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**Food Safety in the European Union and People's
Republic of China:
Apulian medium-sized enterprises and extra virgin olive
oil export.**

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前言

食品工业和服装工业可以被视为意大利制造业在全球享有盛誉的宝石。如今每个人都几乎知道，好的意大利面或真正的意大利披萨应该是什么样的，以及哪些是自古以来引领时尚的意大利品牌。非常著名意大利的产品之一是特级初榨橄榄油。这个论文的题目是向中国出口意大利特级初榨橄榄油。

这篇论文的第一章侧重于国际和欧洲的食品安全概念，为读者提供所需信息，以便了解哪些是当前食品安全管理内容，哪些是步骤是公司想在欧洲境内发货或出口国外必须遵循的。多年来影响国际社会的与食品有关的事件无数，一个例子是乳制品中存在三聚氰胺，所有这些都严重损害了全世界消费者的安全。在世界上最重要的食品安全组织是世贸组织，世界卫生组织和食品规则委员会。世贸组织于一九九五年正式生效，现由一百五十七名成员组成；世贸组织关于食品安全治理的职责由两项协议体现；这两项协议是卫生和植物检疫措施协议和技术性贸易壁垒协议。它们都于一九九五年生效，它们的目的是解答消费者的问题，保证他们正在进食和食用的食物是安全的，并且防止这些严格的安全法规成为保护国内生产者的一个借口。世界贸易组织成员在发布可能影响其他国家的新措施时，不得不相互通知。处理食品安全控制的第二个组织是世界卫生组织，该组织成立于一九四八年，是联合国的一个专门机构，其重点是公共卫生。世界卫生组织的主要目标一直与全民健康覆盖相关，由于人口的增长和对食品的更高需求，其确保全球食品消费安全的任务变得越来越困难。这就是为什么世界卫生组织通过食品规则委员会的合作，组织了几次提高认识运动，以加强和协调粮食系统。食品规则委员会是第三个在国际层面管理食品安全的组织。其工作涉及食品安全的立法方面，其目标是制定世界贸易问题中强制性的标准和准则。随着当局在国际层面发挥核心作用，在欧洲有欧洲食品安全局，于二零零二年正式成立，欧洲食品安全局是一个相对年轻的国际平台，负责风险评估和风险沟通，为欧盟委员会和欧洲成员国提供在食品安全领域形

成监管措施时有用的所有科学的建议。欧洲食品安全局由不同机构组成并且颁布了四项主要活动; 第一个是提供科学意见, 第二个是评估受管制物质的风险, 第三个是监测特定的风险因素, 第四个是促进食品危害和风险评估的新方法。这项工作的最后两段重点关注公司为了交易食品而必须尊重和拥有的所有法规, 文件和认证。欧洲境内的货物运输并不是非常困难, 因为欧洲经济区国家被要求接受符合已经发布的共同协调要求的产品, 以促进成员国之间货物的流通。如果产品符合欧盟/欧洲经济区规则, 则可以在欧洲国家地区自由销售。在没有统一规定的部门, 应用相互承认的原理, 其中规定在一个欧洲经济区国家合法销售的所有产品都可以在所有其他欧洲经济区国家销售。二零一零年, 食品法等计划生效, 为食品生产提供了一些一般原则。对欧洲内部市场的成功至关重要是国家主管部门与欧洲食品安全局之间的合作。这项工作第一章的最后一段将重点放在食品出口上, 出口商必须非常小心, 以便在欧盟以外的国家出口食品时能符合所必需的所有认证, 这些国家往往更详细地说明在欧洲境内发送相同产品所需的认证; 读者将找到所需文件的清单。

在这项工作的第二章中, 重点变得更加具体, 它集中在食品安全的概念, 以及在中华人民共和国的影响。与食品有关的事件一直是这个国家的重点问题, 多年来, 食品安全一直受到治理不当的严重影响, 这些事故确实对人们的安全造成了伤害。可以追溯到上个世纪的五十年代, 一直到二零一一年, 有几个例子, 例如二零零七年牛奶中添加的三聚氰胺, 导致数千名婴儿的疾病, 以及二零一一年引起广西省疾病的镉饭。中国政府的漏洞仍然存在, 主要是由于腐败, 这些事件已被中国当局以非常严格的方式受到惩罚, 中国当局希望防止同样错误的发生。中国的食品安全概念在一九八四年至二零零零年间逐渐发展起来, 并在二零零九年“食品安全法”和二零一五年的“食品安全法”的修正案问题上得到了体现。目前被认为是最严格的食品安全法, 它适用于食品生产, 食品分销, 食品相关产品以及食品电子商务并且旨在使行政控制更加强大和更加连贯; 由于食品安全法的修正案的改进, 法律制度也发生了变化, 现在, 如果一个人参与食物链, 他就有更多的责任。中国有不同的部门负责食品安全治

理，所有这些部门都必须服从国务院的管理，它是二零一三年成立的国家权力最高机关的执行机构，具有处理行政法规和措施的功能。确保食品安全的主要机构之一是二零一三年创建的中国食品药品监督管理总局。在其职责范围内，食品药品监督管理局具有规则制定能力，这基本上意味着该机构起草了食品安全管理的法律法规，并在其监督职责中也负责实施。由于其管理角色，国家食品药品监督管理局还指导应急响应，并对违反法律的主体进行调查和处罚。控制中国食品安全的第二个主要机构是中华人民共和国国家质量监督检验检疫总局。这个是中国比较强硬的组织。国家质量监督检验检疫总局成立于二零零一年，负责质量，计量，出口动植物检疫，进出口食品安全，认证认可，全国标准化和行政执法的执行工作。它在世界贸易组织的国际标准制定中也发挥着核心作用。第三个机构是农业部，成立于一九五四年，它的负责是在市场商业化之前对食用农产品进行监督和管理。管理食品安全的第四个也是最后一个部门是国家健康和家庭企业计划委员会，该委员会成立于二零一三年，于二零一八年解散，主要有两个作用，即食品安全标准制定和风险评估。还有其他次要当局和地方当局在与提供监督食品安全管理服务的国家部门合作方面发挥重要作用。本篇论文第二章的最后一段专门讨论“食品安全法”对进出口做法的所有影响。该法的主要原则是第92条所体现的原则，该条规定只有符合中国国家标准的产品才能在中国引入。读者将找到对中国食品安全法最重要的条款的详细解释，这些条款是为了出口食品必须遵守的，还说明了有意愿在中国出口的公司必须谨慎遵循的官方案序。

这项工作的第三部分和最后一部分是向读者提供有关将中国市场作为新的领域和特级初榨橄榄油市场的潜力和前景的详细信息，以及怎样和如何克服障碍并达到规模。中国市场显然是一个非常有吸引力的市场，其十三亿消费者可以被视为所有那些愿意扩大海外市场份额的公司的金矿。然而，由于西方生活方式与中国生活方式之间存在巨大差异，尤其是作为特级初榨橄榄油是鲜为人知的产品，这似乎并不容易。直到一九六七年在中国引入第一个橄榄树林时，特级初榨橄榄油的概念和用途仍然未知。多年来，由于全球化，中国消费者对西

方的影响和西方的饮食习惯越来越开放。中国人现在受到数十种新食品的轰炸，他们的口味和口味与他们每天使用的食品完全不同。此外，人们提高了对特级初榨橄榄油等产品的认识，中产阶级的中国消费者至少知道橄榄油用于沙拉，与十年前的情况有所不同，当时只有健康有关中国或受过西方教育的人才知道这种产品。在中国销售外国特级初榨橄榄油证明了这种消费者习惯的转变；从二零零二年 / 二零零三年开始，销售额不断增加，导致二零一五年 / 二零一六年进口超过四万吨特级初榨橄榄油。在中国大量分发和销售特级初榨橄榄油的一个障碍是中国普遍使用植物油。虽然烹饪时特级初榨橄榄油的使用有所增加，与植物油相比，它的消费比例仍然是很小的。另一个问题是关于价格的问题，中国消费者希望产品具有最具竞争力的价格，意大利特级初榨橄榄油与当地的相比价格昂贵。在第三章的第二段中，读者将了解外国公司在接近中国市场时必须面对的所有问题；随着二零一五年“食品安全法”的修正案，中国政府以严格的方式控制着出口过程的每一个阶段，此外中国法规每年都在变化，但并没有很清晰。外国企业可以采取的最有力的行动是找到对产品有深入了解的合适的进口商，这种进口商可以引导它了解中国法规的丛林。在本章的同一部分，读者还可以获得所有必须遵循的法律参考清单以及在中国出口特级初榨橄榄油所需的所有证明；在成瘾中，读者还会发现自由销售证书的模板，这是唯一需要用中文翻译的证书。最后一部分论文的重点是阿普利亚中型企业，这些企业正试图出口并已在大陆出口特级初榨橄榄油，这些内容会为读者提供真实的反馈，了解在中国市场取得成功所需的条件。论文的目的在于提高人们对这些实事的认识，很多企业付出了很大的努力，证明了进军中国市场是一个巨大的机会，但这个市场并没有那么容易获得。

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Introduction

The food industry, along with the clothing one, can be seen as the cornerstone upon which is based the Made in Italy's fame worldwide. Everyone knows, or seem to know, how to make a good pasta or what a real Italian pizza should look like as well as which are the Italian brands that rule and have ruled the fashion since ancient times. One of the milestone, among the *mare magnum* of the Italian high quality food products is the extra virgin olive oil. Known and mostly used everywhere in the Western countries, extra virgin olive oil is one of the fundamental element characterizing the Mediterranean diet. Used to cook or as a dressing in thousands of possible ways, the so called *green gold* is, during the last decades, making its first appereance on the Oriental world and specifically on the Chinese market. The final aim of this work is indeed to give an overview of Apulian medium-sized enterprises exporting this product in Mainland China. Apulia region has been chosen because is known to be the world's first olive-growing region and the producer of the best high quality extra virgin olive oil. In order to reach this theme in the clearest way, this work has been divided into three chapters that stem from the main concept of food safety. Due to the several food-related incidents happened over the years, the food safety issue has become more and more important and has gained its attention on an international level; it seemed that moving from a general explanation of this concept according to both European and Chinese regulations was the right path to follow in order to guide the reader across the national and international standards that Italian companies willing to export food products abroad have to carefully respect.

The first chapter of this work is focused on the food safety concept at an international and European level providing the reader with the information needed in order to have a complete knowledge of which are the authorities governing the food safety and which are the steps that companies have to follow if they want to dispatch goods within Europe or export abroad. Numerous are the food-related incidents that have affected the international community over the years, an example could be the presence of melamine in diary products, and all of them were seriously harming the safety of consumers all over the world. Different were the actors playing a central role in the attempt to put an end to this series of scandals, but among them three are the most relevant organizations that are in charge with the global food safety governance: the World Trade Organization (WTO), the World Health Organization (WHO) and the Codex Alimentarius Commission (CAC). The WTO officially entered into force in 1995 and is now composed by 157 members that counts for more than the 97% of the international trade. The WTO duties concerning the food safety governance are embodied by two agreements which are the Sanitary and Phytosanitary Measures Agreement

(SPS) and the Technical Barriers to Trade Agreement (TBT). Both of them entered into force in 1995, they have the aim of providing an answer to the common question on how to guarantee to consumers that the food they're eating and consuming is safe and how to prevent these strict safety regulations to become just a mere excuse for protecting domestic producers. The WTO Members are compelled to mutually notify themselves while issuing new measures that may affect other countries. The second organization dealing with the control of the food safety is the WHO; created in 1948, this organization is a specialized agency of United Nations whose focus is public health. WHO's major aim has always been connected to the universal health coverage and its task of ensuring the safety of the food consumed worldwide is becoming more and more difficult because of the growth of the population and the higher demand of food products. This is why the World Health Organization organizes several awareness-raising campaigns to strengthen and harmonize food systems, through the collaboration of the Codex Alimentarius Commission which is the third organization governing the food safety at an international level. Its work is concerned with the law-making aspect of food safety in the guise of elaborating the standards and guidelines that are nearly mandatory in world trade issues. Along with the Authorities playing a central role at an international level, the European one is covered by the European Food Safety Authority. Officially established in 2002 in Parma, the EFSA was created along the lines of the American Food and Drug Administration and is a relatively young international platform performing risk assessment and risk communication providing the European Commission and the European Member States with all the scientific advices that are useful while forming regulatory measures in food safety areas. Composed of different bodies, the EFSA enacts four main activities which are providing scientific opinions; assessing the risk of regulated substances, monitoring of specific risk factors and diseases and promoting the new approaches for hazard and risk assessment of food. The last two paragraphs of this work are focused on all the regulations, documents and certifications that a company has to respect and to possess in order to trade food products. Dispatching goods within Europe is not extremely difficult because the European Economic Area States are compelled to accept the products conforming to the common harmonised requirements that have been issued in order to facilitate the circulation of goods between Member States. If a product is in compliance with the EU/EEA rules, it can be freely sold in European countries. In sectors in which there are not harmonised regulations, is applied the mutual recognition which states that all the product lawfully marketed in one of the EEA States can be marketed in all other EEA States. For what specifically concern food in 2010 has entered into force the Food Law Package which provides some general principles for food production. Truly important to the success of the European Internal Market is the collaboration between the National Authorities and the EFSA. The last paragraph of the first chapter of this work focuses its attention on the export of food products,

exporter must be extremely careful to all the certifications that are necessary in order to export foodstuff in extra-EU countries that are often more and more detailed of the ones needed to dispatch the same products within Europe; the reader will find a list of all the documents required and the guidelines to avoid the rising of any problem.

In the second chapter of this work, the focus become more specific and it is concentrated on the concept of food safety, its facets and implications in People's Republic of China. Food-related incidents have been leading actors in this country too that was affected, over the years, by several serious cases of malfunction of the food safety governance that really posed a treath to people's security. Dating back to the 50s of the past century and arriving until the 2011, different are the examples that are provided to the reader such as the one concerning the melamine added in milk in 2007, that caused the sickness of thousands of infants, or the case of the cadmium rice in 2011 that caused diseases in the Guangxi Province. Manifest of the loopholes still persistent in Chinese government and mainly due to corruption, these events have been punished in a very rigorous way by the Chinese Authorities which were hoping to prevent the replication of the same errors of misjudgement. The Chinese concept of food safety has progressively developed during the years that goes from 1984 to 2000s and has its embodiment in the issue of the Food Safety Law of 2009 and its amendement in 2015. Generally considered the most austere Food Safety Lawever existed, it is applicable to food production, food distribution, food-related products and also on food e-commerce and has the aim of making the administrative control stronger and more coherent; the legal system also has changed due to the improvements that have been made on the Law and more are the subjects that now have legal responsibilities if involved in the entire food chain. There are different entities that are in charge of the food safety governance in China and all of them have to answer to the State Council, created in 2013, it is the executive body of the supreme organ of the state power that has the function of dealing with administrative regulations and measures. One of the main body ensuring the food safety is the China Food and Drug Administration (CFDA) that was also created in 2013 and have among its duties the rule-making capacity which basically means that this organism drafts the laws and regulations for the administration of food safety and in its supervisory role it also takes care of their implementation; due to its managerial role the CFDA also guides emergency responses and conducts investigations and punishments for those subject who broke the Law. The second major authority that controls the food safety in China, and according to many the toughest to deal with, is the General Administration of Quality Supervision, Inspection and Quarantine. Created in 2001 the AQSIQ, is in charge of the work of quality, metrology, exit animal and plant quarantine, import-export food safety, certification and accreditation, standardization throughout the country and execution of administrative law-enforcement. It plays a central role also in the World Trade

Organization in international standards setting. The third body is the Ministry of Agriculture (MOA) which was founded in 1954 and is in charge for the supervision and management of edible agricultural products prior to their commercialization on the market. The fourth and last main body governing the food safety is the National Health and Family Business Planning Commission which was established in 2013 and dissolved in 2018 and had two primary role which were the food safety standard setting and risk assessment; this body has been substituted with the National Health Commission of the People's Republic of China. There are other minor authorities that gravitate around the principal ones and also local authorities, they both play an important role in cooperating with the national entities providing a supervise food safety management service. The last paragraph of the second chapter of this work is dedicated to all the implication of the Food Safety Law on the import and export practices. The main principle characterizing the Law is the one embodied by the Article 92 which states that only products that are consistent with the Chinese national standards can be introduced in China. The reader will find a detailed explanation of the most important Articles of the Chinese Food Safety Law that have to be known in order to export food products without problems and also a description of the bureaucratic process that a company willing to export in China has to carefully follow.

The third and last chapter of this work is the one providing the reader with the detailed information about what really are the potentialities and prospects of the Chinese market as the new border extra virgin olive oil market and what are all the obstacles that a medium-sized enterprise have to overcome in order to reach it. Chinese market is obviously a very attractive one, with its 1.3 billion consumers it could be seen as a *gold mine* for all those companies willing to enlarge their market shares going abroad. However, it is not easy as it may seem because of all the huge differences between Western lifestyle and Chinese one and especially for a still little-known product as the extra virgin olive oil. The extra virgin olive oil concept and use were still unknown to the mass until the 1967 year in which were introduced in China the first olive groves. Over the years and thanks to the globalization, Chinese consumers have become more and more open to Western influences and to Western food-habits. Chinese are now bombarded with dozens of new food products, really different in tastes and flavors from those they use daily. There has been also an increasing education that has improved the awareness regarding a product such as the extra virgin olive oil, in fact nowadays also the medium class Chinese consumer at least knows that olive oil is used on salads, showing a difference from ten years ago when only health concerned Chinese or Western-educated ones were aware of this product. Sales of foreign extra virgin olive oil in China are a demonstration of this shifting in consumers' habits; starting from the 2002-2003 crop years there has been a constant increase in sales that has led to more than 40000 t. of extra virgin olive oil imported in 2015-2016

crop years. What still is an obstacle to the massive distribution and sale of extra virgin olive oil in China is that Chinese gastronomy is characterized by a prevalent use of vegetable oils and although there has been an increase in the use of extra virgin olive oil while cooking, its consumption's proportion compared to the vegetable oils one is still derisory. Another problem is the one concerning the price, Chinese consumers want to buy products with the most competitive price and Italian extra virgin olive oil is expensive compared to the local one. In the second paragraph of this third chapter the reader will find all the market entry issues that a foreign company has to face while approaching the Chinese market; with the amendment of the Food Safety Law in 2015 the Chinese government controls, in an obsessive way, every single stage of the export process and in addition Chinese regulations change every year and they are not the clearest ones. The most useful action that a foreign enterprise can undertake is to find the right importer with a deep knowledge of the product that can guide it into the jungle of Chinese regulations. In this same section of the chapter the reader is also provided with the list of all the legal references that have to be followed and all the certifications needed to export extra virgin olive oil in China; in addition it has been also attached a template of the only certificate that Chinese government requires to be translated in Chinese which is the Certificate of free sale. The very last part of the work is focused on Apulian medium-sized enterprises that are trying to export and are already exporting extra virgin olive oil in Mainland China, providing the reader with a real feedback of what it takes to be successful in a market as the Chinese one. The aim was to raise the awareness on the fact that despite all the efforts and the hard work, the Chinese market is yes a very huge opportunity but is still far away from being truly and easily accessible.

1. Food safety and regulations on circulating goods.

1.1 Food safety in a multilateral context: WTO, WHO and CAC.

Food related incidents have been quite numerous during the last decades, ranging from bovine spongiform encephalopathy (BSE) in beef, dioxin in pork and melamine dairy products, to *Escherichia coli* cucumbers and radioactive residues¹. Moreover, globalization in economic activities and progress within food science and technology have significantly changed the production, transportation and consumption of food.

In the light of the above, on both national and international level, there were regulatory responses whose aim was to address existing and arising risks in several fields closely related to public health and world trade. Different were the entities playing a role in these circumstances, governments, nongovernmental organizations (NGOs), transnational business associations etc. National governments, from their angle, have been following internal and border measures trying to prevent other foodborne accidents, creating multilateral health and trade rules and signing agreements on standards that have to be respected. Global food safety governance is basically controlled by three most relevant international organizations: the World Health Organization (WHO), the World Trade Organization (WTO), and the Codex Alimentarius Commission (CAC). Nowadays there is « no such overarching structure targeting food safety issues in a comprehensive and holistic manner »², although currently CAC seems to be the most influential among the three.

The WTO is an intergovernmental organization which administers international trade, it is currently the most important negotiating forum under the multilateral trade relations at an international level³. The World Trade Organization officially entered into force on January 1st, 1995 under the

¹ Ching-Fu Lin, “ The European Food Safety Authority in Global Food Safety Governance: a Participant, a Benchmark, and a Model” in Alberto Alemanno, *The European Food Safety Authority at Ten: New Directions in European Food Law*, Ashgate Publishing, 2012.

² *Ibidem*.

³ Vocabolario Treccani, *World Trade Organization (WTO) Organizzazione mondiale del commercio*, 2013, available at: http://www.treccani.it/enciclopedia/world-trade-organization-organizzazione-mondiale-del-commercio_%28Atlante-Geopolitico%29/ (Last Access 3 October 2018).

Marrakesh Agreement which was signed by 123 nations one year before. It's important to mention that this organization replaced the already existing General Agreement on Tariffs and Trade (GATT) which was ruling since the 1948. The GATT 47, with its liberal approach, promoted all the benefits coming from the trade openness. This kind of approach was based on the principle of the “most favorite nation”⁴ according to which all the advantages granted from a member state to a product directly coming from another member state, on a duty subject, have to be granted to all the merchandise of the other member states. In addition there was also the principle of “no discrimination” of national goods, according to which all the taxes and regulations within each member state should not be applied in order to facilitate national production. Initially the so called “commercial rounds” between members aimed to reduce the tariff barriers but starting from the Seventies the focus became the non tariff barriers, the ones more difficult to identify and reduce. During the Uruguay Round⁵ (1986-1994), the 123 member states decided to create the WTO, reinforcing the GATT's structure and extending the organization's competencies. The WTO is now composed by 157 members that counts for more than the 97% of the international trade. Among WTO activities it's worth noticing the help given in order to facilitate the implementation of multilateral agreement on trade, the providing of a negotiating forum for discussion and resolution of controversies.

Food has always played a central role within the WTO. Two are the main WTO agreements concerning with food safety, animal and plant health and safety and with product standards in general⁶. The principal aim of these two agreements it is an answer to the common question on how to guarantee to consumers that the food they're eating and consuming is safe and how to prevent that these strict safety regulations become just a mere excuse for protecting domestic producers. A separate agreement which establishes the basic principles of food safety and animal and plant health and safety is the so called Sanitary and Phytosanitary Measures Agreement or SPS. This agreement

⁴ Vocabolario Treccani, *World Trade Organization (WTO) Organizzazione mondiale del commercio*, 2013, available at: http://www.treccani.it/enciclopedia/world-trade-organization-organizzazione-mondiale-del-commercio_%28Atlante-Geopolitico%29/ (Last Access 3 October 2018).

⁵ The Uruguay Round was the 8th round of multilateral trade negotiations conducted within the framework of the General Agreement of Tariffs and Trade (GATT). The round led to the birth of the World Trade Organization, with the GATT still being the most important part of the WTO Agreements. The aim of the round was to extend GATT trade rules to areas previously exempted as too difficult to liberalize and increasingly important new areas still not included. The Round came into force in 1995 with deadlines ending in 2000 under the administrative creation of the World Trade Organization.

