

Report from border systems and Biosecurity Act workshops, 26 and 27 November 2009

Contents

Analysis of material from border systems workshops	2
Summary	2
Introduction.....	3
Process comments.....	3
Motivation for proposed changes.....	3
Support for the proposed changes.....	4
Risks associated with the proposed changes.....	4
Issues with the overall border system	4
Transparency.....	4
Communications	5
Education	5
Issues with risk management	5
Risk assessment	5
Import health standards.....	5
Profiling	6
Offshore risk management.....	7
Decision-making process.....	7
Auditing	8
Comments on the proposed new process flow.....	8
The trigger.....	8
Prioritisation.....	8
Accessing information	9
Resource allocation.....	10
The Pipes.....	10
Monitoring	10
Economic issues.....	10
Costs, equity and who should pay.....	10
Incentives	10
Transitional facilities	11
Implementation	11
Other issues.....	12
Follow-up actions from new border system workshops	14
Biosecurity Act Amendment discussion: points raised	15
Border management	15
Offences and penalties	19
Other	20
Pest management	22
Prepare and respond to pests and diseases.....	23
Participants.....	25

Analysis of material from border systems workshops

Summary

There was strong support for the general direction of the proposed changes and a lot of constructive suggestions to be considered as the project is advanced. The main themes that came through were consistent from both workshops. These were around transparency, participation and implementation.

There was a recognition that MAF had made a significant effort to provide information to everyone who would be affected by the proposals but there was clear desire that this transparency should be increased and embedded in the proposed changes to the border system. Aspects of this included:

Early disclosure

Reporting pros and cons of proposals

Monitoring and communicating the results of monitoring

Reporting on how well the system is working – not just what has or hasn't arrived but rather what has not been found

Reporting effectiveness around behaviour change – is this making a difference and how is this demonstrated?

Advising what steps MAFBNZ will be taking in introducing any change

There was a strong emphasis on the request that MAFBNZ is transparent about the risks it sees with the proposed changes.

There was a widespread desire for greater participation by affected parties in many of the proposed new processes.

Participation was another key theme, an expectation that MAFBNZ would take account of industry knowledge and information when developing and implementing the proposed system. For example, including in risk analyses information that comes from sources such as ex-MAF staff or industry organisations. MAFBNZ action could sometimes be interpreted as ignoring or dismissive of industry advice and experience.

Workshop participants also wanted to know about the proposed implementation programme. There was a widespread view that MAFBNZ is not strong on implementation, taking too long, not communicating well and often not completing. They were keen to know the full timeline, where there may be delays, risks at various points and how MAFBNZ would deal with these.

Introduction

The two workshops held in Wellington and Auckland on the 26th and 27th of November produced a great deal of productive discussion and active participation. The two workshops produced similar material though the Wellington workshop tended to concentrate more at the policy level and the Auckland workshop at the operational level.

We recorded all of the material provided on the flip charts and much of the material raised during the syndicate presentations and the question and answer sessions after the presentations by Barry O'Neil and Douglas Birnie. This process produced over 450 items from both workshops that have been included in this analysis. An 'item' could be a query, a concern, a point of clarification, a piece of information or an opinion expressed or recorded by workshop participants. No 'items' from the MAF staff in attendance have been included in the analysis. Any MAF comments provided in response to questions are identified as MAF input.

Because we have included notes taken from the presentations as well as the material on the flip charts there is some duplication of items so the numbers of issues considered under each section will be a little higher than were actually presented at the workshops. However, the prime purpose of this analysis is to cover the full range of issues covered rather than record 'votes' for each section.

I have sorted the material presented into a number of categories, which broadly separate into comments about the process MAF is following, issues around some particular components of MAF's border systems, specific feedback on the proposed new system and a set of issues around costs and incentives and implementation.

Process comments

A set of about 50 items related to the process MAF was following to make these changes.

Motivation for proposed changes

Some suspicion was expressed about MAF's motivation for proposing to change the border systems. These were largely around concerns that the dual role MAFBNZ plays, ensuring biosecurity while facilitating trade, fails to provide confidence to a number of primary sectors. This concern led to a request that the two roles are more clearly separated within to increase confidence that MAF does not trade off biosecurity to make trade deals. These concerns were increased by perceptions that the pressure MAF comes under to support free trade arrangements is resulting in compromised biosecurity.

There were also concerns that the proposed changes may in part be driven by the government-industry cost-sharing proposals and that MAF was trying to avoid some accountability for the border.

A useful suggestion to address this concern was that MAF provide a clear value proposition that is based on the overall objective of the proposals.

Support for the proposed changes

However, a greater number of comments expressed a strong level of support for the proposals from MAF and the process that was being followed to develop them. Aspects that were seen as positive included:

- Early engagement with affected parties;
- A willingness to listen to and respond to issues raised;
- Increased transparency, industry involvement, communications; and
- Better involvement in determination of priorities for import health standard development.

