PARTICIPATING GOVERNMENT AGENCIES – BREAK OUT SESSIONS

I.   ANIMAL & PLANT HEALTH INSPECTION SERVICE (APHIS)

II.   ENVIRONMENTAL PROTECTION AGENCY (EPA)

III.   FOOD SAFETY INSPECTION SERVICE (FSIS)

IV.   NATIONAL MARINE FISHERIES SERVICE (NMFS)

V.   FISH AND WILDLIFE SERVICE (FWS)

FOOD SAFETY INSPECTION SERVICE (FSIS)

Mary Stanley, Robert Berczik

Q: Where does the information come from for the Automated Import Information System (AIIS)?

A: The information is driven by a health certificate from the foreign government. The data elements are specified in our regulations and are keyed in by the inspector.

Q: In general, at what point do you get the information for the AIIS?

A: The information is on a shipment basis. When the goods arrive at the I-house or when the Importer of Record makes the application that is when the inspector keys it in. For goods arriving from Canada however, that works differently; we ask that the information is faxed to us ahead of time (up to three days) before the goods move faster.

Q: Any thoughts of moving to a risk based targeting system like CBP?

A: We do apply a risk based system. We have routine re-inspections on all shipments and randomly check shipments for more in-depth inspections which include product examinations and laboratory examinations.

Q: Have you experienced any counterfeit markings on your "Official Mark of Inspection?"

A: No; we have very tight controls in place.

1

Q: (Question from Lou): With regard to the new system you are building (that is, the Public Health Information System (PHIS)), how does that work? Are you collecting that information from the foreign country as well going into ACE for the trade information relating to the entry number/classification/certificate number? Based on the receipt of all of that information are you able to do a verification so that you can let the goods go?

A: Yes, that is a very high level summary.

Q: (Question from Lou): If ACE cargo release is not deployed by the end of September 2010, I would think we need to take the existing information from ACS so that we can support you with this. Sounds like there would be a benefit to the trade?

A: Yes, it would be critical to do that. Although we will have the ability for brokers to key in this information directly into our system, if there is a way to make those interim changes, it will be to a great advantage to trade and government.

Q: Will your agency be able to avail itself of the upcoming 10+2 data elements?

A: (Jim Swanson). No. The legislation clearly states that those data elements can only be used for purposes of public safety, NOT import safety.

Q: Do you have the names of the competent authorities in all of these foreign countries?

A: Yes, we have a list that we can make available to you if you are interested. Please call us if that is something that you would like.

Q: Will the public health certificate number and the shipping marks marry up?

A: Yes, we marry those two pieces as the link.

Q: If shipments come over via ocean, shouldn't you have that by House Bill? If you require the entry number prior to broker filing the entry, most importers won't have that information. The beauty of ACE and the advance manifest is that it provides visibility to the goods when the shipment is still in the water. If you could request the Shipment Control Number, everyone would be able to provide that number.

A: These are good ideas, thank you.

Q: "Re-inspection"- how is that defined? Does that mean that the goods go to the inspector, he breaks the seal and then checks the form submitted by the importer?

A: The first inspection is at the foreign country and then inspected by the inspector in the U.S.

Q: What is AIIS?

A: That is the Automated Import Information System. It is a centralized computer database that links all ports of entry, confirms animal and public health eligibility, and maintains the compliance history of the country/establishment.

Q: What are the differences between the Animal and Plant Health Inspection Service (APHIS) requirements and the FSIS requirements?

A: An example of the difference would be that the agricultural specialist (APHIS) focuses on animal disease but would not look to see if the animal products came from an eligible country; the latter is an FSIS requirement.

Q: My understanding is that FSIS is one of the few agencies that has the legal authority to stop a release or place a hold, or request a hold, from CBP. Will you be able to take advantage of that functionality with the M1 release?

A: At what point we can place the hold is still an outstanding issue. The vision is that if the product is from an ineligible country, or an ineligible source (establishment), the product should never move from the port and never make it to the I-house. We have detention authority, so we could order the product into detention so we can control it at the port. The issue is whether the product can be moved from the port and rejected by CBP.

Q: Won't 10+2 take care of this?

A: There are prohibitions on using that data for other than public safety.

Q: Does FSIS look at the Harmonized Tariff Schedule (HTS)?

A: Although we look at those codes they are not very useful for meat and poultry items particularly when these products are further processed. We need further granularity than the HTS currently provides.

Q: If as brokers, we know the products we are interested in, it would be helpful if we could download the list of eligible/not-eligible countries into our systems.

A: We have a lot of that information on our website, but it is not currently downloadable, it will be with the new system. We are also working toward integrating the product codes with the HTS. http://www.fsis.usda.gov/pdf/Countries_Products_Eligible_for_Export.pdf

Q: My understanding from your presentation is that the trade will have data elements to input and that the submitted information will bounce off your files; your system will then determine whether the product can come in. The APHIS agent and/or CBP official at the border will then transmit a message regarding that product. Will that message also come back to the trade?

A: The expectation is for that information to return back to the broker.

Q: Do you impose penalties/fines for products that make it into the U.S. without having first been re-inspected?

A: Redelivery is possible from the CBP side. On our side, the investigative office determines whether there will be penalties imposed on the importer of record and/or whether we will also move for criminal sanctions.

Q: Do you require explicit country of origin labeling for non-prepackaged meat that is just cut up and sold to consumers?

A: The recently issued Farm Bill provides for explicit country of origin labeling that will soon be applicable.

Q: If cargo is determined to be "voluntarily destroyed" who pays for that?

A: The importer

Q: What happens if the goods that should have been destroyed are abandoned?

A: The goods would move to a seizure process. Detention actions are our first step. If the issue is not resolved within 20 days the product is referred to the U.S. States Attorney for seizure. The importer would be responsible to pay for the destruction. If the importer does not "voluntarily" pay, it will become very expensive for the importer when move to a seizure process.

Q: Once you find a product that is not eligible from an importer, does the importer lose his eligibility?

A: Eligibility is based on country and the establishment within the country; it is not importer based. There is also feedback to the foreign country so that they can take corrective action and/or conduct liaison outreach. We now also track the performance level of the importer of record. If that importer of record continues to mis-perform we work with the other government agencies so that focus is placed on that particular importer.