⁶ WTO (by)., *Understanding the WTO: the agreements. Standards and safety*, in World Trade Organization, available at: https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm4_e.htm (Last Access on 2 May 2018).

entered into force with the birth of the World Trade Organization, in 1995. The SPS's core is that countries should apply certain measures to ensure that the food is safe for consumer and that they should prevent the spread of diseases. These measures can take many forms ranging from requiring products to come from disease-free area, inspection of products, specific treatment or processing of products etc⁷. These sanitary and phytosanitary measures have to be applied both on domestic products and on products coming from abroad. Basically this agreement allows countries to set their own standards but it also says that these standards must be based on science as is reported in the Article 2 part 1 and 2 which states that:

1. Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of this Agreement.
2. Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5.⁸

These standards may lead to restrictions on trade. Although governments are forced to apply these measures in order to guarantee food safety and animal and plant health and safety, sometimes this may result into a sort of protection of domestic producers from the international competition. It's correct to say that these standards, if not used just to provide safety and health, may be a powerful protectionist device and due to the technical elaboration of the subject, they as barriers may be difficult to overcome. SPS is written in order to let governments decide which is the level of health protection they want to provide, but ensuring at the same time that they do not use this excuse as a tool to create barriers to international trade. This is why the agreement states which are the factors that should be taken into account while assessing the risk involved and countries should rely on them providing also the assessment procedures they used and the level of risk they determined to be acceptable⁹. It is important that countries should notify other countries of any changes in sanitary and phytosanitary requirements which affect trade. The continuous exchange of information and experience among WTO's member governments bring with itself a better foundation of national

⁷ WTO (by)., *Understanding the WTO: the agreements. Standards and safety*, in World Trade Organization, available at: https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm4_e.htm (Last Access on 2 May 2018).

⁸ WTO (by)., *The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)*, in World Trade Organization, available at: https://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm (Last Access on 2 May 2018).

⁹ *Ibidem*.

standards. A special Committee, the SPS Committee, has been created to provide WTO's members with a space in which discuss all the aspects related to the implementation of the SPS Agreement.

As said before standards can become an obstacle to trade, although they are necessary in several fields like environmental protection, safety, national security to consumer information¹⁰. Technical regulations and standards are necessary to regulate international trade and they of course vary from country to country. Dealing with all of these different standards can be quite difficult for producers and exporters. The second WTO's agreement concerning food safety answer to the same question about making these standards a useful tool for providing safety without using them in a protectionist way. This agreement is the so called Technical Barriers to Trade Agreement (TBT). Also entered into force in 1995, this agreement aims to ensure that regulations, standards, testing and certification procedures do not create unnecessary obstacles¹¹. The agreement also let countries adopt the standards they believe are most appropriate and also let them decide how to make these measures respected. It would be better to agree on the common use of international standards and the agreement encourages countries to do so, the major scope of this attitude is to try to avoid any sort of discrimination. TBT also provides a code of good practice for both governmental or non-governmental or industry bodies to prepare, adopt and apply voluntary standards¹². The agreement also states that in order to be acceptable the methods used to determine if a product is following the right standards should be fair and equitable, it also promotes the reciprocal recognition of procedures between states while assessing if a product is compliant with the current standards. Also the TBT Agreement have its own body to whom signing states have to refer, the TBT Committee. This Committee acts as a clearing house for members to share information and also as a forum to discuss concerns about regulations and their implementation¹³. Faced with the SPS and TBT disciplines, WTO members have shown a significant preference to set their food-related measures as TBT measures¹⁴. Both the TBT and the SPS Agreement require a notification obligations: the SPS

¹⁰ WTO (by)., *The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)*, in World Trade Organization, available at: https://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm (Last Access on 2 May 2018).

¹¹ *Ibidem*.

¹² *Ibidem*.

¹³ *Ibidem*.

¹⁴ Bronckers M., Soopramanien R., "Impact of WTO Law on European Food Regulation", *European Food and Feed Law Review*, Vol. 3, No. 6, pp. 361-375. Available at SSRN: <https://ssrn.com/abstract=1998853> (Last Access 3 May 2018).

measures have to be notified at the SPS Committee while the TBT measures have to be notified to the TBT Committee.

The second major international organization dealing with food safety is the World Health Organization. Established on April 7th 1948 in Geneva, Switzerland, WHO is a specialized agency of United Nations whose focus is public health. The major aim of this organization, throughout its history, was to work towards universal health coverage; developing international health regulations; increase access to medical products; preventing non-communicable diseases and putting emphasis on other major subjects such as poverty, hunger, environmental degradation and discrimination against women. WHO has faced strong criticism for its presumed inefficiency because many argue that success has often been elusive because the organization is too bureaucratic and centralized. More difficult than the focus on the prevention of infectious disease, has been WHO's focus upon public health. As already mentioned, public health's concern is one of the main topic of this organization and it is embedded in its own constitution. WHO recognizes health as not only a state of absence of infirmity but also as a state of complete physical, mental and social well-being, and consequently it goes without saying that food safety is *a sine qua non* condition. Taking into account that globalization is the major characteristic of the millennial world, ensuring food safety is quite a difficult matter. The situation becomes more difficult because with the constant growth of the population, there is also the increase of the demand for a wider variety of food and this as a consequence makes the food chain more complex. Because of food ingredients coming from different countries, contamination at one end of the food-chain can affect populations all over the world. This is the reason why World Health Organization encourages each country to pay attention on food safety and it's constantly raising awareness upon the subject¹⁵. One of the main actions started from the WHO in order to pursue this goal is the World Health Day, in this case WHO in collaboration with the United Nations Food and Agriculture Organization (FAO), has had a central role in developing guidelines to strengthen and harmonize food systems, in particular through the help of the Codex Alimentarius Commission which will be explained shortly. In 2010, the 63rd World Health Assembly came up with a resolution to advance food safety. The resulting plan requires WHO to:

Provide the evidence base for measures to decrease foodborne health risks along the entire food-chain; improve international and national cross-sectoral collaboration, including communication and advocacy; and provide leadership and assist in the development and strengthening of risk-based, integrated national systems for food safety.¹⁶

¹⁵ Fukuda K., "Food safety in a globalized world", *Bulletin of the World Health Organization*, Volume 93, Number 4, 2015, available at: <http://www.who.int/bulletin/volumes/93/4/15-154831/en/> (Last Access on 3 May 2018).

¹⁶ *Ibidem*.

In november 2014, the second International Conference on Nutrition reaffirmed the right for everyone to have access to safe, sufficient and nutritious food, the need to enforce food production and distribution systems and the importance of a fair trade practice. The WHO has recently provided guidance on food safety for food producers, transporters and consumers.

The third major international organization involed in the food safety is the Codex Alimentarius Commission (CAC). The CAC is an intergovernmental body that coordinates food standards at the international level. Its main objectives are to protect the health of consumers and ensure fair practices in food trade¹⁷. The work of the Codex Alimentarius Commission stands at the center of global food safety law-making¹⁸, this is the reaosn why the most common problems the Commission has to face are relative to the soundness of science, the legitimacy of rules, the liability of rule makers and the transparency of deision-making process. Elaborating international food standards is a tough duty because it involves several fields including obviously science, but also politics and it is strictly connected with culture. The Codex Alimentarius Commission stems from the resolutions adopted by the Eleventh Session of the Food Agriculture Organization of the United Nations (FAO) Conference in 1961 and the Sixteenth World Health Assembly (WHA) in 1963. The two international institutions aldo adopted the Statutes and Rules of Procedure for the Commission. The Codex standard-setting process is drafted by the *Procedures for the Elaboration of Codex Standards and Related Texts* and it also refers to the elaboration of Codex Guidelines, codes of practices etc. With particular reference to the previous mentioned WTO's SPS and TBT Agreement, the CAC as the international food safety standard setter, becomes the quasi-legislative standard setter and its standards are nearly mandatory in WTO food safety disputes. Codex standards have a significant impact on the market access of agricultural, animal, and other food products; its suggestions are used by governments to determine and refine policies under their national food systems. Frequently the CAC is criticized as not able to defend global food safety through a legitimate process, mostly because of the soundness of science and independence of scientific opinions.

1.2 Food safety in Europe: EFSA.

¹⁷ FAO, WHO (by)., *Assuring food safety and quality*, Joint FAO/WHO Publication, 1997, available at: <http://www.fao.org/3/a-y8705e.pdf>. (Last Access 3 May 2018).

¹⁸ Ching-Fu Lin, “ The European Food Safety Authority in Global Food Safety Governance: a Partecipant, a Benchmark, and a Model” in Alberto Alemanno, *The European Food Safety Authority at Ten: New Directions in European Food Law*, Ashgate Publishing, 2012.

In the light of the first paragraph, we have seen that food safety worldwide is basically the preserve of three organizations: the WTO, WHO and CAC. Within Europe the duty of food control falls on the so called EFSA: European Food Safety Authority. The history of food safety rule-making in Europe dates back long before the beginning of the food scares which have outraged Europe¹⁹. At least until the mid-1990s, the suggestions of creating a Community food regulatory agency were taken into serious account by the European Commission. The first approach to the constitution of this entity was to rely on the American Food and Drug Administration's model. The U.S. FDA is a very large and centralized agency in charge of risk assessment, risk management controls and inspection as well as risk communication. The European Commission, knowing the success and reliability the U.S. FDA was enjoying, tried to create its own "European-style FDA"²⁰ in order to gain consensus. The question at the time was if the new European agency should have regulatory and enforcement powers similar to the ones that characterize the U.S. FDA. This task was given to three important European Scientists- James, Kemper and Pascal- whose "Future Scientific Advice" report was the first, real attempt to analyze the advantages coming from the creation of an independent agency similar to the U.S. FDA. They proposed the institution of a Brussels-based organization, with the name of European Food and Public Health Authority (EFPHA) with the combined scope of the U.S. Center for Disease and Control (CDC) and the Food and Drug Administration. This organization was created to be more independent of political and industrial interests; they promoted, in the report, the interaction between risk assessors and risk managers for the entire process until the final stage in which the advice is translated into management proposals. Short after the publication of this report the Commission published its White Paper on Food Safety asking for the establishment of an independent agency called the European Food Authority (EFA) whose duties involved risk assessment and risk communication. Thus, member states were pressuring the Commission because they were reluctant to give up their own authority upon the food safety's subject. Although the White Paper did not describe all the EFA's activities, it delineates the most important features of the new organization, while preparing the way to the publication of the first regulation's proposal. The EFSA was officially established in February 2002 in Parma, Italy and it is « a relatively young international platform performing risk assessment and risk communication, and providing the European Commission (EC) as well as European Union (EU) member states with scientific advice that they

¹⁹ Alemanno A., "The European Food Safety Authority at Five" , *European Food and Feed Law Review*, Vol.1, 2008, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1095703 (Last Access 4 May 2018).

²⁰ *Ibidem*.

take into account when forming regulatory measures in food safety areas²¹». The EFSA, as the cornerstone of the European food safety regulatory system, is conceived as an objective, independent scientific reference point whose aim is to “ provide scientific advice and scientific ad technical support for the EU legislation and policies in all fields which have a direct or indirect impact on food and feed safety.²²“ EFSA’s mission includes also the provision of scientific advice on matters related to human nutrition, animal health and welfare and plant health.

It’s pretty clear that EFSA’s scientific activity cannot be reduced to the transmission of scientific opinions; four are the main EFSA’s activities:

- a) providing scientific opinions, guidance and advice in respode to questions submitted by the European Commission, the European Parliament or the Member States;
- b) assessing the risk of regulated substances, such as GMO’s, pesticides and food/feed additives, following notification procedures and time schedules established by EC vertical legislation;
- c) monitoring of specific risk factors and diseases as well as identifying and characterising emerging risks;
- d) developing, promoting and applying new and harmonised scientific approaches for hazard and risk assessment of food and feed²³.

All of these tasks should be pursued in conditions that respect the values of independence, scientific and technical quality, transparency and diligence.

The Authority is composed by: a Management Board; an Executive Director and his/her staff; an Advisory Forum; a Scientific Committee and Scientific Panels. The Management Board is responsible for guiding EFSA’s activities and making sure that the Authority pursue its original task; within this organism there are not representatives of each member states because the components of the Board are experts in their own right and they are capable of managing food safety issues. It chooses 14 members decided by the Council in consultation with the European Parliament from a list

²¹ Ching-Fu Lin, “ The European Food Safety Authority in Global Food Safety Governance: a Partecipant, a Benchmark, and a Model” in Alberto Alemanno, *The European Food Safety Authority at Ten: New Directions in European Food Law*, Ashgate Publishing, 2012.

²² EU General Food Law, Article 22.2.

²³ Alemanno A., “ The European Food Safety Authority at Five” , *European Food and Feed Law Review*, Vol.1, 2008, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1095703 (Last Access 4 May 2018).

provided by the Commission, plus a representative of the Commission. The composition of the Board is quite innovative because it is made with the purpose of guaranteeing the scientific independence and transparency mentioned before. The Executive Director is basically the legal representative of the Authority and he or she is in charge of the daily management and also of all staff members. One of his or her most relevant tasks is to design the work programme of EFSA, so it is responsible for priority setting. The Director is in charge for five years and is appointed by the Management Board; being the Authority an independent agency, the Director answers only to the Board itself. The entire responsibility for risk management decisions remains with the competent EC institutions²⁴. The Advisory Forum stands as a bridge between EFSA and the Member states; it is composed by competent bodies in the different member states which undertake tasks similar to those of the Authority. It's important to notice that members of the Advisory Forum cannot be part of the Management Board. The Advisory Forum gives the Executive Director advice on all aspects of its task, and making suggestions for the EFSA's work programme. With its being an organ unknown within the Community agency structure, the Forum it's the most original organ within the EFSA. It is seen as a tool for exchanging information on potential risks. The two major reasons that have led to the creation of this mechanism are reinforcing Member States' participation in EFSA's activities and the other to facilitate cooperation between the agency and the Member States. It aims at encouraging the collaboration between national bodies represented and the EFSA; it also ensures cooperation between the Authority and the competent bodies in the Member States in order to prevent the reduplication of EFSA's scientific studies with Member States. The fourth and last component of the EFSA is the Scientific Committee and the eight permanent Scientific Panels which are responsible for providing the scientific opinions; it constitutes the core of the Authority. The Scientific Committee's major aim is to ensure the consistency in the scientific opinions of the different panels. In order to do so it is entrusted with the difficult task of developing "working procedures and harmonization of working methods²⁵". The realisation of this objective is central in the light of the fact that being the EFSA the major organization in the control of the food sector, risk managers and the public need to have access to the operation through which the risks have been evaluated. This Committee is also entrusted with an exclusively scientific task: the provision of scientific suggestion regarding multi-sectorial issues which are competence of more than one panel. The Scientific Committee is composed of the Chairs of the Scientific Panels and six independent scientific experts

²⁴ Alemanno A., "The European Food Safety Authority at Five", *European Food and Feed Law Review*, Vol.1, 2008, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1095703 (Last Access 4 May 2018).

²⁵ *Ibidem*.

who are not part of any of the panels. Their task is to provide scientific opinions for the EFSA. All the members of this organ are appointed by the Management Board on the proposal of the Executive Director on the basis of an open competition.

In the light of the fact that the main EFSA's purpose is to provide

“ scientific point of reference in risk assessment [...] enabling the Community institutions and Member States to take informed risk Management decisions²⁶”

it is extremely important to find an appropriate interface between risk assessment and risk management in decision-making.

In order to completely understand how the EFSA operates, it is important to examine who is allowed to ask the Authority for a scientific opinion; when the Authority may refuse a request; which is the procedure applied by the Authority to demand for scientific opinions referred to it and what is the effective legal status of EFSA's scientific opinions. The Authority can respond to the requests made not only by the Commission but also the ones made by Member States, national food authorities and the EC Parliament. The Commission still has exclusive authority to get a scientific advice from the EFSA, so it is legally obliged to consult the Authority. The EFSA is authorized to refuse to provide a scientific opinion if the scientific background of the issue is not given; the Community interest is lacking or there are not new scientific elements justifying the re-examination. The refusal may also be justified if the request is not clear; different requests are made on the same issue or when a scientific opinion has already been given. Acting *ex officio* the EFSA may also give a scientific assessment on any subject that may or may not have an influence on the safety of food supply; it can also give scientific advice on non-food and feed GMOs and on nutrition, particularly as referred to in Community legislation. Authority's scientific opinions regarding foreseeable health effects can never be kept confidential.

As mentioned before, EFSA may refuse to issue a scientific opinion when different requests are made on the same issues; when there are not enough background information and when the request is unclear. When it happens, justification for the refusal shall be given to the institution or the Member State that made the request. In the cases in which the request falls into one of the categories belonging

²⁶ Alemanno A., “ The European Food Safety Authority at Five” , *European Food and Feed Law Review*, Vol.1, 2008, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1095703 (Last Access 4 May 2018).

to the Commission, the Authority may ask for supplementary information or suggest an amendment to the request. This requires an effective dialogue between the risk managers within the Commission and the scientists. Although the relationships between these two organs have always been quite poor, lately there have been signs showing commitment from both institutions to improve the actual condition. About timing, if not explicitly expressed by the Community legislation, it should respect the one indicated in the request. In cases of urgency, EFSA has to make sure that the scientific opinion is delivered as soon as possible; urgency is justified when there is an emerging risk which could seriously harm human or animal health or the environment.

Transparency is a key point for the Authority; all of its activities have to be carried on with clarity, this means that not only programmes and meeting of its scientific bodies should be made public but also the opinions, even the minority opinions²⁷.

Regarding the legal status of the the EFSA's scientific opinions, it's important to mention the fact that the Authority lacks formal control to get binding resolutions on possible controversial scientific issues. Moreover, it do not have the final word in case of divergent scientific opinions between its own decisions and those issued by other bodies. Article 30 of the Regulation EC No 178/2002 gives the Authority the simple duties of "vigilance" and "cooperation"; the Article specifically states:

Article 30

Diverging scientific opinions

1. The Authority shall exercise vigilance in order to identify at an early stage any potential source of divergence between its scientific opinions and the scientific opinions issued by other bodies carrying out similar tasks.
2. Where the Authority identifies a potential source of divergence, it shall contact the body in question to ensure that all relevant scientific information is shared and in order to identify potentially contentious scientific issues.
3. Where a substantive divergence over scientific issues has been identified and the body in question is a Community agency or one of the Commission's Scientific Committees, the Authority and the body concerned shall be obliged to cooperate with a view to either resolving the divergence or presenting a joint document to the Commission clarifying the contentious scientific issues and identifying the relevant uncertainties in the data. This document shall be made public.
4. Where a substantive divergence over scientific issues has been identified and the body in question is a Member State body, the Authority and the national body shall be obliged to cooperate with a view to either

²⁷ Alemanno A., "The European Food Safety Authority at Five", *European Food and Feed Law Review*, Vol.1, 2008, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1095703 (Last Access 4 May 2018).

resolving the divergence or preparing a joint document clarifying the contentious scientific issues and identifying the relevant uncertainties in the data. This document shall be made public²⁸.

The Authority has to exercise its duty of vigilance by identifying at an early stage any potential source of divergence between its scientific opinions and the ones proposed by national food agencies. When there is no room for accommodation, the EFSA has the duty to cooperate, with the other bodies, with the goal of resolving the differences or submit a joint document underlying the uncertainties and the controversial scientific issue. By not giving the EFSA the supremacy over the decisions taken by national bodies controlling food safety, the only way to prevent the rising of diverging scientific opinions, EFSA is required to promote European networking of organizations operating in food safety risk assessment. The official aim of this networking is to “ facilitate a scientific cooperation framework by the coordination of activities, the exchange of information, the development and implementation of joint projects, the exchange of expertise and best practices²⁹.” The Management Board has the duty to propose a list of national bodies which can assist the Authority; Member States are not free in designating their own organisation, but have to follow the criteria set out by Commission Regulation 2230/2004³⁰.

Although EFSA’s opinions have not been granted a direct regulatory authority, they can acquire a legal binding value for both the European Commission and the Member States authorities when passing legislation amount to a strong probative authority against private business operators placing unsafe food on the market³¹.

Another cornerstone of the Authority is communicating on risk associated with the food chain. Communicating on risk in the most clear and transparent way possible, based on independent scientific advice of EFSA’s experts, may increase confidence in the way in which food risks are

²⁸ European Parliament, European Council (by), *Regulation EC No 178/2002*, 2002, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32002R0178> (Last Access 4 October 2018).

²⁹ Alemanno A., “ The European Food Safety Authority at Five” , *European Food and Feed Law Review*, Vol.1, 2008, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1095703 (Last Access 4 May 2018).

³⁰ A Transcription of the Commission Regulation EC No 2230/2004 is available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:379:0064:0067:EN:PDF> (Last Access 4 October 2018).

³¹ Alemanno A., “ The European Food Safety Authority at Five” , *European Food and Feed Law Review*, Vol.1, 2008, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1095703 (Last Access 4 May 2018).

assessed. The Regulation EC No 178/2002 gives the Authority the task of communicating the results of its work and doing it while collaborating with the Commission and the Member States. EFSA is in charge of providing scientific information on risks, while the Commission has the duty to communicate risk management measures.

The most difficult part while providing “non-experts” with scientific information about a subject, is to express the information in a “consumer-friendly way”. This is the reason why EFSA has built up a Communications Working Group which works with the communications departments of the national food safety agencies to build a more collaborative and informed approach to transmit risks’ information in the food chain and to encourage coherence of food safety messages across the Community. The main objective pursued by the EFSA’s risk communication policy is to guarantee that any interest part is given reliable, and easily accessible information, especially with regard to the results of its work.

The creation of the European Food Safety Authority has been the result of the food scares that characterized Europe at the end of 1990s. We might say that without these accidents it would have taken longer to Europe to understand the need of a centralized European scientific assessment and of a unifying text setting out the fundamental principles of EC Food Law. European Food Law is based for the first time on a comprehensive legislation covering the entire food chain and directly applied in all the EC Member States.

1.3 Dispatching goods within Europe.

The European internal market, also known as a single market, allows people and businesses to move and trade freely across EU members. Basically, it gives consumers the possibility of choosing between a wider range of products at a competitive prices; allows them to enjoy a greater protection when purchasing items at home, abroad or online; and make it easier for every type of company, both large and small, to trade across border and be competitive worldwide.

The most important characteristic of the European Economic Area (EEA)³² is that it allows, within the European single market, the free movement of people, goods, services and capital, which

³² The European Economic Area (EEA) is the area in which, thanks to the agreement on the EEA, is possible to move freely people, service, capital and goods within the European single market. The EEA was established on 1 January 1994. Membership has grown to 31 states as of 2016.

are the so called “four freedom”. The EEA is regulated by the EEA Agreement³³, entered into force on January 1st, 1994, it guarantees equal rights and obligations within the Internal Market for individuals and economic operators in the EEA. This Agreement brings together the EU Member States and the three EEA EFTA³⁴ States, Iceland, Liechtenstein and Norway. Switzerland conducts its economic relations with the EU following a FTA signed in 1972.

The main objective of the EEA is to promote continuous and balanced trade and economic relations between the Contracting Parties; it also focus on areas such as research, social policy, tourism, public health and environment. In order to assure equal condition for all the economic operators inside the Internal Market, the EEA Agreement covers also competition, state aid and public procurement rules. The EEA Agreement is continuously improved in order to reflect the European Union changes.