Risks associated with the proposed changes

A number of potential risks were identified. These included:

- A decrease in overall biosecurity if implementation is not managed well;
- Empowering people at the border to make decisions could lead to favoured points of entry;
- Frontline staff getting the (incorrect) message that the changes means staff numbers could be reduced leading to loss of morale;
- Creation of weak links in moving to the new processes - some responsibility may change and loss of institutional knowledge - need to minimise loss of this knowledge;
- International perspectives that the system has been weakened; and
- Removing the ability to apply common sense.

One sensible question raised was ‘what risks does MAF see from the new process’? There is a clear obligation for MAF to add to this list of potential risks and identify how all the identified risks are going to be addressed in a transparent risk management register.

Issues with the overall border system

This section analyses the 100 or so items that were raised about a range of generic border issues.

Transparency

Although there was strong support for the transparent way that MAF had started this process, there was a clear desire that transparency should be increased and embedded in the new system. Specific suggestions included:

- Reporting on how well the system is working - not what hasn't arrived but what has been found not just what has come in;
- Reporting effectiveness of achieving behaviour change;
- Better transparency, involvement and communications required;
- Clarifying how both favourable and unfavourable information will feed back into the system;
- Communicating with stakeholders about what is next to be done and how long it will take;
- Identifying mechanisms for continuously improving system; and
- Be clear about free trade agreement and other drivers.

There was also a recognition that industry needs to be transparent. For its input to be taken seriously industry needs to provide fair honest advice. It was suggested that MAF records and remembers industry input (positive and negative).

Communications

Beyond specific requests around transparency there was a wide range of comments and suggestions about the overall communication needs for an enhanced border system. These related to early engagement with affected parties, providing time for considered responses, a plea not to focus on a vociferous minority and the need to maintain engagement consistently and for the long-term. Two particular themes were a request to consider the particular problems of communicating with small or emerging industries and organisations with limited communication capacity and to recognise the value of information and knowledge held by industry “see us as part of the solution not just part of the problem”. A specific example was the contribution that customs brokers could make in communicating information about border systems.

Education

There were a number of suggestions about areas of where education could be useful in improving passenger compliance with border requirements. These focused on providing pre-departure and in-transit information in multiple languages, utilising profiling to target messages and communication strategies, utilising websites linked to ticketing agents, airlines and NZ tourism sites. It was also noted that many rural areas in NZ have limited internet access. There were also some comments on how better post-border surveillance could be achieved using the sort of education approach used for the Didymo campaign including communicating interception information.

Issues with risk management

There were about 150 items regarding the overall risk management system.

Risk assessment

There were a couple of questions about who is accountable for defining a risk good and more importantly for determining what is an acceptable level of risk. It was noted, since only one round of consultation (on the proposed import health standard) is proposed in the new system, that it becomes really important that the risk assessment is robust and peer reviewed. The need for a risk analysis to be quickly adapted in the light of new information or treatment options was also noted. Finally there were opposing views on the tension between trade facilitation and risks associated with imports effectively leading to two different views of what is the acceptable level of protection.

Import health standards

There was strong support for a stream-lined process for the development of easier to use import health standards including an outcome based focus and plain language cover with technical appendices but:

- There was again tension between those seeking more protection and those seeking trade facilitation;

- There were a number of concerns about the size of the backlog and the slowness in clearing it, including doubts that the proposed changes would make much difference and concerns about queue jumping particularly as a result of free trade agreements;
- One concern was expressed that standards developed in response to free trade agreement requests could be lower than otherwise;
- There was still concern that current standards are hard to find and not easy to follow;
- There were a number of issues around review criteria for current import health standards that are old and out of date including:
 - The need to adapt rapidly to changes in risk or treatment options;
 - The rationale needed to review; and
 - What is the review process?
- There were concerns about the reliability of phytosanitary certificates from some countries and how MAF would address this;
- There was a range of concerns around the ability of import health standards to manage risks associated with micro-organisms;
- There were a number of concerns about inconsistencies between standards particularly those relating to plant material imported for consumption (but which could be propagated) and those actually imported for propagation such as garlic or roses;
- There was also a view that different sectors were treated inconsistently such as cut flowers compared with timber; and
- There was a concern that the current system invites clogging up the process with importer 'wish lists'.

Suggestions for improving the timeliness and the quality of and access to import health standards included:

- Exploring the use of harmonised standards with other countries, particularly Australia;
- Adapting risk assessments carried out by such agencies rather than starting from scratch;
- An improved web search facility;
- Linking MAF requirements to tariff codes;
- Providing options for broad spectrum treatments to fast-track approvals by eliminating most risks;
- Greater use of industry knowledge and information in their development;
- Finding a way for an applicant to capture the initial benefits of a standard they have invested in; and
- A request for a single standard for airline passengers.

