population—an idea radically opposed to the previous image of farmers as benefactors, feeding the population in the postwar years, then gaining worldwide influence through their exports. But the controversy over GM foods offered the opportunity for a counterattack in which farmers changed status from culprits to victims. The opposition against GMOs was based on the refusal to see multinational corporations impose their seeds on farmers. It gave farmers the opportunity to claim their autonomy, against the joint efforts of seed producers and large retailers, to reduce their role to that of a simple worker on a chain. In so doing, they were able to link their cause to wider debates within the WTO.

For French farmers and their lobbies, change was nonetheless radical: all of a sudden, they found themselves vulnerable to outside competi-
tion, reduced aid, and public disapproval. They had to adapt to the growing importance of food safety on the national political agenda and structural reforms such as the common agricultural policy. Given the political, economic, and social importance of farmers in France (who represent less than 3 percent of the working population), public authorities chose to preserve the autonomy of the food production system. This meant keeping food safety in the realm of food production, maintaining the ministry of health at a distance, restricting the role of AFSSA to that of scientific expertise, and limiting the influence of consumer and environmentalist movements. This was achieved sometimes through conflicts: health officials contested the control exercised by the agricultural policy community, retailers gained influence in the organization of farm food production, and social movements criticized the power of the farmers and their lobbies. Nonetheless, the ministry of agriculture maintained its hold on food policy, including food safety.

Finally, were all these reforms just destined to bring back trust in the system and policy of food production? The answer seems to be yes if one looks at the absence of change within the agricultural policy community, along with the pursuit in the delegation of regulatory powers to industry and retailers in the food production system. But on the reverse side, regulation now rests more firmly on sound science and offers a higher level of protection for consumers. More important, the dynamics between the different independent agencies, on the one hand, and around the political status of the precautionary principle, on the other, could reinforce the status of scientific risk assessment in the decision-making process and thus lead in due time to wider policy shifts. But this will occur only if the decision-making process widens to include stakeholders and addresses issues of accountability.

Notes

1. InVS took the place of the Réseau national de santé publique (RNSP) created in 1992. It gained its legitimacy through the management of collective food intoxications.

2. The agency has an administrative board composed of representatives of the state, consumer organizations, trade organizations from agriculture and the food industry, retail and distribution sectors, veterinary pharmaceutical industries, and
representatives of the agency’s staff. The board is responsible for its annual report, investment programs, budget, and the accounts. A scientific board “monitors the consistency of scientific policy.” But power is essentially in the hands of the CEO, named by the government and responsible for the decisions, opinions, and recommendations issued by the agency.

3. AFSSA has the power to issue, suspend, or remove licenses for the sale of veterinary drugs.


5. Its budget for 2002 was 85.2 million euros. Ninety percent of its income comes from the central government (mainly the ministry of agriculture), local authorities, and international bodies.

6. As of 2003, representatives from the three supervisory ministries are not allowed to participate on the committees, except to answer questions on request.

7. The current CEO likes to point out that the agency is “a dependent organisation giving independent advice” (Hirsch 2001).

8. Two counterexamples confirm this point: the citizens’ conference on GMOs in the spring of 1998 and the Etats généraux de l’alimentation held in 2000 gave a number of stakeholders the opportunity to take part in a general debate. Yet in both cases, these consultations had little or no impact on the decisions taken (Joly and Marris 2003).

9. A definition of the specifications to be respected in order for a product to benefit from an AOC is first worked out by the producers and approved by the INAO, followed by the ministries of agriculture and finance. The aim of AOC was the promotion of place-based products (wines and later cheeses in 1955) in order to protect French products against imports and help identify these products at export and, after World War II, to protect small-scale productions against the impact of agricultural policy.

10. Originally concerning free-range poultry and later extended to other meat and dairy products, there are today 365 labels rouges, mostly destined to the domestic market.


12. This was added to the French Constitution in 2005 as part of an environmental protection charter.

13. The Conseil d’Etat is the highest jurisdiction in administrative law in France.