Free movement of goods means that all the products have to conform to the applicable EU/EEA rule in order to freely circulate in the Internal Market. The differences existing among Member States’ national product requirements can create a barrier to cross-border trade, this basically means that if a producer is willing to distribute his product in Europe he has to adapt it to each market in which he wants to sell it. These technical obstacles are called technical barriers to trade (TBT)³⁵. In order to minimize this problem, the European Union adopted harmonised product requirements for a wide range of product sectors. EEA States are compelled to accept that products conforming to these common harmonised requirements are sold on their national markets without needing any additional approval or testing. In non-harmonised areas, is applied the principle of mutual recognition. Products requirements may vary from country to country, and unless very particular conditions are met, one EEA State must accept products lawfully marketed in another EEA States. Non-harmonised areas cannot be defined by product sector, since some aspects of a certain product may be harmonised while

³³ A transcription of the EEA Agreement is available at : <http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Main%20Text%20of%20the%20Agreement/EEAagreement.pdf> (Last Access 4 October 2018).

³⁴ The European Free Trade Association (EFTA) is a regional trade organization and free trade area composed by four European States, Iceland, Liechtenstein, Norway and Switzerland. This association goes parallel to the European Union and all four members are part of the European Single Market. However they are not part of the European Union Custom Union. Established on 1 MAY 1960, its main goal was to serve as an alternative trade block for those countries unwilling to join the European Economic Community (EEC). Being part of this organization still allows its members to undertake bilateral third-country agreement, consequently the four components of this association have made free trade agreement with EU member states and other countries.

³⁵ EFTA (by), *Free Movement of Goods*, available at: <http://www.efta.int/media/publications/fact-sheets/EEA-factsheets/GoodsFactSheet.pdf> (Last Access 25 May 2018).

others are not. Harmonised qualifications for a given product sector may be only linked to the product's safety, while the environmental aspects of the same product may be non-harmonised. In sector where the EU has adopted harmonised product requirements, rules adopted at European level that exercise all over the EEA, have replaced national product regulations. This is especially true for the sectors where products such as motor vehicles, toys etc can be harmful to people or to the environment. For products considered as high risk, European harmonising legislation assert that a Conformity Assessment Body (CAB)³⁶ is required to determine if a product conforms to the applicable requirements. A product certification conducted by a CAB recognised by the EEA State is respected throughout the entire EEA. There are two different ways used to harmonise product legislation in the European Union, the old and the new approach. According to the old approach, all technical product specifications are arranged in the legal act; through the new approach, only the essential health, safety and environmental requirements are adopted by law³⁷. Technical specifications are then set out in European harmonised standards and an importer can choose to use them in order to demonstrate that his product is in compliance with the applicable standards. Once is settled that the product is conform to the harmonised standards because it has been produced in accordance with them, it can be directly placed on the market. The CE mark on the products indicates that all the most important EU requirements have been fulfilled. Some old approach sectors, such as pharmaceuticals, plant protection products etc require authorisation to place a specific product on the market; motor vehicles need to be type-approved in one EEA State and may then be marketed in all EEA countries. For most sectors like cosmetics, the products may be placed on the market without having prior authorisation. Surveilling the market is necessary for accomplishing uniform application of European legislation and equal protection for all citizens; national market surveillance authorities control the market in order to guarantee that products placed on it respect all the safety requirements.

As mentioned before, in non-harmonised sectors, is applied the principle of mutual recognition. This principles states that, products lawfully marketed in one of the EEA States, can be marketed in

³⁶ There are different types of Conformity Assessment Bodies (CABs) that can undertake assessment techniques and activities. They can come in any organisational form and ownership, and can be commercial in focus or non-profit entities. They can also be government agencies, national standards bodies, trade associations, consumers organisations or private orpublically owned companies.

³⁷ EFTA (by)., *Free Movement of Goods*, available at: <http://www.efta.int/media/publications/fact-sheets/EEA-factsheets/GoodsFactSheet.pdf> (Last Access 25 May 2018).

all other EEA states, even if the product does not completely adhere to the technical rules of the importing EEA State. In any case, an importing EEA State may refuse the placement of a product on its market if justified. This possibility is based on the EEA Agreement and the case law of the Court of Justice of the European Union. This means that in non-harmonised areas, all EEA States may have their own technical regulation and requirements and they have the right to decline the placement of a foreign product only in the case in which it is able to demonstrate that the product could be dangerous for public safety, health or the environment.

As the food is one of the primary product being exchanged between EU Member States, EEA Agreement covers food safety policies, veterinary and phytosanitary matters. It goes without saying that the goal of the food and veterinary legislation is to ensure food safety. A product's safety may be affected at any stage of the food production process, this is why the legislation follows a food chain approach called "from farm to fork". All sector of the food chain are covered, including feed production, processing, storage, transport and sale to consumer³⁸. The veterinary legislation covers animal and public health requirements for the production, trade and import of live animals and animal products, as well as all the subjects related to the control of these products; are also included in this section the control and prevention of animal diseases. The food legislation, instead, deals with a wide range of matters related to food safety, food quality and information to consumers. In the period 2002-2004, the EU adopted legislation concerning general food law and the European Food Safety Authority, as well as legislation concerning hygiene and control in the food production chain and legislation concerning animal by-products. Connected to the EEA Agreement, this package of legislation has been referred to as the Food Law Package. This Package entered into force in EEA on 1 May 2010. With the entry into force of the Food Law Package, the essential food law is now harmonised within the EEA. This package provides some general principles for food production, such as traceability, risk analysis and a precautionary approach; it also sets out responsibilities and requirements for food business operators. All the EEA EFTA States are ensured participation in the European Food Safety Authority (EFSA).

In order to let the Internal Market functions at its best a lot of horizontal measures has been introduced. Strict competition rules have been applied in order to prevent companies from building barriers that could have caused a damage to the benefits coming from the EEA's four freedom. Also

³⁸ EFTA (by)., *Free Movement of Goods*, available at: <http://www.efta.int/media/publications/fact-sheets/EEA-factsheets/GoodsFactSheet.pdf> (Last Access 25 May 2018).

several measures have been applied in the energy field to guarantee competition, energy supply and environmental protection. The rules on competition in the Internal Market cover four main areas and are equally respected from the three EEA EFTA States and the EU Member states, these rules are referred to the removal of agreements that bound competition and the abuse of a dominant position; control of mergers between firms; liberalization of monopolistic economic sectors and prohibition of state aid that would distort competition by favouring certain firms or national industrial sectors. It goes without saying that anti-dumping measures, compensatory duties and other trade measures are forbidden between all the EEA States. In line with all the other EU Treaties, the EEA Agreement prohibits any measures that can be seen as state aid, including grants, soft loans and tax concession which may deform trade. However, particular political, economic and social considerations may lead to some exceptions to this prohibition.

The EEA Agreement provides also harmonised provisions on the Intellectual Property Right and guarantees a high level of protection of industrial rights in all EEA States. In order to support the free movement of goods, these rules also contains the principle of regional exhaustion of IPR which is applicable in the entire EEA. This principle implies that once a product has been placed on the market in the EEA by a right-holder, the latter can no longer rely on his exclusive right to prevent the importation of such products from another EEA State.

Another sensitive point analyzed by the EEA Agreement is the one concerning Customs. The EEA Agreement provides for a free trade area covering all the EEA States, but this right is not extended to the EEA EFTA States. The aim of both the free trade area and the EU Customs Union is to abolish tariffs on trade between the parties. Whereas in the EU Customs Union, the EU Member States have removed customs borders and procedures between each other, these are still in force in trade between the EEA EFTA States and the EU, as well as in trade between the three EEA States. As we have previously said the EEA Agreement prohibits tariffs on trade between the Contracting Parties which means that all products, except certain fish and agricultural products, may be traded free of tariffs within the EEA. In order for a product to obtain preferential treatment under the EEA Agreement, it has to originate in the EEA. The Agreement contains rules of origin that determine to what extent a product must be produced or processed within the EEA in order to gain status as a product of EEA preferential origin.

As one of the major topic of this work is the food safety and its implication in the circulation of goods between the EU Member States it is useful to notice how national food safety authorities interact with the EFSA. EU Member State scientific support is critical for the normal functioning of the EU food safety system. National food safety authorities give EFSA strategic advice on scientific issues and are the most important contributors of experts to EFSA, they also provide the essential

data used in EFSA's scientific assessments. EU Member State public information services and communications experts work with EFSA to disseminate the results of EFSA's assessments, promote engagement and attract scientific experts. These networks are useful during food-related emergencies. The competent organisations in Member States carry out most of the scientific projects EFSA proposes. Networking is vital for these organizations because it promotes ties between them through coordination of joint activities, exchange information, development and implementation of joint scientific projects. It also promotes the sharing of expertise and best practices in these scientific areas. Article 36 of EFSA's founding Regulation (Regulation EC 178/2002) describes networking of scientific organisations in Member States; it specifically states:

Article 36

Networking of organisations operating in the fields within the Authority's mission

1. The Authority shall promote the European networking of organisations operating in the fields within the Authority's mission. The aim of such networking is, in particular, to facilitate a scientific cooperation framework by the coordination of activities, the exchange of information, the development and implementation of joint projects, the exchange of expertise and best practices in the fields within the Authority's mission.

2. The Management Board, acting on a proposal from the Executive Director, shall draw up a list to be made public of competent organisations designated by the Member States which may assist the Authority, either individually or in networks, with its mission. The Authority may entrust to these organisations certain tasks, in particular preparatory work for scientific opinions, scientific and technical assistance, collection of data and identification of emerging risks. Some of these tasks may be eligible for financial support.

3. The implementing rules for the application of paragraphs 1 and 2 shall be laid down by the Commission, after consulting the Authority, in accordance with the procedure referred to in Article 58(2). Those rules shall specify, in particular, the criteria for inclusion of an institute on the list of competent organisations designated by the Member States, arrangements for setting out harmonised quality requirements and the financial rules governing any financial support.

4. Within one year following the entry into force of this Regulation, the Commission shall publish an inventory of Community systems existing in the fields within the mission of the Authority which make provision for Member States to carry out certain tasks in the field of scientific evaluation, in particular the examination of authorisation dossiers. The report, which shall be accompanied, where appropriate, by proposals, shall indicate in particular, for each system, any modifications or improvements which might be required to enable the Authority to carry out its mission, in cooperation with the Member States³⁹.

³⁹ European Parliament, European Council (by)., *Regulation EC No 178/2002*, 2002, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32002R0178> (Last Access 4 October 2018).

There are eligibility criteria set out in the implementing rules (Regulation 2230/2004). Member States appoint eligible organisations with support from their national EFSA Focal Point. The Focal Point network comprises members from all 28 EU Member States, Iceland and Norway, as well as observers coming from Switzerland and EU candidate countries. They have the aim of improving scientific cooperation and networking activities between and among Member States and EFSA by assisting in the exchange of scientific information and experts; advising on cooperation activities and scientific projects, promoting training in risk assessment and raising EFSA's scientific visibility in Member States⁴⁰. EFSA plays a central role in coordinating several networks of national appointed EU Member State associations which have competences in scientific fields. Representatives of the European Commission and of other organisations, including organizations from outside the EU, may be invited to join EFSA network.

1.4 Exporting and importing goods outside and into the European Union.

Although it could be said that the economic moment we are crossing right now it's not a favourable one, the agricultural production in Europe with particular regard to Italy, is still one of the most important sector within our economy especially if we are referring to the export toward extra-EU countries. It has to be noticed that while the sale of agricultural products within the EU is regulated by the Community regulation, the export toward extra-EU countries may require some documents or additional declarations, which are essential to prevent the rising of any problem with, for example, Customs. It is strongly suggested to verify if for some particular products' category, there are restrictions or market regulations different from the ones applied within EU.

Foodstuffs' export requires a preliminary check of prerequisites in order to see if the product is conform to the applicable law and consequently exportable. These prerequisites or regulations can be indiscriminately used worldwide or can be required to single importer country.

Apart from general and shared indications there are also regulations on the characteristics of products issued by international organism which are applied by some countries in order to facilitate trade; there are also international trade agreement signed by, for example, the European Union and other single organizations or single states.

⁴⁰ EFSA (by), *EU Member States*, Efsa European Food Safety Authority, available at: <https://www.efsa.europa.eu/en/partnersnetworks/eumembers> (Last Access 4 June 2018).

About the circulation of foodstuffs the major influences can come from the animals' disease and health and hygiene conditions of products. As concerning food safety, it is wide known and used the HACCP system⁴¹, this system's principles have been introduced in the food supply chain and are applied worldwide. In the European Union companies are forced to adopt this approach and to provide a selfcontrol Manual according to the HACCP principles. Moreover, there are several certifications realized by third party institutions based on voluntary international regulations, like the ISO 22000⁴² or on food safety's technical standards.

As already mentioned before, in order to prevent the rise of food scandal, the European Union has adopted a global strategy called "from farm to fork" which is referred to the entire food chain and has to include all the subjects who take part to the production and commercialization's processes. The general principles among which is based the new communitary legislation are controls over the entire food supply chain; interventions based on the risks analysis; products' traceability on the food chain and identification of the consumer as active part of the food safety. Regulation EU 852/2004, concerning to food export, states that:

As regards the hygiene of exported or re-exported food, the relevant requirements of food law referred to in Article 12 of Regulation (EC) No 178/2002 shall include the requirements laid down in Articles 3 to 6 of this Regulation⁴³.

Article 12 of the Regulation (EC) No 178/2002, in turn, states:

Article 12

Food and feed exported from the Community

1. Food and feed exported or re-exported from the Community for placing on the market of a third country shall comply with the relevant requirements of food law, unless otherwise requested by the authorities of

⁴¹ HACCP (Hazard Analysis and Critical Control Points) is a systematic preventive approach to food safety from biological, chemical, and physical hazards in production process that may lead to the unsafety of finished products. In this way, HACCP attempts to avoid hazards rather than attempting to inspect finished goods for the consequences of that hazards. It can be used in all phases of the food supply chain.

⁴² ISO 22000 is a family of international standards addresses food safety management. The consequences of unsafe food can be really dangerous, ISO'S food safety management standards help organizations identify and control food safety hazards. because the majority of food products are now crossing national boundaries, International Standards are needed to ensure the safety of the global food supply chain.

⁴³ European Parliament, European Council (by)., *Regulation (EC) No 852/2004 on the hygiene of foodstuffs*, 2004, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32004R0852> (Last Access 4 October 2018).

the importing country or established by the laws, regulations, standards, codes of practice and other legal and administrative procedures as may be in force in the importing country.

In other circumstances, except in the case where foods are injurious to health or feeds are unsafe, food and feed can only be exported or re-exported if the competent authorities of the country of destination have expressly agreed, after having been fully informed of the reasons for which and the circumstances in which the food or feed concerned could not be placed on the market in the Community.

2. Where the provisions of a bilateral agreement concluded between the Community or one of its Member States and a third country are applicable, food and feed exported from the Community or that Member State to that third country shall comply with the said provisions⁴⁴.

When it comes to import food products into the European Union the Regulation EC 852/2004 states that:

As regards the hygiene of imported food, the relevant requirements of food law referred to in Article 11 of Regulation (EC) No 178/2002 shall include the requirements laid down in Articles 3 to 6 of this Regulation⁴⁵.

The Regulation EC No 178/2002's Article 11, regarding food and feed imported in the Community, states that:

Food and feed imported into the Community for placing on the market within the Community shall comply with the relevant requirements of food law or conditions recognised by the Community to be at least equivalent thereto or, where a specific agreement exists between the Community and the exporting country, with requirements contained therein⁴⁶.

As the European Union started as an economic type of organization, one of its major aim is to represent Member States and carry out bilateral trade agreement and promote cooperation in

⁴⁴ European Parliament, European Council (by)., *Regulation EC No 178/2002*, 2002, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32002R0178> (Last Access 4 October 2018).

⁴⁵ European Parliament, European Council (by)., *Regulation (EC) No 852/2004 on the hygiene of foodstuffs*, 2004, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32004R0852> (Last Access 4 October 2018).

⁴⁶ European Parliament, European Council (by)., *Regulation EC No 178/2002*, 2002, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32002R0178> (Last Access 4 October 2018).

regulation setting. In order to reinforce the presence of European enterprises worldwide, the EU has developed several plans promoting the growth of trade collaboration network. This setting include the European Union export policy. EU exports toward third party countries are not quantitative restricted; export is also supported by several bilateral agreement with trade areas or extra-EU States like customs unions, stabilisation agreement, association agreement, cooperation agreement and free trade agreement (FTA).

Foodstuffs that have to be exported into extra-EU countries must be accompanied by the usual documentations required from the fiscal and customs legislation; other certifications of the food sector which have the aim to guarantee the product's characteristics and to commercially define the value of the product. The first step required while approaching the export toward extra-EU countries is the Market Access Database (MAD) which provides information about the applied tariffs, import formalities and trade statistics and barriers. This database also ensures the possibility of reporting to the European Commission about trade obstacles.

In order to sell products abroad is necessary to first verify the possible presence of duties, restrictions and additional documentations required by the extra-EU State toward which the firm is willing to export and so it is suggested to classify the product giving it a customs tariff code which is available at the Customs Association.

Merchandise are divided into sectors and each category has its own nomenclature necessary to identify them and define what is the amount of the tariffs applied to that specific product. Documents usually required while engaging in business relationship with extra-EU countries are the commercial invoice, the loading list, the certificate of origin, the EUR 1 certificate, the free sale certificate, the transport document and insurance certificate.

The commercial invoice is issued by the buyer and it is written in the importer country's language and it has to include the business name with the complete importer and exporter's addresses; description, quantity and price of the concorded currency; the carrier's name; charges; the price regulation's modality, product's country of origin; law references for the VAT's application or exemption.

The loading list is issued by the seller and it has to provide the number of the commercial invoice to which the loading list is referred; numbers and types of the packages; the description of the merchandise contained into each package; the container number in which the goods are loaded.

Certificate of origin is a customs certificate which guarantee the non preferential origin of the goods. It is used to for customs and trade needs and for the relationship between European Union and extra-EU countries. The Certificate of origin provide the production country of the product or where the product has been substantially transformed for the last time. It is noteworthy to say that the

certificate of origin does not attest the export although it is issued with the invoice demonstrating that a sale abroad occurred.

The EUR 1 certificate is a document released by the Customs Office because of the exporter's request and it certifies the Community origin of the products, providing the right for the application of preferential tariffs regime thanks to the bilateral agreement between the European Union and other countries.

The free sale certificate is required by the extra-EU countries and it certifies that the products exported have free circulation in the exporter country and also in other EU Member States. The exported products have to be in compliance with the applicable law regarding health and safety matters and the applicant has to be aware of the fact that this certificate does not substitute the possible ministerial certification required by the applicable law for that specific product exported. The data reported on the certificate are referred to the single product because they are the sales denomination, the brand and all the other identification data. This certificate is issued by the Chamber of Commerce in charge in that location and only after a specific request from the exporter.

The transport document certifies the signed transport contract between the sender and the carrier and demonstrates the fact that the products have been taken over by the carrier and will be delivered on time.

The insurance certificate provides the conditions and the clauses of the insurance contract concluded for the products that are being transported from the sender to the addressee.

Concerning the documents required to accompany shipment of goods outside the European Union, the Chamber of Commerce releases also visas on the export's invoices and visas for the legalization of the representative lawyer's signature on the documents for abroad.

There are some specific documents required exclusively for the food sector in order to guarantee, as mentioned before, the food safety and the prevention from the dissemination of animal's diseases because of the trade between countries. The first one is the Sanitary Certificate, which could be required by the importer country in order to guarantee the conformity of the health and hygiene conditions for some particular products which are defined as risky. Basically this certificate ensures that the exporter company follows all the necessary health and hygiene standards related to the exporter product based on a sanitary authorization or on the controls made for the launch of the activity. The other certificate required only for the food sector is the Phytosanitary Certificate which is specifically required for products obtained from plants, only for the export toward extra-EU countries. It is released from the phytosanitary sector of the country in which the company is located, only after an inspection of the products in the exporter company. Among the data reported on this

certificate we have the all the identification datas of both the importer and the exporter; datas of the destination country; identification datas of the carrier; country of origin of raw materials, etc.

Another sensitive aspect faced while exporting is the one connected to the labeling. The label allows to verify that the product is conform to the applicable law of the importer country. This is the reason why is mandatory to translated the label in the importer country's language. For some typology of products some waivers are allowed on the mandatory national or communitary dispositions relative to the production's modality and labeling's regulations, in order to adapt them to the importer country.

In order to evaluate the conformity of agricultural products and the limits defined by the importer countries, is necessary to start an analysis' activity. Sometimes these controls are made in order to verify the presence of some chemical substances defined as contaminant or to ensure that there are not some food additive undeclared. A fundamental aspect that has to be taken into account is the one regarding how the sample which will be analysed, is collected. There are some rules which are different due to the type of good or the type of examination that has to be done. It is also important that the laboratory which undertakes the anlysis guarantees the impartiality of the results. While making the analysis the laboratory has to verify if there are some specific indications for the required standards, testing methods and possible fixed limits. Several are the type of analysis made on products and they change from country to country depending on the country needs⁴⁷.

Giving also a brief explanation of what are the steps to follow if a company is willing to import foodstuff from an non-EU country, it must be noticed the existence of the EU customs code which is a a set of rules covering customs matters in trade with non-EU countries. The aim is to ensure that customs practices in all EU countries are uniform. The first procedure to undertake is the one concerning The Economic Operator Registration and Identification (EORI) number which is a unique identifier given by customs authority in an EU country to all economic operators persons egaging in activities covered by EU customs legislation. Operators have to use this number in all communications with EU customs authorities when an EU-based identifier is required. The second step is the Entry Summary Declaration (ENS) which contains advance cargo information about the products that are entering the European Union. It must be accomodated at the first customs office of entry to the EU by the carrier of the goods, even if the product are not to be imported in the EU. The deadline for the accomodation depends on the mode of transport carrying the goods. This declaration requires information included in documents originating with the exporter. When good arrive at the customs office of entry to the EU, they are placed into temporary storage under customs supervision

⁴⁷ Unioncamere Piemonte, Camera di commercio di Torino (by), *L'esportazione degli alimenti dei Paesi extra-EU*, 2013, available at: https://www.to.camcom.it/sites/default/files/opportunita-europa/22229_CCIAATO_26112013.pdf (Last Access 4 October 2018).

until they are assigned different customs approved treatments which may be the release for free circulation which means that all the imports requirements have been met; the special procedures which are first the transit that can be both internal and external; second the storage which comprises customs warehousing and free zones; third the processing which means that when there is an inward processing, goods can be imported into the EU without being subject to duties or other formalities or the outward processing which implies that union goods may be temporarily exported from the customs territory of the Union for processing purposes and these processed goods may be released for free circulation with total of partial duties' exception. Another step is the one concerning the customs declaration and the Single Administrative Document (SAD). Goods are put under customs-approved treatment or use using this document. This document has several aims among which there is the ensuring openness in national administrative requirements, reduce administrative documentation, reduce the amount of request information and standardize and harmonize data. This document can be presented by the importer either electronically or by direct delivery to the office⁴⁸.