Profiling

There was a very high level of support for the use of profiling to better target inspection efforts and facilitate the travel of low risk passengers both by air and by seas, but there were a number of areas of concern including:

- How to cope with shifting risk such as changing pathways, country of origin status, etc?
- How to avoid inconsistencies between inspectors at the border?
- How to obtain sufficient timely and reliable data?
- How will the effectiveness of profiling be monitored and reported?

There was also a request to use profiling for assessing pathways or importers and in particular take account of interception history in such profiles.

Offshore risk management

There was a very high level of support for more and improved offshore management of risk, including accredited facilities, but there were also large number of concerns including:

- How to verify that appropriate inspections and/or treatments were being carried out and that the risk of recontamination before shipment was being addressed?
- Off-shore options needed to be cost-effective;
- The need for any auditing systems to be compatible with New Zealand auditing practice and demonstrably independent;
- The need for on-shore auditing to monitor the performance of off-shore treatments;
- It may not be appropriate for small volume, intermittent or private importations;
- There needs to be high levels of confidence in supply chain traceability; and
- It needs to be accepted that New Zealand will not always have enough clout to achieve the desired levels of performance offshore.

There was an expectation that offshore treatments would lead to quicker clearances in New Zealand and that industry knowledge and experience would be used in developing offshore options. There were also expectations that offshore risk management options would consider equivalence, importers voluntary risk mitigation activities and adjust to consistent high performance.

It was also noted that there were many opportunities for New Zealand to harmonise offshore inspection activities with other reliable agencies such as AQIS.

Decision-making process

There was some confidence that the new system should help to reduce inconsistencies in decision-making but there were still calls for MAFBNZ to only make decisions about risk management not about supporting trade and requests for greater. There were also calls for earlier industry involvement in decision-making. Douglas Birnie pointed out that there was a different emphasis between domestic and international law in this regard, under the Biosecurity Act the Director General should only allow in what is safe, whereas under international trade law New Zealand should allow something in unless it is shown to be unsafe.

There were also a number of queries about the decision-making process including:

- Who has authority?
- What are the criteria?

- How should purely commercial benefits be balanced?
- What are the regulatory impacts?

Auditing

There was a call for greater clarity about how compliance will be confirmed under the new system and a concern that current auditing processes weren't up to the task. Auditing is needed at both ends – offshore and onshore. There was a request for industry involvement in auditing co-management programmes.

Comments on the proposed new process flow

Workshop participants tested the proposed process with a number of examples. There was almost total agreement that the new system was a substantial improvement PROVIDED THAT the concerns raised in the preceding section above were adequately addressed.

There was also comments that is a lack of feedback loops in the process as described to the workshop and a suggestion that there needed to be two rounds of prioritisation; one initially and a second after available information has been assessed. About 100 items were raised.

The trigger

There was some confusion about whether the trigger involved some sort of threshold to activate whereas this was not the intention when the model was developed. The trigger is the point at which the process starts for any of a wide range of reasons such as:

- New importer request;
- New pest or disease;
- New trade partners;
- Minor change in an existing approved product;
- Development of a new test or treatment to mitigate risk associated with the product;
- Changed shipping arrangements;
- Changed packaging method; or
- New information from border interceptions or scanning.

It was noted that New Zealand is very dependent on exporting countries to advise changes in risks in order to trigger a review of a import standard and a concern that this information is not always available, particularly for threats that could have a large impact in New Zealand but are of little concern in the exporting country.

There was a very strong request that industry be engaged early when a trigger is being considered that might affect an existing product or pathway and also that industry information be sought and considered when a trigger is activated.

Prioritisation

There was a large amount of discussion around this issue and this is clearly an area of significant concern. This included concern about apparent 'queue jumping'. It is very important that MAFBNZ develop very transparent criteria and processes for this part of the border system that are available for all affected parties.

A large number of criteria for prioritisation were suggested including:

- Want to do easy work first to get quick and easy stuff sorted;
- Perishable versus shelf stable;
- Value / size of opportunity;
- Economic NPV / IRR simply does it stack up in terms of value for effort put in to providing access;
- Value versus treatment;
- Amount of work to do;
- Availability of appropriate skills including credibility of any non-MAF involvement;
- Industry willingness to pay;
- Urgency, for example a biocontrol agent to manage an incursion;
- Size of trade involved;
- Is there an existing similar import health standard that could be adapted rather than starting from scratch again?
- Significance of consequences to NZ;
- Potential to carry organisms to NZ;
- Potential impact on NZ exports; and
- The amount and quality of relevant information available.