The aim of the first chapter of this work was to generally introduce the concept of food safety and its implications both at a global and European level, explaining which are the main authorities ruling in this sector. It also provides a broad explanation of how to dispatch goods between the European Member States, describing the preferential situation experienced by those countries which are part of the EEA EFTA. In the last part, there is the analysis of all the certificates required in order to export goods from the European Union to the extra- EU countries with particular regard to foodstuffs. The reason is to conduct the reader from a general presentation, which is the global situation, to the more specific one examined in the second chapter, which is the Chinese concept of food safety and all the requirements needed according to the Chinese applicable law for foreign enterprises willing to export in China.

⁴⁸ European Commission (by)., *EU import procedures*, available at: <http://trade.ec.europa.eu/tradehelp/eu-import-procedures> (Last Access 4 October 2018).

2. Food safety in People's Republic of China and regulations on products imported.

2.1 People's Republic of China's Food Safety Law

The regulation of food safety in China has developed in different stages with increased comprehensiveness and cohesion resulting from consecutive rounds of legal and regulatory change⁴⁹. The conception of food safety has progressively developed during the years that goes from 1984 to 2000s. An oversight mechanism was established with the Ministry of Health (MOH) taking the chief responsibility for overall food safety control and the Ministry of Agriculture (MOA) responsible for the production of main agricultural products. The beginning of the 21st century saw the necessity of production step control system and a series of food safety incident which demonstrated the presence of loopholes in the food safety chain and undermined consumer confidence in domestic food.

The strong attitude showed by the Chinese government against food safety incidents has its roots in Mao Zedong's harsh condemn to all food producers involved in the death of Chinese soldiers due to canned meat contaminated with botulism in 1950: they were all executed. After sixty years China is still facing food safety concerns. Before the economic reforms, China's primary interest was to supply adequate and sanitary food for its population; economic reforms brought increased privatization of both the food and agricultural industries and as a consequence food safety concerns in China now stems from the economic adulteration of food products⁵⁰. One of the most famous case of food safety incident recorded in China was the one linked to the melamine added in milk. In 2007 the addition of melamine into milk artificially boosts nitrogen levels, which, to buyers appeared as a higher level of protein in the milk, obtaining a better price for the producer. As a result, more than 300000 infants got sick; for this reason in 2009 two Chinese milk producers were condemned to death penalty. In this case although the municipality of the facility had the duty, due to food safety regulation, to report concerns it received regarding high levels of melamine in the products coming from its territory, they did not inform higher level officials for fear of losing the economic stimulus

⁴⁹ Kuhlmann K., Wang M., Zhou Y., *China Food Safety Legal and Regulatory Assessment*, 2017, available at: https://www.syngentafoundation.org/sites/g/files/zhg576/f/china_food_safety_-_legal_framework_2.pdf (Last Access 25 August 2018).

⁵⁰ Czarnezki J., Field C., Lin Y., *Global Environmental Law: Food Safety & China*, 2012, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2133551 (Last Access 25 August 2018).

of the milk industry⁵¹. When it was time to apologize, the municipality addressed its concern to government officials not to the families damaged. This event embodied one of the main problem afflicting China: corruption.

The melamine's case in 2007 was not the only one capturing the international attention: 2011 is known as China's food safety crisis year. Despite the existence of a basic legal infrastructure, all these laws, regulations, civil remedies and food safety control authorities do not adequately address China's food safety problems infact in 2011 there were several food safety scandals exposed to the public by the media like the cadmium polluted rice, excessive amounts of antibiotics residue in aquaculture seafood, waste oil, salted duck eggs containing cancer-causing dyes, contaminated pork etc. The food related incidents happened in 2011 can be categorized into three different groups throughout the food system: enviromental degradation in farms, excessive use of chemicals in agriculture production, and economic adulteration of food products. There is a strict link between enviromental issue and food safety and it is explained by the rice's case. Chinese current measures are not adequate to protect the farm enviroment. For example, chinese rice is heavily contaminated with cadmium; this is quite dangerous becacuse rice is the staple food for 65% of the population in China. In February 2011, a *Caixin*⁵² investigated article revealed that approximately the 10% of Chinese rice may be polluted by cadmium which is a heavy metal discharged in mine and industrial waste water that makes its way into rice paddies causing diseases. The article reported that inhabitants in Side located in Guangxi Province, who eat local rice in which there are high levels of cadmium, show terrible pain to their feet. The presence of this metal in chinese rice is caused by the soil and irrigation water's pollution. The main problem is that on the one hand, Chinese government failed to effectively enforce enviromental laws to prevent contamination of soil and irrigation water. On the other hand there is not an useful regulatory program to restrict planting rice on cadmium-polluted land. China's local government lacks rigourous program to prevent the contaminated rice to reach the market⁵³.

⁵¹ Czarnezki J., Field C., Lin Y., *Global Enviromental Law: Food Safety & China*, 2012, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2133551 (Last Access 25 August 2018).

⁵² Caixin is part of China's most influential media group called Caixin Media. This group has his headquarter in Beijing and it provides financial and business news and information through periodicals, online content, apps, conferences, books and TV/video programs. The Caixin news are recognized as independent among the Chinese investigative journalism panorama, and they are addressed to those seeking information about investments, business, policy et cetera.

⁵³ Czarnezki J., Field C., Lin Y., *Global Enviromental Law: Food Safety & China*, 2012, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2133551 (Last Access 25 August 2018).

As demonstrated by the cadmium case, there are still regulatory loopholes and law enforcement gaps in each stage from farm to table. Continuing to strengthen the existing environmental and food safety legal infrastructure and implementing key principles of rule of law may still be a solution to the problem.

A number of institutional actors, domestic and international, jointly regulate China's food safety system. Domestic regulators are further comprised of national and local actors⁵⁴. At a domestic level, China has enforced a major overhaul to promote a inter-agency coordination and regulatory redundancy both of which have been key stumbling blocks in prior rounds of implementation of the food safety system. The four main institutions governing food safety in China, with the central control of the State Council, are the *China Food and Drug Administration* (CFDA), the *General Administration of Quality Supervision, Inspection and Quarantine* (AQSIQ), the *Ministry of Agriculture* (MOA), the *National Health and Family Planning Commission* (NHFPC) which will be explained in the second paragraph of this chapter.

On April 24, 2015, the Standing Committee of China's National People's Congress revised the People's Republic of China 2009 Food Safety Law which came into force on October 1, 2015. Defined as the most austere food safety law ever existed, the revisions to the Food Safety Law are wide-ranging, imposing stricter controls and supervision on food production and management. This new Law now contains 10 chapters, 154 Articles, adding 50 new articles to the old one as well as other revisions. The main changes are regarding the record-keeping and registration mechanisms for food producers and importers; the online food platform; the health foods; the baby foods; the genetically modified foods; foods for special medical purposes and increased sanctions. For what concerns the record-keeping and registration mechanisms, since 2013 the State Council has established a more centralized system according to which food producers must maintain a record system to record the supply and examination of food ingredients, food additives and food-related products and food importers and importing agents must be recorded with the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ). As ordering food online has become a global trend and the safety of food purchased over the internet has raised issues, under the new Law

⁵⁴ Kuhlmann K., Wang M., Zhou Y., *China Food Safety Legal and Regulatory Assessment*, 2017, available at: https://www.syngentafoundation.org/sites/g/files/zhg576/f/china_food_safety_-_legal_framework_2.pdf (Last Access 25 August 2018).

suppliers of third-party online food trading platforms must re-examine a trader's permit and register the real identity of the trader. If a platform supplier becomes aware of the fact that there are some serious violations, he or she must stop the trader from such illegal activities and report the same to the local FDAs. Health foods that contain ingredients outside the approved list of health ingredients have to be registered with the CFDA; this recordal is required for those health foods that are imported for the first time and serve to supplement vitamins, minerals and other nutrients⁵⁵; the new Law prohibits labels and instructions of health foods referring to any preventive or therapeutic function and they should also contain this statement "this product cannot replace medicine". Functions and ingredients of the health foods must be consistent with what is stated on the label. Regarding baby foods the ingredients, food additives, formula and labels must be in compliance with what is required by the provincial level FDAs while formula for baby milk must be registered with the CFDA. Reports and other materials demonstrating the development process and safety of the formula must be submitted for formula registration. The amended Food Safety Law requires for genetically modified foods, that packaging must be labelled as such and all the information must be extremely accurate. The draft Implementing Regulations suggests that the words "non-genetically modified" cannot be used in genetically modified foods or genetically modified raw materials. For what concerns foods for special medical purposes, the Food Safety Law states that the formula foods must be registered with CFDA. The product formula, production technology, labels, instructions and materials showing the safety and nutritional suitability of the product and clinical effects of special medical use have to be submitted for product registration. The new Law also states that relevant regulations for pharmaceutical advertising apply to advertisements of foods for special medical purpose. The last major point of difference between the original 2009 Food Safety Law and the 2015 amended one, is the one concerning the sanctions. As will be explained shortly, compared to its previous version, the new Law impose harsher sanctions on food safety violations. The reason explaining why this new version of the Food Safety Law is considered to be the strictest food safety law in Chinese history, is that this was the Chinese government's attempt to crack down on food scandals that were affecting the country, leading to poor consumer confidence in domestic products. The new Law focuses more on the supervision and control of every single stage of food production, distribution, sale and recall. Under Article 2 we understand that the Law is applicable to food production, food distribution, food-related products and also on food e-commerce; the Article 2 specifically states:

⁵⁵ Sim A., Yang Y., "China: An Overview of the New Food Safety Law", *Food Safety Magazine*, 2016, available at: <https://www.foodsafetymagazine.com/enewsletter/china-an-overview-of-the-new-food-safety-law/> (Last Access 2 October 2018).

第二条 在中华人民共和国境内从事下列活动，应当遵守本法：

- (一) 食品生产和加工（以下称食品生产），食品销售和餐饮服务（以下称食品经营）；
- (二) 食品添加剂的生产经营；
- (三) 用于食品的包装材料、容器、洗涤剂、消毒剂和用于食品生产经营的工具、设备（以下称食品相关产品）的生产经营；
- (四) 食品生产经营者使用食品添加剂、食品相关产品；
- (五) 食品的贮存和运输；
- (六) 对食品、食品添加剂、食品相关产品的安全管理⁵⁶。

Article 2 Anyone engaging in any of the following activities shall comply with this Law:

- (I) food production and processing (hereinafter referred to as "Food Production"), food sales and restaurant service (hereinafter referred to as "Food Distribution");
- (II) production and distribution of food additives;
- (III) production and distribution of packaging materials, containers, detergents and disinfectants used for food and of tools and equipment (hereinafter referred to as "Food-Related Products") used for Food Production and Distribution;
- (IV) application of food additives and Food-Related Products by food producers or distributors; (V) Storage and transportation of food; and
- (VI) Safety management of food, food additives, and Food-Related Products.

The drafted Law also includes a section dedicated to the special alimentary products such as infants' food. The new Food Safety Law embodies the will to exercise a more strict control over the market. As a result, the Food Safety Law's recent reform makes the administrative control stronger and more coherent. The maximum amount of the pecuniary administrative penalty in case of Law violation can be, in the most severe cases, equal to thirty times the value of the products causing the breach as reported in Article 123 which states:

⁵⁶ People's Republic Of China's Food Safety Law (中华人民共和国食品安全法, *Zhonghua renmin gongheguo shipin anquan fa*), 2015. Available at http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 4 September 2018).

第一百二十三条 违反本法规定，有下列情形之一的，尚不构成犯罪的，由县级以上人民政府食品药品监督管理部门没收违法所得和违法生产经营的食品，并可以没收用于违法生产经营的工具、设备、原料等物品；违法生产经营的食品货值金额不足一万元的，并处十万元以上十五万元以下罚款；货值金额一万元以上的，并处货值金额十五倍以上三十倍以下罚款；情节严重的，吊销许可证，并可以由公安机关对其直接负责的主管人员和其他直接责任人员处五日以上十五日以下拘留：

(一) 用非食品原料生产食品、在食品中添加食品添加剂以外的化学物质和其他可能危害人体健康的物质，或者用回收食品作为原料生产食品，或者经营上述食品；

(二) 生产经营营养成分不符合食品安全标准的专供婴幼儿和其他特定人群的主辅食品；

(三) 经营病死、毒死或者死因不明的禽、畜、兽、水产动物肉类，或者生产经营其制品；

(四) 经营未按规定进行检疫或者检疫不合格的肉类，或者生产经营未经检验或者检验不合格的肉类制品；

(五) 生产经营国家为防病等特殊需要明令禁止生产经营的食品；

(六) 生产经营添加药品的食品。

明知从事前款规定的违法行为，仍为其提供生产经营场所或者其他条件的，由县级以上人民政府食品药品监督管理部门责令停止违法行为，没收违法所得，并处十万元以上二十万元以下罚款；使消费者的合法权益受到损害的，应当与食品生产经营者承担连带责任。

违法使用剧毒、高毒农药的，除依照有关法律、法规规定给予处罚外，可以由公安机关依照第一款规定给予拘留⁵⁷。

Article 123 If found to be in violation of the Law due to one of the following circumstances without committing any crime, the food producer or distributor shall have their illegal benefits, including food or food additives illegally produced or traded, as well as tools, equipment and food-related raw material which is used for illegal production or distribution, confiscated by the food and drug administrations of the people's governments at the county level and above, and shall be subject to a fine of RMB 100,000 - 150,000 if the total value of the commodity is less than RMB 10,000 or a fine between 15 and 30 times the total value of the commodity if the total value of the commodity exceeds RMB 10,000. In serious cases, their business license may be revoked and the principal that is directly responsible and in charge, as well as other directly responsible persons, may be detained for 5 to 15 days by the public security authorities:

⁵⁷ People's Republic Of China's Food Safety Law (中华人民共和国食品安全法, *Zhonghua renmin gongheguo shipin anquan fa*), 2015. Available at http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 4 September 2018).

- (I) Producing food with non-food raw material or adding chemicals other than food additives or other substances that may possibly be hazardous to human health to food, or producing food from recycled food as raw materials, or distributing said food;
- (II) Producing or distributing staple and supplementary food for infants or other specific populations whose nutritional ingredients fail to comply with food safety standards;
- (III) Distributing meat or meat products of poultry, livestock, animals, or aquatic animals that die from disease, poison, or any unidentified causes, or producing or distributing products derived from them;
- (IV) Distributing meat or meat products which have not been quarantined or inspected or producing or distributing meat or meat products which fail to pass such quarantine or inspection;
- (V) Producing or distributing food expressly prohibited from being produced or traded by the State for disease prevention and control purposes; and
- (VI) Producing or distributing food containing added medicine.

An one who provides production or distribution premises or other conditions for those engaging in the illegal acts referred to in the preceding paragraph shall be ordered to cease such illegal acts and confiscated of the illegal earnings by the food and drug administrations of the people's governments at the county level and above, and shall be subject to a fine of RMB 100,000 to RMB 200,000. If the lawful rights and interests of consumers are damaged, such person shall, together with the producers and distributors of the food and food additives, be held jointly and severally liable.

In addition to the punishment prescribed by laws and regulations, any one who illegally uses extremely or highly poisonous pesticides may be detained by the public security authority in accordance with Item (I) hereof.

There are also more rigid consequences for those who are condemned: the individual sentenced to be detained or worse because of their crime against the food safety, are banned for life from being involved again in the production or commercialization of food. The effects of the reform have to be evaluated yet. Following the Chinese juridical tradition, several norms of the Chinese Food Safety Law confer power to public authorities, this means that in order to make the Law applicable it is necessary to issue numerous administrative regulations.

The amended Food Safety Law has a copious section dedicated to the production and distribution of food, Chapter 4 called *Food Production and Distribution*, in which it is possible to

underline four key points⁵⁸: first, self-regulation and governmental oversight work in tandem; second, China has pursued larger scale production through consolidation or upscaling; third, the Law's reform now expands its scope and extends regulation to new domains; fourth, it also clarifies rules governing food additives and food related products. Referring to the first point there is a growing emphasis on self-regulation showed by producers and distributors on their obligation to establish and maintain a traceability system, using information technology; a health management system for their professionals and a self-inspection system. The Draft Implementation Regulation of the Food Safety Law in 2016 also obligates producers and distributors to record and keep separate expired or rotten foods, food additives or food-related products. In the production phase enterprises and farm cooperatives must constitute a production record; they must follow food safety standards and State regulations regarding agricultural matters such as pesticides⁵⁹. The Regulation also has an entire section regarding the distribution of edible agricultural products, which establishes obligations for both market operators and traders. The State also provides guidance and supervision, from the suitability of operation to market design. In fact all the parties involved in the production and distribution must first obtain licenses from the State. Traceability is the cornerstone of State's engagement with the whole supply chain; ministerial and national food safety traceability systems have been launched or planned. Both producers and distributors have the responsibility to ensure the quality of products of their downstream and upstream actors. For producers, a verification record must be created for incoming food raw materials, food additives and food-related products; they also have to verify the supplier's license and products' compliance certificate, in order to attest their compliance with food safety standards. For exported food, producers must establish and maintain an inspection record.

According to the second point mentioned before, the State has the aim to create a larger scale production through consolidation or upscaling, for two different reasons. The first one is due to the fragmented nature of Chinese food industry, with 190 million farms for crops, milk and meat has

⁵⁸ A transcription of the section dedicated to the production and distribution of food is English available at: https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Amended%20Food%20Safety%20Law%20of%20China_Beijing_China%20-%20Peoples%20Republic%20of_5-18-2015.pdf ; and in Chinese at: http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 4 September 2018).

⁵⁹ Kuhlmann K., Wang M., Zhou Y., *China Food Safety Legal and Regulatory Assessment*, 2017, available at: https://www.syngentafoundation.org/sites/g/files/zhg576/f/china_food_safety_-_legal_framework_2.pdf (Last Access 25 August 2018).

made management and supervision of upstream supply chain to face food safety incidents. On the other hand a larger scale production promotes regulatory enforcement by reducing the number of actors to be controlled, internalizing supervision and driving efficiency. It also helps to remove financial and educational deficiencies of small actors, which has been one of the major causes in past food safety incidents. The amended Food Safety Law pushes local authorities at all levels to promote larger scale production and chain operation and distribution of food. Despite all the attempts, industry fragmentation is still high, while large-scale production remains scarce. The improvements of the amended Food Safety Law are yet to be tested.

Referring to the third point the new Food Safety Law broadens its scope and enlarge regulation to new domains. The Law describes responsibilities relating to storage and transportation. Anyone undertaking storage and transportations must conform to hygiene standards and prevent the use of harmful or toxic materials; it also adds requirements related to commisioned storage and transportation services, traceability records, and record filling for food storage and transportation companies which do not produce food.

The last point was the one related to the Food Safety Law and its power of clarifying rules governign food additives and food related products. Companies producing food additives must obtain a license and can only use those additives included in the list of National Food Safety Standard for of Additives (GB2760-2015)⁶⁰. With respect to food-related products, products with a high risks, such as packaging materials that come in direct contact with food, must obtain a production license. Food producers and trader are also obligated to recall affected produts upon the discovery of unsafe food, and online trading platforms do have obligations to stop and report violations when discovered.

The formal legal system follows the Food Safety Law but several remarkable improvements have been made in order to expand the list of activities and actors that are subject to legal liabilities. For example food producers or distributors who produce or distribute food with potentially harmful

⁶⁰ GB stands for 国标 *guobiao* which means national standard. The scope of this standards his described as “ 1 Scope This standard specifies the principles for application of food additives, allowed food additive varieties, scope of application, and maximum level or residue levels. “ A transcription of the Chinese Standards for Ford Additives-GB2760-2015 is available at: [https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Standard%20for%20Food%20Additive%20Use%20-%20GB2760-2015 Beijing China%20-%20Peoples%20Republic%20of 4-28-2015.pdf](https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Standard%20for%20Food%20Additive%20Use%20-%20GB2760-2015%20Beijing%20-%20Peoples%20Republic%20of%204-28-2015.pdf) (Last Access 2 October 2018).

non-food raw materials or chemical other than food-additives or who fail to meet Chinese national standards as is reported in the Food Safety Law's Chapter 9 Legal Liabilities, Article 122 which states:

第一百二十二条 违反本法规定，未取得食品生产经营许可从事食品生产经营活动，或者未取得食品添加剂生产许可从事食品添加剂生产活动的，由县级以上人民政府食品药品监督管理部门没收违法所得和违法生产经营的食品、食品添加剂以及用于违法生产经营的工具、设备、原料等物品；违法生产经营的食品、食品添加剂货值金额不足一万元的，并处五万元以上十万元以下罚款；货值金额一万元以上的，并处货值金额十倍以上二十倍以下罚款。

明知从事前款规定的违法行为，仍为其提供生产经营场所或者其他条件的，由县级以上人民政府食品药品监督管理部门责令停止违法行为，没收违法所得，并处五万元以上十万元以下罚款；使消费者的合法权益受到损害的，应当与食品、食品添加剂生产经营者承担连带责任⁶¹。

Article 122 Food producers or distributors who violate the Law by engaging in unauthorized food production, distributing activities or production of food additives, shall have their illegal benefits, including food or food additives illegally produced or distributed, as well as tools, equipment and food-related raw material which is used for illegal production or distribution, confiscated by the food and drug administrations of the people's governments at the county level and above, and shall be subject to a fine of RMB 50,000 - 100,000 if the total value of the food or food additive is less than RMB 10,000 or a fine between 10 and 20 times the total value of the commodity if the total value of the commodity exceeds RMB 10,000.

Anyone who provides production or distribution premises or other conditions for those engaging in the illegal acts referred to in the preceding paragraph shall be ordered to stop such illegal acts and confiscated of the illegal gains by the food and drug administrations of the people's governments at the county level and above, and shall be subject to a fine of RMB 50,000 to RMB 100,000. If the lawful rights and interests of consumers are damaged, such person shall, together with producers and distributors of food and food additives, be held jointly and severally liable.

Food operators of central trading markets, organizers of trade fairs who fail to perform all of their obligations and inspections as is reported in Article 130 which states:

第一百三十条 违反本法规定，集中交易市场的开办者、柜台出租者、展销会的举办者允许未依法取得许可的食品经营者进入市场销售食品，或者未履行检查、报告等义务的，由县级以上人民

⁶¹ People's Republic Of China's Food Safety Law (中华人民共和国食品安全法, *Zhonghua renmin gongheguo shipin anquan fa*), 2015. Available at http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 4 September 2018).

政府食品药品监督管理部门责令改正，没收违法所得，并处五万元以上二十万元以下罚款；造成严重后果的，责令停业，直至由原发证部门吊销许可证；使消费者的合法权益受到损害的，应当与食品经营者承担连带责任⁶²。

Article 130 If any operators of central trading markets, stall leasers, and organizers of trade fairs permit food distributors without a license for food production, distribution or provision of catering services to sell food in the market in violation of this Law, or fails to perform their inspection or reporting obligations, the food and drug administrations of the people's governments at the county level and above may order them to rectify, confiscate illegal gains, and concurrently impose a fine between RMB 50,000 and RMB 200,000, and, if serious consequences are caused, order suspension of operations for rectification and revocation of its license by the original issuer. In the case that the lawful rights and interests of consumers are damaged, such operators shall be held jointly and severally liable with the food producers and operators.