Other issues raised included the need to:

- Ensure prioritisation copes better with opportunistic commercial imperatives;
- Avoid wasting time on relatively low value issues that are strongly advocated;
- Clarify the relative rankings of free trade agreement, trade aid and standard commercial requests for import health standards;
- Allow for a trade off between significance of the import and the ease of analysis or risk mitigation, such as a relatively low value trade in an existing import from a new market that is very similar to existing markets;
- Have a prioritisation process that is not cumbersome and is totally transparent;
- Develop a broader group of external experts that are recognised by MAF as being able to work up risk assessments or technical reviews;
- Consider the potential impact of opening new import trade on existing export trade;
- Place the onus on the applicant to explain why their request should have priority;
- Consider the potential for trade offs between transparency and provision of commercially sensitive information to support priority claims;
- Identify who makes the decisions, who is involved and how other interests are considered; stakeholders would like to be involved; and
- Identify what factors – risks and benefits – were considered.

Accessing information

There was a very strong theme of ‘not re-inventing the wheel’ in this step. Accessing existing information, utilising information and knowledge held by industry and putting onus on proponents to provide the majority of the information were all emphasised. There was

also acknowledgement of a need for mechanisms to keep proponents honest and a concern that small sectors may not have enough resources to provide what was needed.

Resource allocation

The main comment here once again was for MAF to look outside for resources and to consider a broader pool of ‘approved suppliers’ of risk assessments.

The Pipes

There was strong support in principle for this concept though the time frame of 2 years for the most difficult problems was generally seen as too long. There was some concern that there would be no consultation on the risk assessment only on the final standard but also an expectation that if a problem with the risk assessment was identified it would be dealt with. There was also some expectation that there would be a standard 6 weeks consultation after the 8 weeks standard development process – an issue that needs to be clarified.

Monitoring

There was an expectation that the new system would be accompanied with a robust and transparent performance monitoring system so that the new outcome based standards could be demonstrated to work as expected. Any problems detected should be corrected by revisiting and revising the standard.

Economic issues

There was a range of issues around what the costs of the revised system would be and who should pay.

Costs, equity and who should pay

There were a lot of questions about who should pay and what benefits they should expect if they did pay. MAF was asked to be more conscious of the impact of the costs of the system but the main emphasis of the discussion was around equity and the most appropriate way for the risk generators to pay their fair share of the cost. For example should passenger clearance costs be recovered by a general levy on all passengers or by fines on transgressors? Douglas Birnie advised the workshops that importers already bear direct and indirect biosecurity costs of about \$120m per annum. It was also noted that importers do contribute to surveillance costs.

Incentives

There was a widespread concern that risk generators were not being managed effectively to improve their performance or that those who complied were not being rewarded for their good behaviour.

There were a number of suggestions for dealing with both issues including:

- Inspection levels should be common sense, based on history and relationships and inspector experience with product;
- Need legal declaration for MAF as with Customs that allows prosecution of false statements;

- Random audit and verification process based on compliance history;
- Treating non-compliance with cargo in a similar way to passengers – apply fine regardless of whether the infringement was intentional or accidental;
- There is a place for higher infringement fines for goods than for passengers;
- Inconsistent treatment of risk was a disincentive to comply;
- Penalise repeat offenders as Customs does with escalating fines proportional to the value of the import;
- Enforcing non-propagation of material imported for consumption by fining offenders;
- Look into a similar cost-recovery regime to that used for export certification which is generally seen as equitable;
- Recognise effective importer risk management programmes;
- Impose increased onshore inspection and verification pressure on importers whose offshore risk management is not performing adequately;
- Utilise the much improved traceability of goods to penalise non-compliers;
- Provide speedier facilitation for those importers with a strong compliance record;
- Allow for unsolicited non-compliant items when developing a compliance profile for an importer; and
- Maintain highly visible checking to keep the punters honest (compare with random breath testing as a deterrent).

One comment was a concern that the incentives for improved compliance of sea containers wasn't working as well as was expected because it was very hard to provide effective incentives.

Transitional facilities

There was a high degree of concern that transitional facilities were a particular area of weak incentivisation. There were thought to be too many of them and that there was not enough pressure from MAF for them to perform well.

Implementation

This section, containing about 50 items, could be best summed up by a comment from a Wellington group that “MAF is good on aspiration but has no clear idea how to get there”. In spite of widespread acknowledgement that MAF has made very good progress on this programme since the last series of workshops there is clearly still a level of scepticism that the whole programme will come together in an effective and timely way.

The proposed changes were seen as “doable” but there were a large number of implementation concerns including:

- The risk of MAF “delegating cost and risk” potentially weakening the border;
- Would MAF be able to complete frontline training in time to ensure consistency throughout the border;
- Loss of institutional knowledge of various industry sectors as a result of staff changes;
- Whether MAF staff will be sufficiently flexible to provide the new services in a timely way 24/7;
- Whether supporting computer systems can be implemented in time;

- Whether the system can respond within the timeframes required by industry;
- MAF's history of getting bogged down in detail;
- MAF staff attitudes slow to change at the front line; and
- Would there be appropriate investment in supporting research and development for continuous improvement of the technology used at the border.