Certification agency that provides false certifications as states in Article 138; media that gives false information that may cause harm to consumers as is reported in Article 131 which states:

第一百三十一条 违反本法规定，网络食品交易第三方平台提供者未对入网食品经营者进行实名登记、审查许可证，或者未履行报告、停止提供网络交易平台服务等义务的，由县级以上人民政府食品药品监督管理部门责令改正，没收违法所得，并处五万元以上二十万元以下罚款；造成严重后果的，责令停业，直至由原发证部门吊销许可证；使消费者的合法权益受到损害的，应当与食品经营者承担连带责任。

消费者通过网络食品交易第三方平台购买食品，其合法权益受到损害的，可以向入网食品经营者或者食品生产者要求赔偿。网络食品交易第三方平台提供者不能提供入网食品经营者的真实名称、地址和有效联系方式的，由网络食品交易第三方平台提供者赔偿。网络食品交易第三方平台提供者赔偿后，有权向入网食品经营者或者食品生产者追偿。网络食品交易第三方平台提供者作出更有利于消费者承诺的，应当履行其承诺⁶³。

Article 131 If any third party platform provider of online food trading fails to conduct real-name registration with admitted food distributors, examine their licenses, or fails to perform reporting obligations and cease provision of services in violation of this Law, the food and drug administrations of the people's governments at the county level and above may order them to rectify, confiscate illegal gains, and concurrently impose a fine between RMB 50,000 and RMB 200,000, and, if serious consequences are caused, order the

⁶² People's Republic Of China's Food Safety Law (中华人民共和国食品安全法, *Zhonghua renmin gongheguo shipin anquan fa*), 2015. Available at http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 4 September 2018).

⁶³ *Ibidem*.

suspension of operations for rectification and revocation of its license by the original issuer. In the case that the lawful rights and interests of consumers are damaged, such operators shall be held jointly and severally liable with the food producers and operators.

Any consumer whose lawful rights and interests are damaged due to purchase of food via any third-party platform of online food trading may claim indemnification against the distributor or producer of such admitted food. If the third party platform provider of online food trading fails to provide the real name, address, and valid contact of the admitted food distributor, such provider shall be liable for indemnification. After indemnification, the third party platform provider of online food trading may recover its loss from the admitted food distributor or food producer. In the event that such provider made any commitment in favor of consumers, such commitment shall be maintained.

Negligence of government officials in performing their duties related to the control of food safety. It is important to notice that the amended Food Safety Law works in tandem with the Advertising Law and trains different involved actors. For instance, an advertiser or publisher who designs, directs or publishes false food advertisements or other individuals or associations who recommend that particular product to consumers may be severally punished along with the distributors and producers as reported in Article 140 which states:

第一百四十条 违反本法规定，在广告中对食品作虚假宣传，欺骗消费者，或者发布未取得批准文件、广告内容与批准文件不一致的保健食品广告的，依照《中华人民共和国广告法》的规定给予处罚。

广告经营者、发布者设计、制作、发布虚假食品广告，使消费者的合法权益受到损害的，应当与食品生产经营者承担连带责任。

社会团体或者其他组织、个人在虚假广告或者其他虚假宣传中向消费者推荐食品，使消费者的合法权益受到损害的，应当与食品生产经营者承担连带责任。

违反本法规定，食品药品监督管理等部门、食品检验机构、食品行业协会以广告或者其他形式向消费者推荐食品，消费者组织以收取费用或者其他牟取利益的方式向消费者推荐食品的，由有关主管部门没收违法所得，依法对直接负责的主管人员和其他直接责任人员给予记大过、降级或者撤职处分；情节严重的，给予开除处分。

对食品作虚假宣传且情节严重的，由省级以上人民政府食品药品监督管理部门决定暂停销售该食品，并向社会公布；仍然销售该食品的，由县级以上人民政府食品药品监督管理部门没收违法所得和违法销售的食品，并处二万元以上五万元以下罚款⁶⁴。

⁶⁴ People's Republic Of China's Food Safety Law (中华人民共和国食品安全法, *Zhonghua renmin gongheguo shipin anquan fa*), 2015. Available at http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 4 September 2018).

Article 140 Anyone who makes false advertisements to cheat consumers or that releases health care food advertisements without approval documents or which are inconsistent with the approval documents shall result in punishment in accordance with the Advertising Law of the People's Republic of China. Any advertiser or publisher who designs, directs, or publishes false food advertisements that cause damage to the lawful rights and interests of the customers shall be held jointly and severally liable with the food producer and distributor.

Civil societies or other organizations or individuals who recommend a food to consumers in untruthful advertisements or other false promotion that has caused damage to the lawful rights and interests of the customers shall be held jointly and severally liable with the food producer and distributor.

Any food and drug administration, institution for food inspection, or food industry association that recommends food to consumers via advertising or any other form, or consumer association that recommends food to consumers by charging fees or by other profitable means in violation of the Law, shall be subject to confiscation of the illegal benefits by the relevant competent authorities, and the manager and other personnel directly responsible shall be punished by means of a special demerit, demotion or removal from office; in serious circumstances, they shall be dismissed.

In the case of false promotion of food with serious circumstances, the food and drug administrations of the people's governments at the provincial level and above shall order the suspension of the sale of such food and disclose such order to the public. In the event that the sale of such food is continued, the food and drug administrations of the people's governments at the county level and above shall confiscate the illegal earnings and illegally sold food and shall impose a fine of RMB 20,000 to RMB 50,000.

Another important improvement that has been made thanks to the amendment of the Food Safety Law is the one regarding the cooperation between different administrative, judicial, public security authorities. For example a joint publication of significant measures by the China Food and Drug Administration (CFDA), the Ministry of Public Security, the Supreme People's Court, Supreme People's Procuratorate and the Office of State's Council's Food Safety Commission were issued in December 2015⁶⁵. In addition, several provinces have created special units regarding food and drug

⁶⁵ Kuhlmann K., Wang M., Zhou Y., *China Food Safety Legal and Regulatory Assessment*, 2017, available at: https://www.syngentafoundation.org/sites/g/files/zhg576/f/china_food_safety_-_legal_framework_2.pdf (Last Access 25 August 2018).

violations, which are usually part of the police force. By giving a preliminar examination of this coordination between different departments it is possible to notice that on one side, both police and prosecution have prioritized food safety crimes; but according to the administrative agents, the bar for opening a formal criminal investigation remains too high. The police infact has this attitude to dismiss charges beacuse of lack of sufficient evidences. The amended Food Safety Law asks common citizens to collaborate with the police when it comes to report some problems; in addition to this the Law gives the authority the right to punish anyone that takes revenge over the witness of a particular case.

There is also the possibility of joining consumer associations that are achieving several successes. Individual consumers, infact, have to face two barriers when it comes to report possible food safety incidents. First, consumers education is not adequate enough; people tend to be unaware of what are the actual standards required by the Law and what are the channels of legal recourse. Moreover, media when not properly informed can only increase this lack of preparation blocking the flow of accurate information. Second, even when they have the necessary awareness, consumers have to face several challenges; if they have the suspect that there is a food safety problem, they would first seek to obtain evidence, usually testing results from a food testing agency but this could be very expensive because these agencies are not open to individuals they tend to prioritize their business relationships with government agencies, food companies or consumer associations.

2.2 People's Republic of China's Food Safety Authorities

As has been already described, the four principal authorities governing the food safety in China are the *China Food and Drug Administration* (国家食品药品监督管理局, *Guojia shipin yaopin jiandu guanli zongju*)⁶⁶, the *General Administration of Quality Supervision, Inspection and Quarantine* (中华人民共和国国家质量监督检验检疫总局, *Zhonghua renmin gongheguo guojia zhiliang jiandu jianyan jianyi zongju*)⁶⁷, the *Ministry of Agriculture* (中华人民共和国农业部, *Zhonghua Renmin Gongheguo Nongyebu*)⁶⁸, the *National Health and Family Planning Commission*

⁶⁶ China Food and Drug Administration's official website is available at: <http://eng.sfda.gov.cn/WS03/CL0755/> (Last Access 28 September 2018).

⁶⁷ General Administration of Quality Supervision, Inspection and Quarantine's official website is available at: <http://english.aqsq.gov.cn> (Last Access 28 September 2018).

⁶⁸ Ministry of Agriculture's official website is available at: <http://english.agri.gov.cn> (Last Access 28 September 2018).

(中华人民共和国国家卫生和计划生育委员会, *Zhonghua Renmin Gongheguo Guojia Weisheng He Jihua Shengyu Weiyuanhui*)⁶⁹.

Before giving a detailed description of the obligations of these four authorities, it is important to underline that these entities answer to the State Council (中华人民共和国国务院, *Zhonghua Renmin Gongheguo Guowuyuan*)⁷⁰ which is the executive body of the supreme organ of state power, basically it is the supreme organ of State administration. Among its functions there is the adoption of administrative measures, the authorization of administrative regulations and the issue of decisions and orders in accordance with the Constitution and other laws; it also submits proposals to the National People's Congress or its Standing Committee and it formulates the tasks and responsibilities of the ministries and commissions of the State Council.

The China Food and Drug Administration was created in 2013 on the basis of the already existing State Food and Drug Administration; particularly it stems from the merging of the Office of Food Safety Commission of the State Council, the State Food and Drug Administration (SFDA) and the food safety function of the State Administration of Industry and Commerce (SAIC). There was a rebranding and restructuring of the previous authorities, elevating this new one to a ministerial-level agency. Also the China Food and Drug Administration wasn't excluded by all the scandals related to corruption, in fact in 2007 the CFDA's former president, Zheng Xiaoyu⁷¹, was executed because he was taking bribes from various firms in exchange for state licenses related to product safety. The CFDA is the first centralized authority in charge of food safety. It administers and regulates the entire domestic supply chain with the Ministry of Agriculture (MOA); the CFDA's duties regards the production, distribution, safety management, storage and transportation. At the end

⁶⁹ National Health and Family Planning Commission's official website is available at: <http://en.nhfpc.gov.cn> (Last Access 28 September 2018).

⁷⁰ State Council's official website is available at: <http://english.gov.cn> (Last Access 28 September 2018).

⁷¹ Zheng Xiaoyu was the director of State Pharmaceutical Administration from 1994 to 1998, head of the State Drug Administration from 1998 to 2003 and director of the State Food and Drug Administration from 2003 to 2005. In May 2007, he was condemned because guilty of taking bribes and dereliction of duty and he was sentenced to death. His corruption is known to have lead to 40 deaths in Panama from cough syrup, because Zheng approved unproven and unsafe medicines after taking bribes from several pharmaceutical companies while controlling the Chinese food and drug safety. It is also demonstrated that during his mandate, Zhang personally ordered approvals of more than one hundred thousands new medicines, which is a quite elevated number for the authority; later it has been proved that all the medicines he approved were coming from all the pharmaceutical companies which were giving him bribes. Although Zheng entered an appeal for leniency, claiming that the sentence was too severe, the court ruled that he was a great danger to the country and its reputation. The appeal was rejected and he was executed.

the CFDA have comprehensive legislative, supervisory, managerial, investigative and educational authority.

In a more specific way: in its rule-making capacity, the CFDA drafts law, regulations and policy plans for the administration of food safety, drugs (including traditional Chinese medicines and ethno medicines), medical devices and cosmetics; plays its role in the formulation of food safety standards and takes care of food risk management and facilitate the establishment and implementation of food safety responsibility mechanism. In its supervisory role, CFDA directly controls their implementation, formulate national wide inspection for food safety and programs for major controls actions, it also participate in codifying food safety monitoring plans and food safety standards. In its managerial role, CFDA coordinates national and local regulators; while facing emergency and food safety incidents, CFDA guides emergency responses, conducts investigations and organize punishment on major violations, it also establish recall and disposal systems for defect products. CFDA undertakes the public communication, education and training, and international exchanges and cooperation in the field of food and drug safety and promote the establishment of a credibility system⁷².

The China Food and Drug Administration is responsible for registration of medical devices for the Chinese market. All medical devices are divided by the CFDA according to their risk. There are three different classes depending on risk classification and different aspects are required: for example for medical devices of class I, product tests are sometimes required while for medical devices of class III, product tests are always required.

The second major authority governing food safety in China is the General Administration of Quality Supervision, Inspection and Quarantine. The AQSIQ was founded in 2001 and it is an administrative organ directly under the State Council of the People's Republic of China which is in charge of the work of quality, metrology, exit animal and plant quarantine, import-export food safety, certification and accreditation, standardization throughout the country and execution of administrative law-enforcement⁷³. Among its duties the AQSIQ is responsible for organizing the

⁷² Kuhlmann K., Wang M., Zhou Y., *China Food Safety Legal and Regulatory Assessment*, 2017, available at: https://www.syngentafoundation.org/sites/g/files/zhg576/f/china_food_safety_-_legal_framework_2.pdf (Last Access 25 August 2018).

⁷³ AQSIQ (by)., *Brochure on Entry-Exit Inspection and Quarantine-国家质检总局, Guojia zhi jian zongju*, in 中华人民共和国国家质量监督检验检疫总局 (Zhonghua renmin gongheguo guojia zhiliang jiandu jianyan jianyi zongju) General Administration of Quality Supervision, Inspection and Quarantine, 2008, available at: http://www.aqsiq.gov.cn/xxgk_13386/jgfl/tgyws/200804/t20080424_70728.htm (Last Access 1 September 2018).

drafting of proposals of the laws and regulations in relation to entry-exit inspection and quarantine, to investigate the policies governing the entry-exit inspection and quarantine work, to implement and supervise the laws and regulations concerning its duties and it is responsible for the work on technical regulations related to inspection and quarantine throughout the country. This authority administers also the entry-exit inspection and quarantine at ports and it undertakes the responsibility of issuing control of GPS certificates of origin and general certificates of origin for goods. The AQSIQ has also the duty of controlling and monitoring the sanitary supervision and treatment, analysing the epidemic situations and to publish epidemic notice and alert notification if needed. It also participates in standard-setting with international organizations such as the International Organization for Standardization⁷⁴ (ISO) and implements two food safety related agreement under the World Trade Organization (WTO): the WTO Technical Barriers to Trade Agreement (TBT Agreement) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). As written in the first chapter of this work, the SPS Agreement requires all the WTO Members to base their SPS measures on the analysis of objective and authentic scientific data, incites them to constitute methods consistent with international standards and recommendations and obliges them to give notifications to other countries of any new or modified SPS requirements that affect trade.

Two vice-ministerial level departments within AQSIQ are fundamental to food safety regulation. On one hand, the Certification and Accreditation (CNCA)⁷⁵ which manages, supervises and coordinates certification and accreditation activity over the country. On the other hand, the Standardization Administration (SAC)⁷⁶ manages standardization in the country pursuant the Standardization Law⁷⁷.

⁷⁴ The International Organization for standardization (ISO) is an international standard- setting body composed of representatives from differnt stadards organization. It was founded on 23 February 1947 and its aim is to promote worldwide proprietary, industrial and commercial standards. It has is headquarted in Switzerland and worksin 162 countries.

⁷⁵ Certification and Accreditation Administration's official website is available at: <http://english.cnca.gov.cn> (Last Access 1 October 2018).

⁷⁶ Standardization Administration's official website is available at: <http://www.sac.gov.cn/sacen/> (Last Access 1 October 2018).

⁷⁷ Kuhlmann K., Wang M., Zhou Y., *China Food Safety Legal and Regulatory Assessment*, 2017, available at: https://www.syngentafoundation.org/sites/g/files/zhg576/f/china_food_safety_-_legal_framework_2.pdf (Last Access 25 August 2018).

The third body playing an important role in managing the Chinese food safety is the Ministry of Agriculture. It was founded in 1954 and it is responsible for the supervision and management of edible agricultural products, prior to their commercialization on the market. It also regulates agricultural inputs such as seeds, chemicals, veterinary drugs but also animal slaughter and epidemic prevention and quarantine.

The fourth and last main Chinese food safety authority was the National Health and Family Planning Commission which was founded in 2013 and dissolved in 2018. The NHFPC had two primary roles in food safety: food safety standards setting and risk assessment. It was created by combining the former Ministry of Health (MOH) and National Population and Family Planning Commission. When its ministry was dissolved in 2018, its functions were integrated into the new agency called the National Health Commission of the People's Republic of China which is main duties and obligations will be related to the formulation of national health policies, coordinating and advancing medical and healthcare reform, establishing a national basic medicine system and supervising and administering public health, medicare and health emergencies, as well as family planning services.

There are also other minor national authorities performing supporting activities. There is the Ministry of Commerce (中华人民共和国商务部, *Zhonghua Renmin Gongheguo Shangwubu*)⁷⁸, which have the duty to divide plans and policies for catering services and distribution of alcohol products and takes the lead on WTO-connected issues. It also controls national traceability system for vegetables and meat. Another entity is the State Administration for Industry and Commerce (国家工商行政管理总局, *Guowuyuan Gongshang Xingzheng Guanli Zongju*)⁷⁹ whose aim is the supervision of advertisement related to food. The Ministry of Public Security (中华人民共和国公安部, *Zhonghua Renmin Gongheguo Gong'anbu*)⁸⁰ is integral to the enforcement mechanism.

Local authorities also supervise food safety management; under the control and guidance of local people's government, local branches of national ministries and they administer and manage food safety in their respective local jurisdictions. Local entities have wide legislative, administrative

⁷⁸ Ministry of Commerce's official website is available at: <http://english.mofcom.gov.cn> (Last Access 1 October 2018).

⁷⁹ State Administration for Industry and Commerce's official website is available at: <http://home.saic.gov.cn/english/> (Last Access 1 October 2018).

⁸⁰ Ministry of Public Security's official website is available at: http://english.gov.cn/state_council/2014/09/09/content_281474986284154.htm (Last Access 1 October 2018).

and enforcement power⁸¹. For example they have the faculty of establishing standards, sometimes filling voids in the national ones. Also the Food Safety Law gives local authorities obligations demonstrating the policy shift towards the local management model. National and local actions interact through delegation and supervision. For instance, the MOA delegates authority to the following local branches: provincial department of agriculture, municipal bureau of agriculture and county bureau of agriculture. The central government also supervises local authorities activities; for example in 2016 the State Council issued a regulation detailing the evaluation of procedures of local authorities.

As explained in details in the first chapter of this work, internationally the Codex Alimentarius Commission and the World Trade Organization play a central role in governing food safety. China, with the China Food and Drug Administration, is an active member of the CAC taking part to the formulation of international food safety standards, guidelines, codes of practice and other recommendations.

2.3 People's Republic of China's Food Safety Law on food import-export: practices.

Chinese Food Safety Law dedicates food import-export the Heading VI (Article 91-101). The protocol governing the food import-export is dominated by a principle of uniform treatment, which means that all the food entering into the People's Republic of China or the food commercialize on the Chinese market must respect the applicable law that is applied on the domestic counterpart. The principle is embodied by the Food Safety Law's Article 92 which states:

进口的食品、食品添加剂、食品相关产品应当符合我国食品安全国家标准。⁸²

⁸¹ Kuhlmann K., Wang M., Zhou Y., *China Food Safety Legal and Regulatory Assessment*, 2017, available at: https://www.syngentafoundation.org/sites/g/files/zhg576/f/china_food_safety_-_legal_framework_2.pdf (Last Access 25 August 2018).

⁸² People's Republic Of China's Food Safety Law (中华人民共和国食品安全法, *Zhonghua renmin gongheguo shipin anquan fa*), 2015. Available at http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 4 September 2018).

Imported food and food additives and Food-Related Products shall comply with China's national food safety standards.

Only the products consistent with Chinese national standards can be introduced in China. If a product complies with both foreign and international standard but it doesn't comply with the Chinese national standard, maybe because this standard doesn't exist, it will be necessary to register the standard to the NHFPC. The one who has the duty to do so is the producer or the foreign exporter, or the importer who has been entrusted by the exporter. If the standard's exam is approved by the authorities, the NHFPC temporarily approves it and starts creating an equivalent Chinese standard. The NHFPC's approval is also necessary for those products which are made from new raw materials, new food additives and new food-related products.

Once at the customs, incoming products have to be controlled by local EEIQBs. This acronym stands for Entry-Exit Inspection and Quarantine Bureau; these bureaus have the aim of verifying the correspondence of the label to the requirements set out by the Chinese national standards and controlling the authenticity and quality of the products. The AQSIQ exercises the supervision among the import and establishes requirements applicable to products. According to the China Food Safety Law of 2015, food and food additives have to be accompanied by a conformity certificate as stated by the AQSIQ.

According to Article 94, it is absolutely forbidden the import of products which are not in compliance with Chinese laws, regulations and standards when it comes to food safety. The producer or foreign exporter have to answer to the conformity of the products to the Chinese law as well as of the label's content and of the instructions reported on the envelopes. For what concern the labelling, the main rule is that they have to be written in Chinese.

The exporter which are willing to introduce their products in China as well as the importer who directly introduce them on the Chinese market, have to proceed with the record filling before the AQSIQ; food producers in China have to make the registration before the same authority. The main difference among the two is that while the registration requires a positive feedback from the authority, the record filling doesn't; in fact once the documents have been presented, it is possible to carry out the activity without waiting to hear from the authority⁸³. The foreign products registration is not

⁸³ GWA (by)., *Le regole del Food&Beverage in Cina: una guida introduttiva*, available at: http://gwa-asia.com/admin/upload/GWA_LE%20REGOLE%20DEL%20FOOD%20&%20BEVERAGE%20IN%20CINA.pdf (Last Access 4 September 2018).

accepted when, while submitting the registration, are presented false data or in case of incidents caused by the imported product. The AQSIQ regularly update the list of exporter and importer and foreign producers registered.

The Chinese Food Safety Law gives a very central role to the importer, who has very serious responsibility. The reason which move toward this direction is that it is better to have a Chinese counterpart who has the same obligations of the producer or foreign exporter because he or she has a Chinese citizen is easily controllable and actionable. Consequently, the Chinese importer is firsthand responsible of non-conformity of the products to the 国标 *Guobiao*⁸⁴; he or she has to keep a record of the import and sales of food, bringing also the name of the products, the quantity, date of production, import or production's number, expiration date and all the relative information to the exporter and the buyer. He or she is obliged, according to Article 94, to adopt a control system in order to promptly verify if the products are in compliance with the law; in case he or she discovers that the product have some sort of discrepancy with the Chinese law, he or she is compelled to cease the importation of that specific product and he or she must also recall all the products already placed on the market.

As said previously, once at the customs products are controlled by the local EEIQBs, which have the duty to verify that the products are in compliance with the Chinese national standards. In addition, these bureaus have to publish the results of their inspections, in order to make the public aware. This is a quite difficult process that will be described in the following paragraphs.

The producers, foreign exporters and Chinese importers have to provide their data to the AQSIQ. From the October 1, 2015 they have to submit a registration or a record filling through an online platform. At the end of this procedure, the subject obtains a registration number and his or her nominative or company name are entered into a public list. This procedure also required the payment of a registration fee and it is valid for three years, after these three years it can be renewed *ad libitum*. Once the products are physically entering into China, it will be necessary to provide the name of the exporter and importer as well as their registration numbers.

In order to go through the customs, the products must have a Certificate of Inspection and Quarantine for Entry Goods; this certificate which attests the products' conformity to the Chinese regulation on food safety, is issued by the local EEIQB at the end of a procedure that requires several steps.

The first of them is the Application for Quarantine and Inspection to which must be attached a copy of the contract thanks to which the products can be commercialized in China; an invoice issued

⁸⁴ 国标 *Guobiao* stands for national standards.

by the exporter; a bill of lading; a packing list; a weight note; an inspection and quarantine record released by the country of origin and an origine certificate released by the authority of the exporter country. The second step is the calculation and collection of the inspection and quarantine fees; next is the products' sampling; the fourth step is the actual inspection and quarantine, made on the spot or in isolation according to the cases. If the exam has a positive response, it will be issued a Certificate for the clearance of goods; if the inspection has a negative result, there is the so called corrective treatment which impose the decontamination, return or destruction of the products. If the decontamination has a positive result, the authority gives the pass to the clearance of the goods. In case of impossibility to obtain a Certificate of inspection and quarantine, the authority releases a record which will give the exporter the possibility to ask for a compensation.

The control made by the EEIQB is also referred to the products' label which has to be approved through the release of a Certificate of Food Labeling Verification. The relative procedure is taken at the AQSIQ and at the local EEIQB. While the process taken at the AQSIQ in Beijing is always the same, the process taken at the local EEIQB changes from place to place. For example if the local EEIQB is the Shanghai one, the application must be submitted at the Pudong district; the bureau makes a preliminary exam and if it has a positive result, the office accepts the application and ask the subject to pay the procedure's fee and also ask he or she to send samples of the product to the Chinese Academy of Inspection and Quarantine (CAIQ)⁸⁵, which has its headquarter in Beijing. At this stage, the EEIQB gives the product's label and the presented documents a substantial exam, transmits the procedural documents, along with its evaluation, to the AQSIQ. This transmission must be done within seven days from the admission of the application. In the meantime, the Chinese Academy of Inspection and Quarantine conducts the conformity exam and transmits its results to the AQSIQ. At this point the AQSIQ decides if accepting or not the label; and if positive the Authority issue the certificate within ten days from the day in which it decided that the label was consistent with the Chinese regulations; if negative the Authority has to write down the reasons explaining its decision⁸⁶.

⁸⁵ Chinese Academy of Inspection and Quarantine's official website is available at: <http://www.caiq.org.cn/eng/> (Last Access 1 October 2018).

⁸⁶ GWA (by)., *Le regole del Food&Beverage in Cina: una guida introduttiva*, available at: http://gwa-asia.com/admin/upload/GWA_LE%20REGOLE%20DEL%20FOOD%20&%20BEVERAGE%20IN%20CINA.pdf (Last Access 4 September 2018).

When it comes to circumstances of damage or danger, some of the subjects involved in the production and distribution of food, have to implement some specific measures in order to neutralize the danger and reduce any damage. Basically these measures refers to the production or distribution's cessation; to the notification to all the parts involved about the danger or to the recalling of the products already placed on the Chinese market. These emergency measures are covered by the Article 63 of the Food Safety Law which states:

国家建立食品召回制度。食品生产者发现其生产的食品不符合食品安全标准或者有证据证明可能危害人体健康的，应当立即停止生产，召回已经上市销售的食品，通知相关生产经营者和消费者，并记录召回和通知情况⁸⁷。

The State shall establish a food recall system. In the event that a food producer finds that the food being produced does not comply with food safety standards or is proven to likely endanger human health, the food producer shall immediately stop production of the food, recall the food product released to the market, notify relevant producers, distributors and consumers, and create a record on recalls and notifications.

Analogue obligations exist referred to the food distributor (Article 63 paragraph 2) and to the importer (Article 94). Once the call has been made, the producer and the distributor have to adopt the right measures in order to avoid that the recalled products are placed on the market another time (Article 63 paragraph 3) and they also have to give notification to the local Food and Drug Authority, which can also decide to conduct inspections on site (Article 63 paragraph 4). Article 63 of the amended Food Safety Law shows some differences with the Article 53 of the 2009 Food Safety Law. While with the 2009 Law, the actions of cessation of production or products' removal from the market, recalling and notification were enacted only in case of discrepancy between the products and the standards required by the Law, now these actions are enacted as soon as the producer or distributor knows about any circumstance that may put in danger consumers' health.

These measures are less bounding in case of recalling of the product because of violation of regulation regarding the labelling. If the product has been recalled because its label is not consistent with the Chinese national standards, the producer can continue to commercialize it, only if he or she

⁸⁷ People's Republic Of China's Food Safety Law (中华人民共和国食品安全法, *Zhonghua renmin gongheguo shipin anquan fa*), 2015. Available at http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 4 September 2018).

enacts some “remedy measures” and he or she is in the position of guaranteeing the safety of the products. Remedy measures must be communicated to the consumers to the action of the sale (Article 63 paragraph 3). The violation of these regulations requires the Authority’s intervention. For what concerns the administrative consequences, according to Article 63 paragraph 5:

食品生产经营者未依照本条规定召回或者停止经营的，县级以上人民政府食品药品监督管理部门可以责令其召回或者停止经营⁸⁸。

In the event that a food producer or distributor fails to recall or stop distribution in accordance with this Article, the quality administration of the competent people's government at the county level or above may order it to recall or stop trading the food.

All the labelling regulation is covered by the Articles 67 to 73 of the amended Food Safety Law, which are part of the section called *Labels, Descriptions, and Advertisements*. The Law is not that detailed in explaining which are the national standards regulating the labelling matter, because there are also local standards which must be followed. It goes without saying that it is very important for a foreign exporter to look also into local requirements. Article 34 of the Food Safety Law prohibits the production and distribution of food or food additives having date of production or expiration date false, as well as it prohibits the production and distribution of prepacked products or additives without label. According to Article 67, the prepacked products’ label has to indicate the title, net weight and production date; a label showing the products’ ingredients and composition; producer’s name, address and contacts; expiration date; code of the standards applicable to the product; indication for the maintenance; additives; number of production license. The label has to be clear and the expiration date must be visible (Article 71 paragraph 2). The producer and the distributor are both responsible for the label’s content, information can’t be false or exaggerated; label can’t include indications that the product can help in treating diseases. It is also forbidden the commercialisation of food or food-additives whose characteristics are not in compliance with the label (Article 73 paragraph 3). The foreign actor have also to be interested in the regulations of Article 97 concerning the labelling of imported products. The Article states that:

⁸⁸ People’s Republic Of China’s Food Safety Law (中华人民共和国食品安全法, *Zhonghua renmin gongheguo shipin anquan fa*), 2015. Available at http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 4 September 2018).

进口的预包装食品、食品添加剂应当有中文标签；依法应当有说明书的，还应当有中文说明书。标签、说明书应当符合本法以及我国其他有关法律、行政法规的规定和食品安全国家标准的要求，并载明食品的原产地以及境内代理商的名称、地址、联系方式。预包装食品没有中文标签、中文说明书或者标签、说明书不符合本条规定的，不得进口⁸⁹。

Imported pre-packaged food shall be provided with labels and instructions in Chinese and, if required under the law, instructions in Chinese. Labels and instructions shall comply with this Law, other Chinese laws, administrative regulations and national food safety standards and shall indicate country of origin and name, address, and contact information of the domestic agent. Pre-packaged food without labels or instructions in Chinese or their labels or instructions that do not comply with the Law shall not be imported.

It is necessary not only that the label shows the name of the foreign producer or the name of the foreign exporter but also the name of an individual who is subject to the Chinese Law, in this way it will be easier for consumers or authorities to get in touch with him or her. To the penalties regarding the violation of the labelling regulation are dedicate the Article from the 124 to the 125⁹⁰.

The ones who produce or distribute food or food-additives bringing a production or expiration date false are punished by the local Food and Drug Authorities that will confiscate the products, the profits, the equipment and raw materials used for the production and distribution. If the total value of the products illegally produced and distributed is not higher than RMB 10.000, it will be applied an administrative penalty with a range from RMB 50.000 to RMB 100.000; where the total value of the illegal products is higher than RMB 10.000, the penalty goes from a minimum of then times to a maximum of twenty times that amount. If there are particularly serious circumstances, the responsible individual could also be punished with the revocation of the commercial license. In case of a production or distribution of prepacked products of food-additives without label or with a label or instruction not in compliance with the Law, in addition to the confiscation of the products, profits, equipment and raw materials there is also an administrative penalty that goes from RMB 5000 to

⁸⁹ People's Republic Of China's Food Safety Law (中华人民共和国食品安全法, *Zhonghua renmin gongheguo shipin anquan fa*), 2015. Available at http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 4 September 2018).

⁹⁰ FAS Staff., Clever J., (approved by), *China's Food Safety Law (2015)*, 2015, available at: <https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Amended%20Food%20Safety%20Law%20of%20China%20-%20Peoples%20Republic%20of%20China%20-%205-18-2015.pdf> (Last Access 5 September 2018).

RMB 50.000 where the total value of the products is not higher than RMB 10.000; where the total value of the product is higher than RMB 10.000, the penalty will go from a minimum of five times to a maximum of ten times that value. In case of severe circumstances the local FDA can decide also to cease the production or revoke the responsible's commercial license. Where the labels or instructions show defects that are not a harm to the consumers' safety, the local FDA will ask the producer or to the distributor to modify the errors; only in absence of the right amendment, will be issued an administrative penalty.

The products' label is controlled by the local EEIQB once the products are introduced in China. According to what has been communicated by the AQSIQ, the labelling concept is not merely referred to the label itself but also to all the other written indication placed on the product or on its envelope. The concept must also be intended as broad, can be considered as labels also posters, brochures, instructions, website information etc. All the elements described can be taken into consideration from the competent authorities while deciding if the product can be introduced in China or not⁹¹.

The aim of the second chapter of this work was to introduce the reader to the Chinese legislation regarding the food safety, providing an introductory section reporting some of the major food safety incidents that took place in China during the last decade which led to the amendment of the Food Safety Law in 2015. After giving a detailed explanation of the New Food Safety Law, the chapter continues with a description of all the Chinese authorities involved in the process of governing the food safety, their duties and obligations. In the last part of the chapter it has been analyzed the impact of the new Law on the operations of exporting and importing food in China, giving the reader the possibility to understand what are the main rules to follow while engaging in food trade with China, the steps to take in order to do the proper process and the punishments applied in case of Law's violation.

⁹¹ GWA (by)., *Le regole del Food&Beverage in Cina: una guida introduttiva*, available at: http://gwa-asia.com/admin/upload/GWA_LE%20REGOLE%20DEL%20FOOD%20&%20BEVERAGE%20IN%20CINA.pdf

(Last Access 4 September 2018).

3. Exporting Italian extra virgin olive oil in China.

3.1 Chinese olive oil market: potentialities and prospects.

In the last two decades, the Chinese market has been growing at a fast pace. The impressive expansion of the manufacturing capabilities and increasing consumer consumptions in China have transformed China's society and economy. By far, China is the world's fastest growing market for the consumption of goods and services and it is fully open to the world. With over 1.3 billion of people, the Chinese market seems a very interesting prospective for those foreign companies which want to expand their market shares and gain a much more wider range of consumers, and more and more exporters and producers of olive oil are willing to exploit these possibilities.

Talking about China as a potential market for agricultural goods it is not easy as it may seems; every food product needs to be evaluated in its specific capabilities in the market of Mainland China⁹². This requires a more detailed analysis of the actual olive oil market in China in order to create a better understanding of the Chinese market conditions favourable for olive oil consumption and to what extent these China business opportunities are well suited for European medium-sized producers of extra virgin olive oil. The actual European situation, infact, shows that the majority of extra virgin olive oil exporter are small and medium sized enterprises. In this respect, it is useful to ask ourselves what are the main entry obstacles small and medium sized companies have to face while entering the Chinese market and promote their extra virgin olive oil brands and what are the major problems in terms of distribution, marketing and international business communication.

First, it must be said that the concept of olive oil export in China is something new, created after the 2000s; before the new millenium there was almost no import of olive oil in Mainland China. The situation changed progressively around the 2002-2003 crop years, the year 2003 saw the import volume increasing with 46% over the 2002. These positive results coming from a small range of European olive oil exporter made the others eager to try to enter the market and launch their own brand. At the time, most of the olive oil was distributed to western style hotels and restaurants; in the retail sector olive oil was mainly sold in foreign retain chains or domestic supermarkets which have helped the penetration of imported products in the most expensive and trendy shopping areas. Chinese

⁹² Soons L. J., *The olive oil market of Mainland China*, 2004, available at: <https://lup.lub.lu.se/luur/download?func=downloadFile&recordOId=1331369&fileOId=1331370> (Last Access 12 September 2018).

chains were not selling olive oil, because at the time the labels placed on the foreign products were mainly in English and Chinese consumers were not educated enough to understand the products' characteristics. Only western expatriates, western educated Chinese from the middle class and generally health concerned Chinese were able to understand all the potentialities of olive oil on their good consequences on human health. However, thanks to all the changes coming from a massive globalization and better quality of life's standards, there was a shifting into Chinese consumers' nature: from savers they became more willing to buy new products because of the rising of disposable income. Data reports that only in 2003 combined wholesale and retail and catering sales increased for over \$199 billion. In a nation in which food is a national obsession, it is not surprising that the food sector is dominated by catering; catering, included restaurants accounted for almost 64% of the combined total; urban households spent 39% of their annual living expenditure on food purchases⁹³. More important is the fact that consumer tastes in China vary impressively from region to region, and are always evolving under the influences of Asian and Western tastes that are constantly filtering into Chinese society through commerce and cultural exchanges. Although it may seem that Chinese are not willing to open their culinary traditions to flavors coming from other countries, it is worth noticing that Chinese have now already experimented new tastes and products, including many Western ones. Many popular myths, like the one regarding the assumed aversion of oriental consumers to coffee or chocolate, have long been gone. China is now as much globalized as any other country in the world, without losing its own national and peculiar identity.

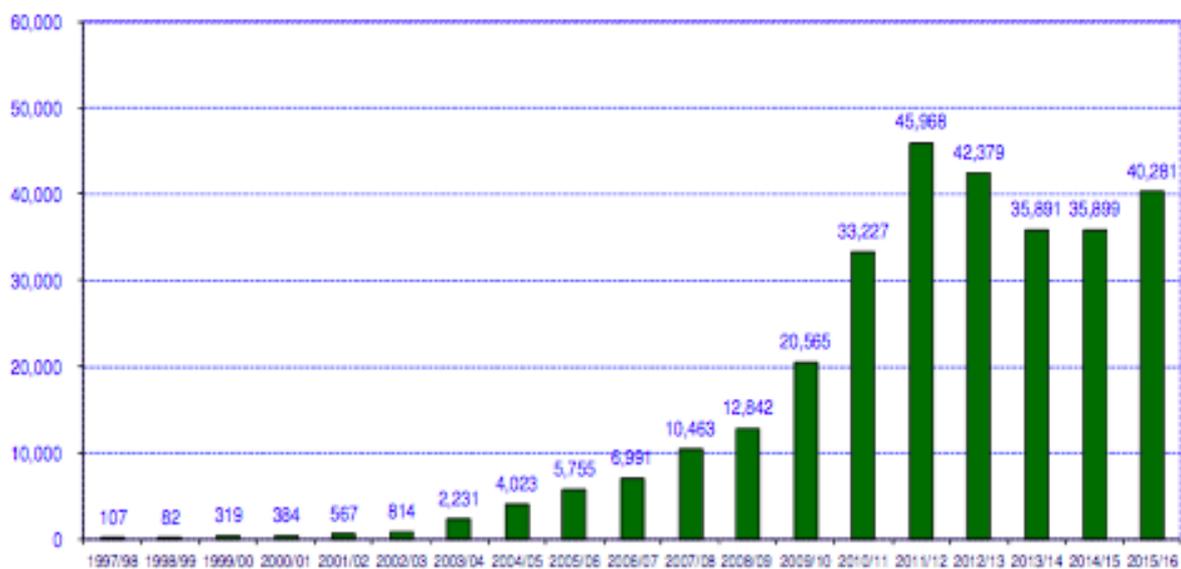
Nowadays, in the era of social network and 24/7 internet access, Chinese consumers are basically bombarded with all kinds of products, flavors, marketing concepts and advertisements, and they are incessantly modernizing their tastes and preferences. Food and agricultural importers can exploit the possibility to benefit from greater health-consciousness and from a greater awareness of food safety. Consumers are now more willing to pay a higher price for products seen as healthy, with a higher quality, safer, trendy and as such worth the money.

One example showing the capacity of Chinese consumers to adapt to new tastes is the one regarding the wine market. Both wine and olive oil cultures have similarities in terms of price-market regulation, alternating crops and harvest years, with a wide range of different olive oil qualities, tree varieties and different tastes depending from several factors such as soil, climate, method, pressing

⁹³ Soons L. J., *The olive oil market of Mainland China*, 2004, available at: <https://lup.lub.lu.se/luur/download?func=downloadFile&recordId=1331369&fileId=1331370> (Last Access 12 September 2018).

et cetera. Even though, Chinese consumers were loyal to their own beer or grain-based spirits, wine consumption has increased impressively over the years; starting from the major cities like Beijing or Shanghai moving towards smaller realities. Although there was an increase of wine's consumption because of the adaptation to this new product, Chinese are still preferring their own local brand because they are cheaper than the imported ones.

This market opportunity of increasing adaptability and flexibility of the Chinese middle class consumers to new imported products and tastes, is due to the general trend of westernisation of eating and dining habits that has led to a constantly growth in the import of western food products and specially western olive oil.



Graph 1 – China –Trend in olive oil and olive-pomace oil imports by crop years (t)

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As shown by the graphic attached before, the trend of the olive oil and olive-pomace oil⁹⁵ import into Mainland China has increased steadily over the period 2001/02-2011/12, until it reached a maximum

⁹⁴ International Olive Council (by)., *China, olive oil import trends*, in Olioofficina Globe, 2017, available at: <http://www.olioofficina.net/knowledge/economy/china-olive-oil-import-trends.htm> (Last Access 14 September 2018).

⁹⁵ Olive-pomace oil is olive oil that is extracted from olive pulp after the first press. Once the mechanical oil extraction of olive oil is complete, almost 5-8% of the oil remains in the pulp, which need to be extracted using solvents, which is an industrial technique used in the production of most other edible oils such as canola, peanut et cetera. Although the oil extracted in this way remains still oil, because of the technique of origin it can't be simply called olive oil, explaining the name olive-pomace oil.

of almost 46000 t. in the 2011/12 crop year. Imports have suffered year-on-year decrease of 6% and 15% in the 2012/13-2013/14 crop years. Now it seems that the market sales are increasing again, the 2015-16 crop year closed with a 12% year on year increase, exceeding 40000 t.



Graph 2 – China – Trend in monthly imports (olive and olive-pomace oil)

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This second graphic shows an analysis of monthly data which points out that the highest import volumes are recorded in the first months of the crop year (November, December and January) and that imports concerning the first seven months of the current crop year rose by 17%. Concerning the origin of imports, in the last crop year, 95% olive oil import came from countries in the European Union, in fact China is European Union's second biggest agri-food market. Spain was ruling with over 80% of imports, followed by Italy with 13% and Greece with 2%. The remaining 5% came from Australia, Tunisia, Morocco and Turkey. Regarding the volume of each product category, the 77% of imports was made by virgin and extra virgin olive oil, followed by olive-pomace oil with 14% and olive oil with 9%.

⁹⁶ International Olive Council (by)., *China, olive oil import trends*, in *Olioofficina Globe*, 2017, available at: <http://www.olioofficina.net/knowledge/economy/china-olive-oil-import-trends.htm> (Last Access 14 September 2018).

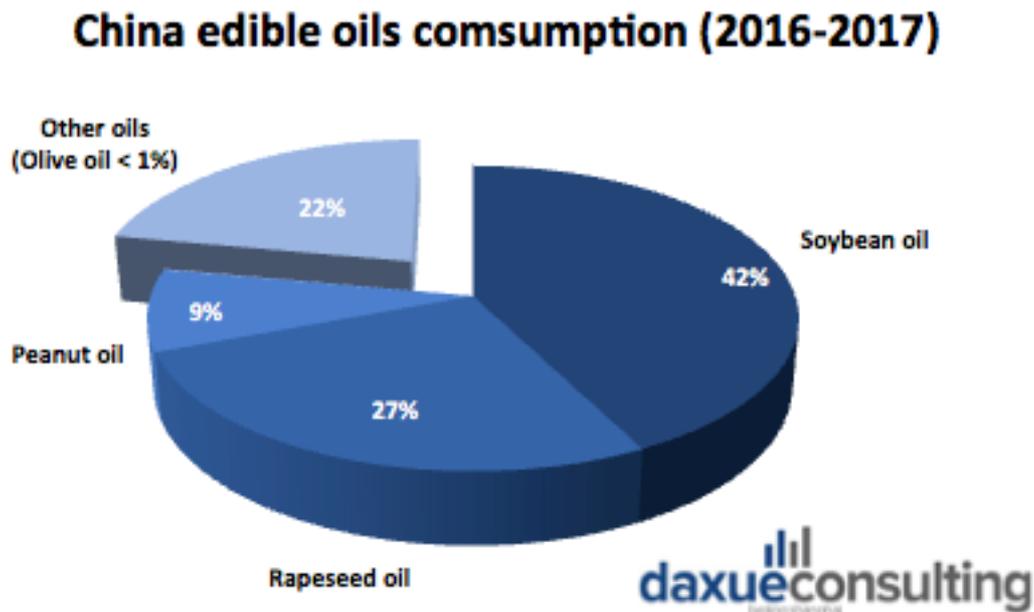
Although Chinese consumers seem more and more adapted to western and different tastes and willing to experience new food, the Chinese gastronomy and its use of vegetable oils poses a threat for the development of the olive oil market in China. Generally speaking we can say that Chinese consumers have a preference for Asian products and most consumers express strong attitude towards Chinese food and local cuisine in particular. Gastronomy is one of the most difficult thing to change because Chinese are less open for incorporating foreign tastes into their daily food preparation. Daily, while preparing their meals Chinese usually use vegetable oils; in Chinese northern provinces there is a preference for soy oil, in central and western region for coal seed oil and in the Southern provinces for peanut oil. Traditionally olive oil has no connection with regional cuisines and this could be seen as an obstacles for western exporter approaching the Chinese market. The reason explaining why there is no presence of olive oil in the Chinese culinary tradition is that before 1967 there were no olive oil groves in China and the product was almost completely unknown for the average Chinese; the reader should also understand that Chinese, while cooking, mainly use animal fats and lard in their daily kitchen. It was only due to the rapid economic growth in the past 20 years that China has seen a very strong increase in edible oil consumption.

The olive oil industry in China is not booming yet, but this situation may change in the future. The westernization of food habits and the growing interest in healthy food products could push towards the expansion of this market. However, the olive oil demand in China is not extremely high because this product is a luxury one and its consumption is very low compared to that of other cooking oils such as soy bean oil and rapeseed oil. This is why the western olive oil is still very expensive for the average Chinese consumer. While the current price of cooking oil such as peanut, soybean or rapeseed oil varies between ¥10 to ¥20 (\$1,5 to \$3) per liter, olive oil pricing is usually ten times higher. Reader can possibly notice that there are cheap olive oil sold on the Chinese market, but these products are usually blend with other oils or they are modified. Despite the relative expensive price of olive oil, the economic growth and the higher level of income has made the product more accessible to the Chinese consumers. Although there is a growing portion of middle-class families using olive oil, its consumption still represents less than 1% of the total cooking oil consumption in China⁹⁷. Chinese culinary tradition sees a wide use of cooking oils but its olive oil consumption is derisory in comparison: only 45,000 tons of olive oils were consumed in China during the 2016-17 crop year, an amount which is 360 times lower than the national favorite, which is Chinese soybean oil. It's crystal

⁹⁷ Daxue Consulting (by), *The Olive Oil Industry in China: Italian Olive Oil Brands Poised to Take Over*, in Daxue Consulting, 2018, available at: <http://daxueconsulting.com/the-olive-oil-industry-in-china/> (Last Access 14 September 2018).

clear that olive oil is not fully integrated into the food culture in China yet. Olive oil is hardly used in the restaurant industry in China when it comes to cook Chinese food.