Some suggestions for the implementation included:

- Running the new system in parallel with the old one for a period to iron out any problems;
- It would help if MAF set inspection time frames based on demand expectation of service;
- Be clear about implementation timelines – took 8 years to implement sea container changes;
- Importance of shifting to new electronic systems with strong computer systems support;
- Use profiling to target experienced inspectors looking after non-complying people/goods;
- Ensure staff are well trained to have a broad knowledge of standards, products and processing risks. Standards confusing. Inspectors can't know it all;
- In new system, more information will be provided with goods, minimising possibility of delays or incursions;
- MAFBNZ needs to set clear expectations regarding inspection time frames;
- Working more with principles less with rules; and
- Encouraging industry to put own schemes in place:
 - Joint benefits possible;
 - Shared funding?
 - Potential for cross-sector initiatives.

Other issues

Apart from issues that were specific to the proposed new system a few other issues and questions were raised. These are recorded here for MAF to respond to:

- What is post-border surveillance strategy? How do involved sectors get input into this?
- Regional airports provide an increased biosecurity risk as they become international gateways resulting in increased cost of compliance especially for MAF. Availability of technology and experience likely to be less than at main international airports so higher risk management factors. E.g. Rotorua and fruit fly and a late plane. Regional development and national biosecurity interests compete.
- Sea containers - NZ Inc ability to influence internationally is limited.
- Challenge - containers destined for transshipment, opened in NZ but no phytosanitary certificate for NZ.
- A plea that work towards a single border system continues and doesn't get lost in inter-agency rivalries;
- Ships - tortuous arrangements. Recyclable treated and stored on the ship material shouldn't be quarantine rubbish.

- Import permits:
 - Problem with exporters to NZ using import permits without knowledge of importers;
 - Inspectors also using permits when product is not imported purposefully [by the import permit holder].
- Plant tissue culture - couldn't bring back NZ native plants in tissue culture that had been sent overseas – why?

I congratulate all workshop participants for the hard work and good spirit of participation in these two workshops and commend your comments for MAF to take account of in this next phase of the border review. Please let me know if any of your comments have been misrepresented in my analysis.

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Follow-up actions from new border system workshops

Action	Response
Next workshop - what is being done to fit in with other border agencies	Noted for April round of workshops
What does MAF see as key risks to NZ [cf world wide best practice] to its own proposal?	Noted for April round of workshops
Independent economic assessment of regulatory costs of this programme	Compliance costs will definitely be built into the performance measures and reported on. The frequency hasn't been determined yet but it wont be every year.
Put presentations etc on web and send out link.	Covering email has weblinks
What is post-border surveillance strategy? How do involved sectors get input into this?	<p>Information on the Biosecurity Surveillance Strategy can be found at http://www.biosecurity.govt.nz/strategy-and-consultation/strategy/strategy/pest-management/surveillance</p> <p>There is also a regular newsletter to keep people updated on progress. Interested people can subscribe to this by emailing NZBiosecuritySurveillance@maf.govt.nz</p> <p>The detail of how actions will be undertaken and goals will be achieved will be developed as part of the implementation process. We will seek input from people with a role or interest in biosecurity surveillance during the process of implementing actions and achieving goals.</p>
Challenge - containers destined for transshipment, opened in NZ but no phytosanitary certificate for NZ.	The area of container transshipments was addressed during the recent revision of the import health standard for sea containers and the accompanying guidance. The weblink for the guidance document is http://www.biosecurity.govt.nz/files/ihs/seaco-guidance.pdf
Plant tissue culture - couldn't repatriate some NZ native plant tissue culture that had been sent to Ireland. NZ doesn't have flexibility shipping tissue culture.	To be repatriated as New Zealand origin material, tissue cultures would have to have been maintained overseas in quarantine, under the control of a national plant protection organisation such as AQIS for Australia. Otherwise there must be an import health standard that covers the importation.

Biosecurity Act Amendment discussion: points raised

Change area Comment

Border management

- Brdr Lack of incentives for importers to show responsibility but certainly some do
- Brdr MAF needing more information (goods and people)
 - information needs to be reliable - need high degree of confidence
- Brdr Also, importers need good / clear information
- Brdr Need clear basis for clearance / rejection
- Brdr Inspector model does not allow for co-management
 - decision placed on inspector and he may not have all necessary info to make clearance decision. Importers have more information than is given to MAFBNZ.
- Brdr Inspectors spend a lot of time with low risk clearances
- Brdr Risks not limited to goods, also pallets, containers, equipment etc
- Brdr Question of ownership - who is responsible? - importer, import agent etc
- Brdr Limit to New Zealand jurisdiction, can't reach back off-shore
- Brdr Liability must sit in New Zealand then contract to shift back to exporter etc
- Brdr Use code [of practice] to inform and shift liability back.
- Brdr Need conditions that are legally enforceable post-border
- Brdr Idea of outcome based import health standards and equivalences
- Brdr Want IHS to be clear, legal stuff and guidance
- Brdr Would have to have MAF approval / process for equivalent treatments
- Brdr Large players more likely to want outcome approach
 - small players preference may be prescriptive approach
- Brdr Match outcome vs clear approach (could be guidance)
- Brdr Guidance must have sufficient specificity
- Brdr MAF no need to consult on equivalent treatments
- Brdr Would MAF notify equivalent treatments or would there be ability to export economic pay back on investment?
- Brdr Import health standards, section 22: 5 of Biosecurity Act: meeting international obligations and cost consideration
 - cost of doing vs costs of not doing
- Brdr Free trade agreement balance to cost
 - biosecurity protection vs trade
- Brdr General support for consideration of costs
- Brdr Information
 - don't want to rekey data input
 - once or have many parties entering same data [sic]
 - want information shared Customs and MAF
- Brdr Govt requirements vs business practice
- Brdr Max days b4arrival.....max days after
- Brdr Incentive is around having information that speeds up clearance
- Brdr Quite a bit of information is actually available prior to arrival
- Brdr Clarity needed around pre-clearance, co-management and the actual clearance decision
- Brdr General support for ideas in discussion document
- Brdr Increase inspection rates
- Brdr Step up cargo side [of escalating infringement / enforcement options]

Change area	Comment
Brdr	Who must be in New Zealand? Importer vs agent
Brdr	Use of electronic systems at the border. Importers responsibility and MAF would like to see importers more active in reducing risks at border.
Brdr	MAF would like more info for clearance and use of directions. Thought better than current method. Supported.
Brdr	Info availability. Good clear info source.
Brdr	Freight forwarders etc, under co-management don't need inspector for checking container declarations etc.or random checks that cargo matches documentation. But legislation currently doesn't allow devolvement.
Brdr	Determine what is a low risk clearance.
Brdr	Ownership and responsibility. Difference between importers and agent. Customs model to be considered. If declaring that something not compliant, shouldn't be penalised.
Brdr	Robust risk assessments [inspection type assessments?] would knock [repeat non-compliances] on head.
Brdr	Foreign based organisation and importer? Debate. Liability must sit with the New Zealander who signed declaration. Contract between importer or buyer to shift responsibility back to producer.
Brdr	Codes for exporters qualified for approved systems. Liability trace back.
Brdr	Conditional clearances post-border should be enforceable, e.g. garlic imported for consumption and then grown.
Brdr	Import health standard approach more outcome based. Process arrangement or criteria to establish criteria. [Outcome based standards and DIY solutions] if you go down that pathway – better for bigger players. Small players still need requirements they have to follow. Idea – while move generally to outcome basis but support with guidance with prescriptive approach.
Brdr	Benefits – reduction in time. No need for long and arduous import health standard debate.
Brdr	Importer asks MAF [for a new import health standard] – has idea how to do things and investing own costs. Currently if MAF gives approval, standard is publicly available. Idea for going forward. Ownership and investment interest of person with idea to capture economic benefit.
Brdr	Import health standard criteria – international obligations and cost consideration. Interest and support for cost being factored into decision-making process.
Brdr	Information. Supported ideas lets think hard about compliance costs. Multiple entry. Once and one person to enter. Also streamline dissemination of information.
Brdr	Electronic information and arriving early. Point of arrival and could be obtain x-rays early or later. Always a range.
Brdr	What is relationship of Biosecurity Act with free trade agreements? Will free trade agreements increase biosecurity risk?
Brdr	If risk goes off-shore, then what are the checks on contamination risks in pathway / transit?
Brdr	Import health standards <ul style="list-style-type: none"> - Early engagement with one formal consultation - Others view engagement as progressive / ongoing - There can be a difficulty with industry having expertise - Does MAF (other agencies) have sufficient industry contact? - In absence of a representative body, then who/ how does MAF consult? - There is a general concern with the degree of consultation.