The graphic attached below shows a overview of the cooking oils consumption in China in 2016-17 crop years.



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As the reader can notice, the soybean oil consumption is the biggest one because of the oil's low price. In comparison, olive oil consumption represents less than 1% of the total cooking oil consumption.

However, "eating better" in China is now the largest category for Chinese consumer expenditures, representing about the 25% of total individual spending. Food scandals, whom examples have been described in the second chapter of this work, as well as cross-cultural influences of food choice have managed to establish an increasing interest in healthy Western food as well as

⁹⁸ Daxue Consulting is a market research and management consulting firm specialized on the Chinese market. Its focus is supporting clients' needs. Created in 2009 on the Campus of Peking University, Daxue Consulting have noe offices in Beijing and Shanghai and its team is composed of local and overseas-educated Chinese and china-educated foreign project managers. Its official website is available at: <http://daxueconsulting.com>

organic food⁹⁹. Even if Chinese consumers' knowledge regarding olive oil is still low, the situation is constantly changing. According to a customer survey, almost 70% of Chinese people now know that olive oil can be consumed in salads and the percentage is getting bigger. As globalization is the trend of the last decades and westernization of Asian countries is on the agenda, we can only expect a progressively increase of knowledge about olive oil as well as its wider distribution.

As it has been pointed out before, the trend of import of European olive oil rose during the first three months of 2017 by 42% and among this percentage Spain was ruling with shares of almost 81% percent followed by Italy with its respectable 13%. Infact in 2017 Italian olive oil exports to China increased by €40 million according to the National Institute of Italian Statistics¹⁰⁰. Spain, as percentage indicates, has traditionally been the largest exporter to China, but the situation may be changing, according to industry analyst. As the incomes of Chinese people is growing, so does the will to travel and to buy olive oil. Its indeed this new middle class the one that is opening the doors for other oil exporters such as Italy. As David Granieri, president of Italy's largest association of olive oil producers Unaprol¹⁰¹, says it is essential to promote the culture of conscious consumption of high-quality extra virgin olive oil and develop the winning market strategies to let Chinese consumers know the importance of the extra virgin olive oil in the Mediterranean diet. A factor that may help the diffusion of olive oil in the oriental market, is the amount of Chinese tourists that have visited Italy in the last couple of years. The growing number of Chinese tourists coming in Italy is making it easier to promote the olive oil. According to Daxue Consulting more than 1.4 million of Chinese visited our country last year and the European Union is also focusing on the cooperation with the Chinese market for quite some time now. On a European level, European Commission president Jean-Claude Juncker and the Chinese Prime Minister Li Keqiang have decided that 2018 will be the EU-

⁹⁹ Daxue Consulting (by), *The Olive Oil Industry in China: Italian Olive Oil Brands Poised to Take Over*, in Daxue Consulting, 2018, available at: <http://daxueconsulting.com/the-olive-oil-industry-in-china/> (Last Access 14 September 2018).

¹⁰⁰ Dawson D. *China wants more olive oil and Italy is the one providing it,for now*, in Olive Oil Times, 2018, available at: <https://www.oliveoiltimes.com/olive-oil-business/china-wants-olive-oil-italy-one-providing-now/62218> (Last Access 14 September 2018).

¹⁰¹ The Unaprol is the Italian Olive Consortium is the most important institution regarding the olive oil sector on both national and local level. It represents the interests of more than 250000 Italian associated organisations organized in local economic organisations. It has been always involved in supporting the olive oil production with several activities which range from chain traceability's activities, improvement of quality and environment, promotion's events, information and education, market analysis and support. Its official website is available at: <http://www.unaprol.it>

China tourism year, in order to improve tourism and economic cooperation between China and EU making the rise of tourism in Italy the factor helping the discover of a variety of Italian products, such as olive oil. On an Italian level instead, former ministers Maurizio Martina and Dario Franceschini have also announced that 2018 will be the “year of Italian food in the world” implying the aim of promoting Italian food culture worldwide. Chinese market is one of the markets on which they are focusing their attention and the results have been shown by the 40% rise of Italian olive oil export. Other factors have also influenced this increase in exports, China has lowered its tariffs on Italian olive oil which were considered until 2016 prohibitive in order to entry the market. The decreasing cost of importing also coincided with cuts to production costs in Italy. Because of all these factors, doing business between the two counterparts made much more sense. Despite these improvements, statistics indicate that there won't be an additional increase of olive oil exports from EU next year. Italy will be the only country experiencing an increase in exports to China; although Spain is still olive oil market leader in China, its exports are forecasted to decrease next year. The other competitors that Italy may face in its race towards China are coming from outside EU, Tunisia is likely to be the toughest one.

3.2 Chinese market entry regulation on extra virgin olive oil import.

In order to really be successful in China with a still “unknown” product as the extra virgin olive oil, it is necessary to invest in promotion and education campaigns for the Chinese Consumer. It should not be a surprise that at the moment, the Chinese market is dominated by major olive oil multinationals which have the means to take the initiative on the market. To do enter such a huge market as the Chinese one, the olive oil exporter has to first understand what is the market's accessibility for him or her. There are still problems especially for small and medium sized companies willing to export olive oil like the difficulty in gaining updated and translated Chinese market and market entry regulations knowledge¹⁰². Over the years, Chinese government has published several regulations regarding the standards and labelling for food products; in addition with the amendement of the Food Safety Law in 2015, Chinese government strictly control every aspects of the food products' import. Although in the majority of cases reputable distributors often deal with these issues on the exporter's behalf, exporters are advised to study relevant laws carefully and make sure that

¹⁰² Soons L. J., *The olive oil market of Mainland China*, 2004, available at: <https://lup.lub.lu.se/luur/download?func=downloadFile&recordOId=1331369&fileOId=1331370> (Last Access 12 September 2018).

they are in compliance. As we have plenty discussed in the second chapter of this work, an institution very hard to deal with is the General Administration for Quality Supervision, Inspection and Quarantine (AQSIQ). The exporter will need an approval certificate and customs formalities; he or she should submit an application to a regional office of the AQSIQ. After approval, the shipment can be send and during the clearance at the port of entry the AQSIQ will control the product for any kind of problem and ensure that the label is correct. If approved, the AQSIQ issues a Pass Certificate and will give it to the Customs Office. The main problem is that Chinese regulations are not that transparent in almost every area of economic administration. It may happen that even if there is a written rule, it can be subject to different interpretations from individual to individual. In addition, sometimes references are made to non-published secret provision and this is way it always better to have a well connected importer who can solve the possible problems occurring during the clearance of a product. This lack of transparency, predictability and reliability means that business with China remains risky and it is easier for those major corporations and not for small and medium companies. All the risks and costs involved in the olive oil export are prohibitive for small and medium enterprises because they are aggravate in the contest of the relative low-profit margins that companies in general earn in the Chinese food sector. Also important are the costs involved in the translation labels in Chinese according to the standards issued by the Food Safety Law. A good compromise for small and medium enterprises willing to export in China is to find a good importer or distributor operating on its behalf to deal with all the situations that may occur during each stage of the export process.

Another market entry issue that might threat the export of extra virgin olive oil is that many importers and distributors do not have a good knowledge about this product. The ones interested in importing and distributing the olive oil in China are mainly interested in getting the lowest prices than in developing a long term relationship. These Chinese firms primary concerns are the different olive oil qualities, the differences between olive oi and their substitutes¹⁰³, what justify an high price and how the olive oil market works. In order to smooth this problem, chambers of commerce and trade associations have started recently to organize information campaigns, like presentation of the product, its basic characteristics and production with a Chinese chef giving some examples of how using the extra virgin olive oil while cooking Chinese food. Another possibility is to attend fairs in order to inform distributors and importers. These initiatives are good in trying to give a solution to

¹⁰³ Extra virgin is the highest quality and most expensive olive oil classification. Its should have no defects and a flavor of fresh olives. It must be produces solely by mechanical means without the use of any solvents, and under temperatures that will not degrade the oil. It is not easy to produce a good extra virgin olive oil. A producer must use fresh olives in good condition and monitory every step of the process with great care. Extra virgin olive oils must have a level of cidity under the 0,8%.

all these entry obstacles relate to the persistent ignorance regarding Italian extra virgin olive oil and also by giving the opportunity to present the brand before the competition and gain a larger market share.

Next to the market entry treath concerning the distributors' poor olive oil knowledge, another major problem is to find the right distributor that can help the small-medium sized enterprise to enter the Chinese market and find the more effective distribution channels. Because of the Chinese fragmented and inefficient distribution system, major olive oil companies have tried to make deals with import and distribution giants that deal with a huge range of different products¹⁰⁴. The issue related to making business with these kind of enterprises is that their hierarchy and decision making procedures are complicated and in case of any problem, in terms of communication, is really hard to find the responsible. In addition, exports companies do no have much power over these giants and adjusting the distribtion and market strategies can be really hard. Furthermore, these giants do not care much about the brand image of the commodity and they could include other olive oil brands from other ountries in their product range. The advantage connected to using these giants is that they already have well established distribution network with important retail chains. The question is if it is desirable to work with such partners. A better solution might be to look for and identify a well-connected small-medium sized regional entrepreneurial enterprises that have the economic possibilities to purchase and hold inventory and the elasticity to find new opening in the market. Apart from the brand loyalty and more precise communication, another important difference when launching a new food product is that is easier to cooperate with the decision maker in prepparing the marketing and promotion campaign for the olive oil brand. So it is inevitable for an olive oil export company to work in tandem with a regional small-medium sized company instead of dealing with a giant of the massive distribution; it is also advisable that the exporter provides marketing financing and promotional materials because the distributor will not automatically provide this service. Working closely with the individual responsible of the product distribution and promotion is essential to the success of the business. It's highly recommended to create a local staff to work and assist distributors or to create export departments focused on fostering, keeping and enlarging business relations with China. Establishing a local presence is a very useful strategy and can be done thanks to three different mechanism which are the Representative Office (RO), the Joint venture (JV) or the

¹⁰⁴ Soons L. J., *The olive oil market of Mainland China*, 2004, available at: <https://lup.lub.lu.se/luur/download?func=downloadFile&recordOId=1331369&fileOId=1331370> (Last Access 12 September 2018).

Wholly Owned Foreign Enterprise (WOFE)¹⁰⁵. The local presence inevitably help the exporter to carefully control every aspect of the process of pricing, distributing and selling.

Of course there are some weaknesses that small and medium enterprises have to solve while entering the Chinese market in respect to olive oil multinationals: exporting and promoting a product and a brand requires an important investment and sometimes these types of companies are family based and they don't have the proper economic possibilities to afford such an expense. They often export on order-to-order basis without any contracts or partnerships; usually they are not interested in investing in a new market because they do not know what they are going to obtain and the olive oil will be sold without any marketing strategy or promotion campaign in order to create a serious business relationship with the Chinese counterpart. Despite all the weaknesses there are still strengths that a small-medium sized company may use in order to expand its market shares. The majority of Italian olive oil multinationals which deals with a high number of sales do not have the real extra virgin olive oil because producing it is really expensive and they are not able to cope with the demand. So in order to keep their market share they often mix the extra virgin olive oil with refined one and pomace. These products are often mislabelled as extra virgin because for extra virgin olive oil is required a level of acidity lower than 1%; refined oil do not have acidity so they easily pass the test. In addition, the olive oil bottle is not guaranteed from Italian producers but is packed and bottled in Italy under Italian brand. Italian exporters have the problem that the worldwide demand for Italian olive oil is higher than the domestic production, so they are forced to import olives from other countries. These loopholes have been discovered by Chinese consumers and the reputation of Italian olive oil brands could become damaged in favor of other non-Italian brands and could make an

¹⁰⁵ A *Representative Office* (RO) is an office opened in a foreign market as a first step for establishing a relationship with potential buyers or sellers. This type of office allows a company to show its commitment to the new market while permitting deeper on the ground research. Some developing economies have now restrictions on the opening an operation of representative offices, foreign companies might need a central government approval.

A *Joint Venture* (JV) is an agreement between enterprises for the realization of a common economic purpose. There are two main types of Joint Venture: the Contractual Joint Venture and the Corporate Joint Venture. A Contractual JV is, generally, an occasional cooperation agreement between two or more enterprises; a Corporate JV is a new legal subject is created and it is distinct from the two parties, the agreement is instrumental but there might be some provisions of national company laws that are mandatory.

A *Wholly Owned Foreign Enterprise* (WOFE) is a limited liability company wholly owned by foreign investor(s). In China, they were used in order to encourage manufacturing activities that were export oriented or introduced advanced technology. After China's entry into the WTO, these conditions were gradually abolished and the WOFE is being used for service providers such as a variety of consulting and management services, software development and trading.

opening in the market for introducing high quality 100% extra virgin olive oil. In some major Chinese cities like Beijing, Shanghai and Guangzhou there is a significant part of the population who is willing to pay an higher price in order to obtain the high quality extra virgin olive oil. Due to the fact that a lot of distributors and importers are not aware of these issues, is not easy to convince them to invest on a product that has an higher price but is the pure extra virgin olive oil. It is a difficult task but not an impossible one.

As we have pointed out in this section of the work, the business relationship between the European Union and China have raised in the last few years thanks to the reduction of the duties and to the spread of the commercialisation through the organised large-scale distribution. However, the presence of tariff and no-tariff barriers is still limiting the import and distribution of foreign food products affecting heavily the costs. As the topic of this paragraph is the Italian food products it must be said that specifically Italian products in addition to controls over the quality standards have to face real import ban for some categories of food products like fresh fruits and vegetables products and meat. According to the Istat's elaborated data, Italian export toward China is still expanding and the food sector of the Made in Italy is one of the most dynamic. It has to be noticed that the Made in Italy is so famous in China that there are several Chinese local firm which use *Italian sounding* names in order to exploit the image of the Made in Italy, which is synonym of high quality, although they do not have any connection with our country.

The food sector in China is subject to very strict sanitary norms that have the task of ensuring the safety of the food chain, thanks to verification and inspection of products. Authorities mainly focus their attention on the absolute ban of importing products which contain some elements that are not a guarantee of safety. With the revision and implementation of the Consumer Rights Protection Law¹⁰⁶, have been introduced more protection measures towards buyers, especially for what concerns the e-commerce sector which now is more controlled because of the presence of economic sanctions if the products are considered fraudulent¹⁰⁷. There are several legal references that producers and expoters have to know before entering the Chinese market in order to avoid any kind of problem. The most important are the following: the 1991 Law of the People's Republic of China on Entry and Exit Animal and Plant Quarantine and its 1996 implementation¹⁰⁸; the 2002 Law of the People's Republic of China on the Import and Export Commodity Inspection and its 2005

¹⁰⁶ A transcription of the amended Consumer Rights Protection Law is available at: http://www.npc.gov.cn/npc/xinwen/2013-10/26/content_1811773.htm (Last Access 19 September 2018).

¹⁰⁷ Camera di Commercio Italiana. (2014). Esportare prodotti agroalimentari nella Repubblica Popolare Cinese.

¹⁰⁸ A transcription of the Law of the People's Republic of China on Entry and Exit Animal and Plant Quarantine is available at: <http://extwprlegs1.fao.org/docs/pdf/chn156273E.pdf> (Last Access 17 September 2018).

implementation¹⁰⁹; National Standards (GB) which are issued by the specific authorities of each category of product and also the GB 7718-2004 General Rules of Prepackaged Food Labelling that are mandatory for prepackaged, sold and exported products in China; GB13432-2004 General Standards of Labelling for Pre-packaged Food of Special Dietary Use; National Food Safety Standard for Nutrition Labelling of Prepackaged Food which came into force on 1 January 2013¹¹⁰; Announcement 44, 2006, Adjustment of Import/Export Food and Cosmetic Label Examination System entered into force on 1 April of 2006; Food Safety Law of People's Republic of China of 2009 and its amendment of 2015¹¹¹; the 2011 Measures for the Safety Administration of Imported and Exported Food entered into force on 1 March 2012¹¹²; the 2011 Measures for the Supervision and Administration of the Inspection and Quarantine of Imported and Exported Meat Products; and the 2011 Measures for the Supervision and Administration of Inspection and Quarantine of Imported and Exported Aquatic Products.

For what concerns the Chinese standardization system, which is the set of technical rules characterizing the food products, there are four operating levels which are divided in mandatory and voluntary ones. It has to be noticed that for those mandatory requirements self-control certifications are not accepted, it is always required a verification done by a third party on the basis of different certifications, among which the most used is the China Compulsory Certification (CCC)¹¹³; extra

¹⁰⁹ A transcription of the Law of the People's Republic of China on Import and Export Commodity Inspection is available at: <http://english.mofcom.gov.cn/article/policyrelease/Businessregulations/201303/20130300045852.shtml> (Last Access 17 September 2018).

¹¹⁰ A transcription of National Food Safety Standard for Nutrition Labelling of Prepackaged Food is available at: <https://extranet.who.int/nutrition/gina/sites/default/files/CHN%202011%20Standard%20for%20Nutrition%20Labelling%20of%20Prepackaged%20Foods%20-%20Unofficial%20Translation.pdf> (Last Access 17 September 2018).

¹¹¹ A transcription of the Food Safety Law of People's Republic of China is available at: https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Amended%20Food%20Safety%20Law%20of%20China_Beijing_China%20-%20Peoples%20Republic%20of_5-18-2015.pdf and in Chinese at: http://www.npc.gov.cn/npc/cwhhy/12jcw/2015-04/25/content_1934591.htm (Last Access 17 September 2018).

¹¹² A transcription of the Measures for the Safety Administration of Imported and Exported Food is available at: https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Administrative%20Measures%20on%20Import%20and%20Export%20Food%20Safety_Beijing_China%20-%20Peoples%20Republic%20of_12-14-2010.pdf (Last Access 17 September 2018).

¹¹³ The China Compulsory Certification (CCC) is a mandatory product certification with the aim of protecting consumer's security through the supervision of products concerning health, hygiene, security, environment and anti-fraud. Only after a complete certification products can be imported into China and sold in the Chinese Market. Among the products that require such certification there are electrical appliances, wire and cable, switches, household appliances et cetera.

virgin olive oil does not require such a certification. It is important underlining that in most of the times Chinese authorities does not accept results from inspection that are not from accredited chinese laboratories. The adopted norms are divided into four different levels which are: national standards, professional standards, local standards and business standards. The national standards, that are identified by the letters GB, are applicable on the entire Chinese territory e allow to unify the safety norms regarding the food sector. They are often in compliance with the international standards like the ISO (International Standard Organization) and IEC (International Eletrotechnical Commission) and they are divided into mandatory and they are marked by the letters GB, voluntary with the letters GB/T and there also some national technical documents marked by the letters GB/Z¹¹⁴; the Institution which takes care of all the national standards is the Standardisation Administration of China (SAC)¹¹⁵. In case of national standards' absence, are issued the so called professional standards from several ministries or institutions and they have different acronyms according to the subject for example the ones related to the food sector are the ones issued by the Ministry of Commerce and are market by the letters SB and SB/T; the ones from the AQSIQ marked by the letters SN and SN/T et cetera. The local standards, instead, are issued when there are not national or professional standards concerning the safety and hygiene and they are applicable to a certain area and they are market by the letters DB followed by the province's code if they are mandatory, and by the letters DB followed by the province's code/T if voluntary. At last, the business standards are never mandatory and they are identified by the letter Q followed by the corporate code and they are referred to some aspects not object of other norms¹¹⁶.

The Chinese authorities adopts for all the food products a documents control system during the entering phase that has the aim of identifying products not in compliance with the Chinese applicable law. In case of discover of products with illegal values, they block the foodstuff from entering and after communicating it to the Italian Ministry of Health, they can also prohibit the entrace

¹¹⁴ The Chinese national standards specifically concerning the olive oils and olive pomace oils have been issued by the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China and they are available at: http://www.puntofocal.gov.ar/notific_otros_miembros/chn405s1_t.pdf (Last Access 24 September 2018).

¹¹⁵ The Standardisation Administration of China (国家标准化管理委员会, *guojia biaozhunhua guanli weiyuanhui*) has been established in 2001 and is the standards organization authorized by the State Council of China to exercise administrative responsibilities by managing, supervising and coordinating the standardization work in China.

¹¹⁶ Camera di Commercio Italiana (by)., *Esportare prodotti agroalimentari nella Repubblica Popolare Cinese*, 2014.

to other similar products until these products are not demonstrated to be safe and in conformity with the Chinese national standards.

The Ministry of Commerce of People's Republic of China (MOFCOM) is the authority in charge for the management of all the rules governing the products' import into Mainland China. Over the years, the system of certifications and licenses has been gradually reduced in order to adapt to the standards used by the World Trade Organization (WTO) of which China is an active member from the 2001. However, in the last few years there was an increase of attention from the Chinese authorities over the subject of food safety. As has been plenty discussed in the previous section of this work, the General Administration of Quality, Supervision, Inspection and Quarantine (AQSIQ) has the role of inspect the imported products, verify if they respect all the sanitary requirements and monitor the quarantine period and it is also the organism in charge of certification and accreditation. All the controls, standards and tests which products have to respect are described in the 2009 Food Safety Law and its 2015 implementation, for more detailed information about the subject the reader is invited to look at the first paragraph of the second chapter of this work.

Going into a more detailed description of what are all the certifications needed by an Italian firm producing extra virgin olive oil, it is worth noticing that the Italian Ministry of the agricultural policies and the AQSIQ have subscribed in March 2013 a Memorandum of Understanding concerning the controls over the quality of extra virgin olive oil exported in Mainland China. These kinds of agreements are useful in order to train Chinese experts who will be in charge of the control over Italian extra virgin olive oil exported in their country. The Ministry states that the rules governing the export of olive oil to foreign countries are the one written in the EU Regulation (EC) n. 865/04¹¹⁷, which concerns also the presentation of the product to the final consumer. On the basis of these norms the European Commission has adopted the Regulation EC n. 1019/02¹¹⁸ which stated the rules on the commercialisation of olive oils. According to the regulation EC n. 1019/02 in case of sale to the final consumer the oil must be placed in boxes with maximum capacity of five liter with a system of closing that lose its integrity after the first use; in case of sale to entities like restaurants, hospitals et cetera, oils can be placed in boxes with a maximum capacity of twenty-five liter. In case of sale not to the final consumer, are applicable the dispositions among which Article 17 of the Legislative Decree

¹¹⁷ A transcription of the Regulation (EC) n. 865/04 is available at: http://www.unasco.biz/wp-content/uploads/235_1.pdf (Last Access 19 September 2018).

¹¹⁸ A transcription of the Regulation (EC) n. 1019/02 is available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:155:0027:0031:IT:PDF> (Last Access 19 September 2018).

109/92¹¹⁹. When companies are dealing with export to non Community countries, they have to follow the Annex I of the Regulation EC n. 865/04¹²⁰ in case of compatibility with the international mandatory norms and respecting the applicable standards in the country of destination¹²¹.