Change area	Comment
Brdr	Offshore certification <ul style="list-style-type: none"> - How will we confirm that the offshore system is robust? - Verification? - We need to tell our own industry when we are auditing our off-shore systems. - Confidence in [?government?][agencies
Brdr	Support clear, simple understandable standards and well structured website. <ul style="list-style-type: none"> - must be able to find information.
Brdr	If New Zealand, as small market, pushes more requirements off-shore, then do we run the risk of restricting trade because effort / cost is too high / too much of a hassle?
Brdr	Need to look at standards that reach across many countries and align internationally <ul style="list-style-type: none"> - SPS / CODEX etc tend to lead this
Brdr	Does New Zealand actively enforce <ul style="list-style-type: none"> - Verification, infringement etc? - Behaviour / sanction? - E.g. leave non-complying container on ship at importers cost?
Brdr	Staff at borders need more powers <ul style="list-style-type: none"> - E.g. access to e-documentation to check - Should biosecurity have powers bolstered?
Brdr	Want to look at incentives <ul style="list-style-type: none"> - How do we better help importers to comply?
Brdr	Has someone like NZIER had an over-view of RIS [regulatory impact statement] or policy docs etc? <ul style="list-style-type: none"> - Get an independent economic analysis
Brdr	Support electronic to speed up information flow <ul style="list-style-type: none"> - Quick sound decision-making
Brdr	Support early information to inform Cargo / shipping
Brdr	Difference between incentives and penalties, e.g. difficult to penalise importer for risks in a containers but can incentivise them.
Brdr	Is it fair to hold importers liable? <ul style="list-style-type: none"> - Take all reasonable steps - Onus on importer to provide this - n.b. ownership changes before / when goods get on ship.
Brdr	Transitional facilities need clear penalties
Brdr	Shared importer responsibility <ul style="list-style-type: none"> - its not that importers should be blamed but their responsibility should be explicit
Brdr	Recognise that zero risk isn't possible but challenge of not knowing how things arrive.
Brdr	Depends on nature or penalties.
Brdr	Mis-declarations <ul style="list-style-type: none"> - some deliberate (to avoid trigger points / interventions) e.g. mis-naming botanicals (difficult to identify) - MAF training needed in plant identification - would be less of a problem if the Plant Index was accurate
Brdr	Disincentives / penalties <ul style="list-style-type: none"> - Holding goods up at transitional facilities - Penalty - Delay - Charge (i.e. fee for service)
Brdr	Incentives <ul style="list-style-type: none"> - Adopt accredited / assured importer scheme (as in exports)
Brdr	Already responsible under FTQ [Fair Trading Act?], Animal Products Act, Consumer Law Act etc etc

Change area	Comment
Brdr	Big question is How
Brdr	What will they be required to do that they don't do already?
Brdr	Will Act have an obligation / duty
Brdr	Importers / retailers want certainty – (don't mind restriction)
Brdr	Could we consider an "Importer Risk Management Plan"
Brdr	Recognise Contract Law
Brdr	Move away from wooden pallets. Voluntary action
Brdr	Biosecurity Act must drive positive incentives towards best practice
Brdr	If no incentive, then importer behaviour wont change.
Brdr	Different rules here depending on off-shore risk management. <ul style="list-style-type: none"> - cost of compliance - speed of clearance
Brdr	Very real that cheap option is treatment in New Zealand - a disincentive (or no incentive) to shift risk management off-shore or to better manage risk.
Brdr	NZ Flower Growers Assn: 10 containers bulbs from Holland, all the same "lot" <ul style="list-style-type: none"> - each one gets inspected - Visual inspection / sampling can damage the product - Could we have a facility so check the "lot" once and use that information to reduce cost and speed up clearance for the other 9 containers - Definition of consignment is constraining. Say the bulbs are "one consignment"
Brdr	Inspection / inspector: <ul style="list-style-type: none"> - mutual recognition - alignment - can it transplant off-shore?
Brdr	e.g. fruit juice <ul style="list-style-type: none"> - are developing a code of practice around reducing biosecurity risk - voluntary vs statutory or partial: have a comprehensive COP with the key bits underpinned legally
Brdr	E.g. feeds umbrella code of practice <ul style="list-style-type: none"> - biosecurity - NZ Food Safety Act - Health - Agricultural and Veterinary Medicines Act - then flow on effects
Brdr	Clear language import health standard in good format
Brdr	Need law or something to manage risk
Brdr	As import health standards are developed, it is really important the MAF understands the pathways and the risks associated with those pathways.
Brdr	If risks there then <ul style="list-style-type: none"> - how to manage - how to manage in a way that achieves better compliance
Brdr	Mandate of MAF to manage risks being aware of trade (in and out) plus tourism
Brdr	System to build up compliance history, that history and other information used to better manage risk and act smartly. Also a question of cost. We just have limited data.
Brdr	Codes of practice to enforce behaviour change; flow on effects for managing risks further into the supply chain. Parallel with food control plans.
Brdr	Incentive – disincentives. Positives in Act as well as negatives. Act to drive change.
Brdr	Cheap treatment option is to clean up here in New Zealand – no incentive to move management of risk off-shore.