All the pre-packaged food products and beverages have to obtain a sanitary certification and they have to be in compliance with the standards concerning the labelling; all the products are inspected by the China Entry-Exit Inspection and Quarantine Bureau (CIQ). Exporting for the first time it is likely to be harder but once the product is known at the authorities the process is easier. Once the exporter company has verified all the commercial and contractual aspects, it has to contract with an importer. It has to be stressed that from the 1st October 2012 food products can enter the Chinese market only if the exporter is registered on the website of the AQSIQ. Since this is an online process, the exporter company is required to fill an online application with all the firm's information and the authorized Chinese importer's ones. Once the procedure is over, the exporter will be given a number of registration that must be placed on the label; the registration is valid for four years. Before going on with the registration as a foreign exporter the company has to first verify if the product it wants to export is subject to sanitary and phytosanitary measures (SPS) as it happens for meat and vegetables' derivatives. The organism that is in charge of this procedures is the Chinese Certification and Accreditation Administration (CNCA)¹²². If the inspections made on the product have positive results, the company is officially registered as a foreign exporter.

All the other certificates required while entering the Chinese market are the following: a commercial invoice written in English that has to include the normal references. A certificate of origin, which has to be drafted on the Community forms. A phytosanitary certificate which is required

¹¹⁹ The Article 17 of the Legislative Decree 109/92 concerns product not destined to the final consumer. It states that food products intended for industry, commercial users and craftsmen for their professional uses which means being subject to other transformations, have to show the particulars written in Article 3, paragraph 1, letters a), c), e) ed h). The indications requested by paragraph 1 can be placed on the packaging, on the vessel, on a label or on the commercial documents.

¹²⁰ A transcription of the Annex I of the Regulation (EC) n. 865/04 is available at: http://www.unasco.biz/wp-content/uploads/235_1.pdf (Last access 19 September 2018).

¹²¹ Ministero delle politiche agricole alimentari, forestali e del turismo (by). *Commercializzazione degli oli di oliva e degli oli di sansa di oliva*, available at: <https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/751> (Last Access 19 September 2018).

¹²² Certification and Accreditation Administration of the People's Republic of China (CNCA) was established by the State Council and is authorized by the State Council to exercise administrative responsibilities of undertaking management, supervision and overall coordination of certification and accreditation activities across the country.

for fruits, legumes and other vegetables and is released by the phytosanitary service of the region of origin, it must be noticed that for all the agricultural products the exporter company have to negotiate some protocols. From the 1st January 2008 have been issued some measures relative to the sanitary safety such as the sanitary certification of food products exported in China; these certificates have to be sealed with a dry pad and they have to be printed on the original paper of the regional veterinary service. Then there is the free sale certificate which guarantees that all the shipped products are in compliance with the applicable Italian Law and they are already sold in Italy. This document is quite important because is the only one that have to be written also in Chinese; attached below the reader will find a template of this certificate both in English and Chinese.

CERTIFICATE OF FREE SALE

On request of the company Società Agricola Semplice L'Aurora, located in Torremaggiore (FG) 71017, manufacturer and/or wholesaler of extra virgin olive oil, registered since 01/04/2013, at n° IT 03879450710 in the local Chamber of Commerce "Directory of Enterprises", as declared by the company and stated in their documents,

We hereby Certify

that the products specified below are manufactured and freely sold in Italy by Società Agricola Semplice L'Aurora.

(elenare in questo spazio le merci esportate per le quali è stato richiesto il certificato)

VISCONTI, STORIE DI TERRA. UNICO. Superior category olive oil obtained directly from olives and solely by mechanical means.

This certificate is issued to enable the above mentioned Company to sell its products in People's Republic of China.

Il Funzionario camerale

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¹²³ The attached image is a template of the Certification of Free Sale provided by the Foggia Chamber of Commerce (Official website available at: <http://www.fg.camcom.gov.it>) that as been filled with the information of Società Agricola Semplice L'Aurora an Apulian company producing extra virgin olive oil (Official website available at: <http://www.oliovisconti.it/storie-di-terra/>).

自由销售证书

兹证明该企业在意大利当地商会依法注册，注册时间为
2013年1月4日，且在意大利境内自由销售。

生产企业: Società Agricola Semplice L' Aurora

地址: Via Foggia km 0.100, Torremaggiore (FG)
71017, 意大利.

产品名称: Visconti, Storie di Terra. UNICO. 直接
从橄榄中提取通过机械过程生产的优质橄榄油。

特颁发此证使上述公司在中国销售此产品。

理事长

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The Certification and Accreditation Administration of China is the organism which issues the authorisations concerning the quality and food safety's certification and control; the reference model

¹²⁴ The attached image is a template of the Certification of Free Sale translated in Chinese that has been filled with the information of Società Agricola Semplice L'Aurora, an Apulian company producing extra virgin olive oil. (Official website available at: <http://www.oliovisconti.it/storie-di-terra/>).

is the HACCP¹²⁵. All the measures taken in respect of the foreign companies that do not respect the Chinese Law provide the publication of a list of unlawful enterprises and in the eventuality of a second violation their closing. The actors playing a role during all the stages of the food chain, from the producer to the distributor, are responsible for the quality and safety of the entire productive cycle. For all the information regarding the Chinese Law concerning the drafting of the label, the reader will find a section and an example in the third paragraph of this chapter.

The last necessary certificates in order to carefully follow the Chinese applicable law are the ones related to the transportation and the packaging. The exporter company must provide authorities with the transportation documents, the packing list and if required the transport insurance¹²⁶.

3.3 Apulian medium-sized enterprises exporting extra virgin olive oil in China.

Italy is by definition the high quality extra virgin olive oil's home. Extra virgin olive oil is often called the *green gold*, cornerstone of our gastronomic culture and of the Mediterranean diet. The extra virgin olive oil stems from different climate and territory, from different olives' variety and from harvesting, pressing and processing methods that changes from region to region and also from oil mill to oil mill. Apulia region is world's first olive-growing region and the most productive in the entire peninsula and the variety of its olives are several and are used both for producing extra virgin olive oil and for table-olive consumption. In the Foggia province, in the extreme north of the Apulia region, there are the *Ogliarola garganica* and the *Provenzale*, cultivar from which it is possible to obtain fruity and harmonious olive oils. In the north Bari province it is possibile to find the *Ogliarola*, the Bitonto's *Cima* and the *Coratina*, cultivar characterized by a very intense fruti flavor and bitter and spicy shades. In the south Bari province and in the Valle d'Itria the principal cultivar are di *Mola's Cima*, the *Olivastra* and the *Leccino*; the olive oils produced by these olive varieties are both medium

¹²⁵ The HACCP is a document issued by a food company which deals with the preparation, production, packaging, marketing of food products. It is usually drafted by the company's owner in collaboration with a technician who is aware of the actual applicable law. It is realized on the basis of the Hazard Analysis and critical control points imposed by the Regulation (EC) n 852/2004.

¹²⁶ *Cina- Documenti export, in Schede Export, available at:* http://www.mercatiaconfronto.it/index.php?option=com_schedepaese&task=scheda_export&tab=3&id=720&Itemid=4067&lang=it (Last Access 19 September 2019).

or more intense fruity depending on the area of origin. In the extreme south of Apulia region, in Brindisi and Lecce's province there are the *Nardo's Cellina*, the *Ogliarola*, the *Frantoio*, the *Leccino* and the *Pichioline* which are characterized by light fruity olive oils¹²⁷.

As the core of this last paragraph of this work is focused on the Apulian medium-sized enterprises trying to export and exporting extra virgin olive oil in China, in order to give a better explanation of the actual situation the reader will be provided with some examples.

The first one is concerning a practical example of what an extra virgin olive oil bottle's label should look like. As was written in the previous section of this work, the Chinese 2015 amended Food Safety Law has very strict rules about what should be written on a label in order to be in compliance with the Law. According to the applicable law, the product has to enter the Chinese market with the label filled with all the information required by the norms for that particular food product or beverage; for what concerns pre-packaged food it has to be respected the GB 7718-2011 which in its fourth section regarding the label content states that:

4.1.1 Basic Requirements

Food label of prepackaged food directly supplied to consumers should include required contents such as food name, ingredient lists, net content and specifications, name, address and contact information of manufacturer and (or) distributor, date of production, shelf-life, storage conditions, serial number of license for food production, product standards code.¹²⁸

The following images will act as a template for the reader in order to understand exactly how a Chinese label should be written.

¹²⁷ Intini P. *Viaggio nell'olio extravergine d'oliva di Puglia: le olive pugliesi*, in *Mondo del gusto*, available at: <http://www.mondodelgusto.it/territori/4497/le-olive-pugliesi> (Last Access 25 September 2018).

¹²⁸ National Health and Family Planning Commission (issued by), *National Food Safety standard. General Principle for Prepackaged Food Label*, 2011, available at: <https://www.mpi.govt.nz/dmsdocument/14371/loggedIn> (Last access 25 September 2018).




VISCONTI
 STORIE DI TERRA
UNICO
 OLIO EXTRA VERGINE DI OLIVA
 MONOCULTIVAR PERANZANA
 Olio d'oliva di categoria superiore
 ottenuto direttamente dalle olive e
 unicamente mediante procedimenti
 meccanici
Prodotto da:
 Società Agricola Semplice L'Aurora
 Via Foggia km 0.100
 71017 Torremaggiore (FG)
Molito ed imbottigliato presso:
 Vinagri Srl
 via San Severo km 1.500
 71017 Torremaggiore (FG)
PUGLIA – ITALIA

Valori nutrizionali medi (100g)

• GRASSI TOTALI 93.00 gr	• VALORE ENERGETICO 820 Kcal
- Polinsaturi 9.00 gr	• COLESTEROLO 0 gr
- Saturi 33.00 gr	• SODIO 0 gr
• Monoinsaturi 71.00 gr	• CARBOIDRATI 0 gr
	• PROTEINE 0 gr

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100% ITALIANO
 Conservare in luogo
 fresco e asciutto al
 riparo da luce
 e fonti di calore
 € 0,50
 

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¹²⁹ The image attached is referred to an Apulian medium-sized company willing to export extra virgin olive oil in China. It was included in this work as a template in order to explain to the reader the main difference between an Italian label and a Chinese one. Official website of the company taken as an example is available at: <http://www.oliovisconti.it> (Last Access 4 October 2018).




VISCONTI
 STORIE DI TERRA
UNICO
 特级初榨橄榄油
 单一品种的 Peranzana
 橄榄油
 直接从橄榄和通过机械过
 程生产的优质橄榄油
 生产商：
 Società Agricola Semplice L'Aurora
 生产地址：Via Foggia km 0.100
 71017 Torremaggiore (FG)
 瓶装商：Vinagri Srl
 瓶装地址：
 via San Severo km 1.500
 71017 Torremaggiore (FG)
 PUGLIA - 意大利

营养成分表 (每100克):
 • 脂肪: 93.00 gr • 能量: 820千焦
 多不饱和脂肪: 9.00克 • 胆固醇: 0克
 饱和脂肪: 13.00克 • 钠: 0克
 单不饱和脂肪: 71.00克 • 糖: 0克
 • 蛋白质: 0克

批号:

生产日期: (年/月/日)
 保质期至: (年/月/日)

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 100% 意大利产
 储存在阴凉,
 干燥的地方,
 远离阳光直
 射和热源
 净含量 0,75 升



¹³⁰ The image attached before is an extra virgin olive oil label especially translated for this work in order to provide the reader with a practical example of how a Chinese label should be written according to the applicable law. Official website of the company taken as an example is available at: <http://www.oliovisconti.it> (Last Access 4 October 2018).

The previous example was concerning an Apulian medium-sized company that still does not have any business relationship with Mainland China but was used as a model to make the reader aware about the actual regulations that have to be followed to avoid any kind of problem while exporting in China. To continue this path across different Apulian enterprises that are experiencing different approach to the Chinese market, will be useful to underline the one of the I Tre Campanili company¹³¹. Located in Andria, this business goes back to the 1957; strong in its roots the company has become bigger and bigger over the years including now two hundred and fifty olive growers that cooperate together. We provide the example of this company because is indicative of how hard is to enter the Chinese market, despite of all the efforts and most of all despite the market shares that a company enjoys in Italy. According to Michele Civita, commercial director of the I tre Campanili, the company is trying to carefully follow the legislative process necessary to legally export extra virgin olive oil in China but it is very hard; they are using the services of a commercial expert that knows every step of the process and can help them understand what are the actions to undertake in order to follow it properly. The first thing to do is to legally register the trademark in China, Chinese are famous for the facility in which they able to falsify a foreign mark consequently this step is mandatory in order to prevent this problem. It is worth noticing that an Italian intermediary is always cause of slowdown in the process and it is useful to find a Chinese importer or expert that is serious enough to deal with Italian exporters and that has the right connections and the proper knowledge to place a product such as the extra virgin olive oil on the Chinese market. In a country in which there is still a scarce knowledge about this product, according to Mr. Civita, the Made in Italy is always a guarantee for quality and safety but Chinese people usually buy only products that have the more accessible price and the two factors cannot be part of the same equation. Deciding if entering or not the Chinese market is important and has to be done after a proper analysis of the pros and cons that can come as a consequence; although the Chinese market is a huge opportunity the risks and difficulties involved in approaching it are several and have to be evaluated in time.

Another example is the one regarding the Frantoio Galantino¹³², a company located in Bisceglie (BA) in the middle of Apulia region. The Galantino family's activity started in 1926 when a family member who already was an expert oil taster, decided to buy an 19th century mill turning it into an oil mill. Since then, the family business has turned into one of the most important in all the region, across three different generations the company now controls every single stage of the

¹³¹ Official website of the company is available at: <https://itrecampanili.com/la-storia-siamo-noi/> (Last Access 25 September 2018).

¹³² Official website of the company is available at: <https://www.galantino.it> (Last Access 26 September 2018).

production chain from the olive grove to the oil mill, from the packaging to the distribution. Giancarlo Leone, director of the Frantoio Galantino, met during the Terra Madre Salone del Gusto Exposition in Turin¹³³ in September 2018, explained that their company is having business relationships with China for almost ten years now. The main problem while approaching a market like the Chinese one, according to Mr. Leone, is that administrative regulations change basically every year, keeping up with them is very hard and maintaining these relations requires a lot of work. Of course the Chinese market is very attractive because of its vastity and the several opportunities that can be exploited but in order to be successful the key is to find the right importer. The Galantino company prepares the groupage in Italy and then the importer is in charge of taking the products directly to China. The importer, once the products are in China, takes care of the sale to Chinese retailers, so to others that are basically wholesalers. These wholesalers purchase foreign products according to their target market, and these products can be both of medium quality or high quality; the Galantino's extra virgin olive is of course a high quality product and they have a niche of selected clients that sell to Chinese consumers only the best products coming from Italy and Europe. There is demand of extra virgin olive oil in China, according to Mr. Leone, but it is also true that Chinese are accustomed to more competitive products so their target market is the one composed of those who are willing to pay a higher price to purchase a high quality product. Luckily things have changed in China and consumers are now much more aware about the high quality products, for what concerns both food and clothing, the problem is that China is now bombarded with dozens of products coming from example from Tunisia. In this country olive-growers use production methods that are completely different from Italians and the olive oil they sell has totally different characteristics from the Italian one. While purchasing a high quality extra virgin olive oil, it is important to taste it in order to understand if it is really good or not. The Galantino company and the importer usually meet at fairs, in Italy but also in Europe or China; the importers then taste the product and they are able to actually see if it is a good one. An extra virgin olive oil is good when it releases feeling of grass cut down, and has a taste that is bitter and spicy; these two characteristics are fundamental in order to distinguish between a high quality extra virgin olive oil and a poor one because they are synonym of the presence of polyphenols

¹³³ The Terra Madre Salone del Gusto Exposition is the most important international food oriented event. Now reached to its 12th edition, the exposition is focused on selecting the producers coming from all over the world with always more strict parameters. The aim is to help the consumers being more aware of what they are buying daily providing them with the knowledge that may give them the possibility to improve their eating habits. What are the best production methods, the best food to cook and buy because every day while eating they have to ask themselves what are the ways to easily help the planet in which they are living, exploiting its resources in a more ethical way. Official website of the event is available at: <https://salonedelgusto.com> (Last Access 26 September 2018).

which are natural anti-oxidants. Another extremely important factor is the packaging: Chinese consumers *buy and eat with their eyes*. Of course Chinese governments requires a lot of certifications and Authorities inspect deeply the product with several exams, but what the final consumer really wants is a beautiful product that as an high eye impact. The Galantino company of course provide its products with Chinese labels and they also have a olive oils' list written in Chinese that can help the final consumers understand the differences between the oils and how to better use them. Thanks to the changes that have characterized the Chinese market during the last two decades and also thanks to an higher consumers' education, the Chinese market can only grows and opens toward a product such as the Italian extra virgin olive oil. The key in order to be successful, according to Mr Leone, is to find the right importer that has the proper knowledge of the product and is able to place it on the Chinese market; patience and hard work are, of course, the most important factors.

Conclusion

This work has been structured in order to guide the reader in a detailed analysis of the issue of food export, cornerstone of the Italian economy and badge of honor of the entire peninsula. Despite the economic crisis that have hit Western countries in last decades, the export of food products has not diminished over the years and exporters are constantly seeking new markets in which dispatch their products and enlarge their market share. It goes without saying that the Chinese market is the first one coming to mind; with its 1.3 billion people China is the gold mine of every exporting enterprise and its openness to the world is expanding or at least this is the current trend. What stands behind the “simple” concept of exporting food products is a world full of obstacles, regulations and certifications that have to be studied and analyzed properly before even trying to export abroad. This is why prior to the specific description of what is really needed to export abroad, this work has given the reader the possibility of understand the really important concept of food safety and all its implications.

When we are walking in supermarkets, dealing with our daily struggle of what to buy and eat it should come to our mind that every single product we are buying has been produced, packaged, labelled and distributed according to some specific norms and regulations that have been issued for our own sake as consumers. Placing a product on a supermarket shelf is not an easy subject; this is particularly true if the product we are staring at comes from a country as China. Same situation is experienced by a Chinese consumer that is staring at an Italian extra virgin olive oil bottle sold in his trusted Chinese supermarket. The easy questions that come to mind are “Is this product safe?” , “ Am I able to understand how to use it simply reading the indications on the label?” et cetera. If we are able to buy a product almost 100% sure that it will not harm ourself, or at least will not give us a stomachache, is thanks to the Food Safety Laws that have been drafted and issued in all countries all around the world. The capacity of ensuring consumers with the best quality products, requires a lot of work, controls and inspections that are made by all the authorities that are involved in the food safety process.

The first two chapters of this work have been devoted to the explanation of the concept of food safety at an international, European and Chinese level. What have pushed the majority of governments to actively do something in order to guarantee the food safety, have been all the food-related incidents that have affected the international community since forever but also in the last century. In the *anno domini* 2018, it is almost absurd hearing about food-related incidents that effectively harm consumers: but it may happen and it have to be prevented. This is why it is extremely important the cooperation and mutual aid between the international, national and local authorities in

order to guarantee an effective food safety management. This is what is required by the European Food Safety Authority (EFSA), the body in charge of the food safety control in Europe that with its different compositional organisms and several duties tries to take care of risk management and risk assessment in the European Union. Same is required by the four Chinese authorities that are carrying out the same EFSA's task. The Chinese Food and Drug Administration (CFDA), the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), the Ministry of Agriculture (MOA) and the National Health and Family Business Planning Commission (NHFPCC) are the ones controlling that every single product that is dispatched on the Chinese market is in compliance with the Law. This is not an easy task and basically every consumer does not have the slightest idea of what really is behind the simple safety that we usually give to a trusted product. This idea could be embodied by the food products' producers that have to deal with the Food Safety Law in order to export their products abroad.

This theme has been also analyzed in this work with particular attention given to the 2009 Chinese Food Safety Law, amended in 2015. Considered to be the most austere Food Safety Law ever existed, this Law is concerning the food production, food distribution, food-related products and also food e-commerce. Chinese government is now controlling every single stage of the food production chain, punishing the ones that voluntarily or unintentionally break the Law with monetary penalties that can reach an amount of thirty times higher than the value of the products incriminated.

As everyone knows one of the most famous Italian food product exported and used everywhere is the extra virgin olive oil. Fundamental element of the Mediterranean diet, the Italian extra virgin olive oil is one of the best food product produced in Italy, from Tuscany to Apulia region it is hard to find an extra virgin olive oil that does not excel for its characteristics. Bitter and spicy, rich in polyphenols, the Italian extra virgin olive oil could be one of the main product exported in a huge market like the Chinese one, most of all the Apulia's one because this region is known to be the world's first olive-growing region; but it is far from being easy. Apulia region is full of small and medium-sized enterprises willing to export their extra virgin olive oil in China but only a few of them have reached the goal. An Italian company willing to export extra virgin olive oil in China has to deal with several obstacles that range from the scarce knowledge about this product and its proper use, to the numerous certifications that have to be presented to the Chinese government in order to be in compliance with the Law. Given the researchs made and the interviews done, it is correct to affirm that the path that have to be followed in order to keep a long, happy-ending business relationship with China is rich of challenges that may seem difficult or impossible to overcome. Although Chinese consumers seem to be more and more open to Western influences and Western food habits, deep inside their culture are embedded some angles that are hard to smooth. Despite the increase of Italian

extra virgin olive oil import in China, that has seen a growth of the 40% in 2017, Chinese gastronomy is mainly characterized by the use of vegetables oils that are much more cheaper than a foreign extra virgin olive oil. Chinese consumers are always seeking products with the most competitive price and there is only a tiny niche of them that is willing to pay a higher price to purchase a high quality extra virgin olive oil.

Several are the difficulties that have to be faced and the Chinese government is, of course, not helping with its regulations that basically change every year and are not expressed clearly and may also be different from authority to authority. This is the primary problem that has been pointed out by Apulian medium-sized companies. Dealing with Chinese authorities can be exhausting, the only solution is to find a Chinese importer with the proper background. This is the key figure that can really change the game for an Italian company; with his or her proper knowledge of the product, the importer is extremely useful in finding the right wholesalers that have the target market, which is always an elite one, that is willing to spend money on a product like the extra virgin olive oil. Of course the quest of the importer requires time, effort and hard work. It is useful to attend fairs, having the right connections and also the luck. Companies have to adapt themselves and their product to the Chinese consumers, that often want beautiful products. Investing in labels' correct translation and design of the packaging is required to be successful; these processes require time and patience also. This is why a lot of companies are almost discouraged to follow the path that leads to the Chinese market, it is important asking if reaching this market it's worth the efforts. Are Chinese consumers really willing to buy extra virgin olive oil? Are they able to understand how to use it? Are they really starting to be westernized or is just a mere appearance? These are all legitimate questions that still have no answer. Although the Chinese target market to which address a product like the extra virgin olive oil is an elite one, it is still an elite segment of a market composed of more than one billion consumers.

The Chinese market is so large, its possibilities so numerous that maybe there is a chance that all the efforts may result into a business breakthrough. The Apulian extra virgin olive oil is the best olive oil produced in Italy and this has to be the starting point in a company remodelling that may be looked as an *orientalization* process. For those brave, strong and willing enough it could be useful to give it a shot, likely that's worth the risk.

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