Change area	Comment
Brdr	Definitions – don't be constrained especially inspector. E.g. mutual recognition – accept non-MAF certification.
Brdr	Compliance history data – getting it to manage incentives.
Brdr	Importers – particularly containers - fair to hold them responsible? Importer – inside of containers legitimate for importer to be responsible e.g. contractual with exporter. But of OSH done all reasonable would be a mitigating factor.
Brdr	Real problem – absence of inspector – modern technology.
Brdr	Transitional facilities – escalating options below cancellation e.g. inspectors permanently on the spot and others.
Brdr	I.e. Relationship between imports and insurance fund - work on right guy responsible and escalating incentives.
Brdr	Transitional facilities – how would suspension be managed when elephants still have to be looked after?
Brdr	Encouraging compliant incentives for transitional facilities. Do you need to change the Act to do that? Auditing regimes quite effective and don't require legislative. Currently can only cancel, can't suspend. What we are looking to be able to do. Also operators – to be able to take previous history of operator into account.
Brdr	Border mgmt section – need to get information prior to arrive of passengers and goods. Customs 3 years ago. Aligning or further? Definitely align. But info needs slightly different. Customs Act value minimum \$400. But Biosecurity no minimum value.
Brdr	Airlines interested to see information aligned as much as possible. Our aim. But trying to work out information need and then what already provided. Alignment in forefront of our mind.
Brdr	Would like to think some of these things could be applied to exports as well. Eg Exporters. Currently hurting now. Some exports don't need legislative changes.
Brdr	?Non – compliance – what about incentives for compliance? Absolutely – two sides of the coin. Definitely want to incentivise the right behaviours – rewards.

Offences and penalties

op	Importer should be able to declare non-compliant goods and not be penalised for honesty.
op	Make mistake vs repeated vs deliberate fraud
op	Penalties could force clandestine behaviours
op	Cargo: criminal vs civil - Strict liability vs deliberate - did it, or not vs intention - lower penalties vs higher penalties (gaol sentence) - education/ warning vs civil liability - strict liability / negligence / recklessness / intent - infringement - instant fine
op	Making mistakes and repeat mistakes – deliberate. Penalties.
op	Civil of criminal law. Civil – need to strengthen and bolster within legislation. Supports idea of more graduated offence and penalty regime.
op	Support increasing offence / penalties for non-compliance - Customs system works well
op	Importer responsibility – generate ideas to put more on them and explore ideas for the Act and emphasis on knowingly non-compliant e.g. frequent contaminated cars – eventually Act kicks in; don't do it any more or escalate. How and what circumstances.
op	Enforcement. An NZ Inc issue – need education.

Change area	Comment
Other	
other	Need better search / targeting means to locate information on website - 6 million pages. Needs to be refined - need information links MAF / Customs etc - want one stop shop idea
other	Interface Biosecurity Act with Health
other	Support from legislation should facilitate good business practice
other	MAF perceived as "the authority"
other	Big shift to partnership approach
other	Communications / early reporting / everyone involved / more dialogue
other	What value is used for compensation? - market value pre or post detection
other	More speedy processing of claims
other	Move away from "one size fits all" to tailored arrangements (with or without govt - industry agreements)
other	Having better information available on the website but other channels also.
other	Size of MAF website and complexity and difficulty of findin what you want.
other	Concern – legislation needs to drive best practice business behaviour. Facilitate or enable. A moving feast and legislation definitely should not restrict.
other	Way MAF communicates. Could do better re how handling situations and reduce concern.
other	Roles and responsibilities. Moving to partnership approach and everyone's business. MAF still perceived as the authority. Still a shift needed to work in a partnership and everyone involved way. More dialogue. E.g. annual audit – better an ongoing discussion and more frequent.
other	Compensation. Time limit? Key issue – value used for compensation. If general market value drop not compensated for. If time limit – more pragmatic about how work through them. Driver for compensation is to promote early reporting – more tailored arrangements for different industries. Connection with government - industry agreements? Should be able to do whether or not in a government - industry agreement.
other	Biosecurity Act to encourage desired behaviour. Early reporting. Are New Zealanders well enough informed to early report?
other	Is a common border regime more important to umbrella the specific border agency positioning
other	Need to align standards / approaches Customs / MAF / NZFSA etc
other	What stakeholder involvement is forth coming e.g. in food retail area. Early engagement is important. - How aware are others? - Are they fronting meetings. ACTION MAF should report back on who attends, etc. - Also balance with getting on with action
other	M & W [Meat and Wool?] - Govt industry agreements - pest management strategies more responsive - Easier to develop
other	Asure – overview
other	Zoos – transitional and containment facilities / import health standards
other	Vets – overview
other	Oil and Gas – Act vs industry guidelines

Change area	Comment
other	Regional Council – - Crown Land / pest management - interface with Civil Defence and Emergency Management
other	Leadership and coordination
other	Include specific mention of human health in Biosecurity Act in order to drive research funding decisions
other	Enabling provisions are difficult to use
other	Need better rules around funding to prevent free-riders
other	If organism not “pest” or “unwanted” can’t access powers
other	Strong powers available in Act but hard to access
other	Act has a species focus. Should have ability to manage categories of pests
other	Need to clarify roles and responsibilities particularly in marine
other	Support moves to increase scope of Act to EEZ
other	Need to develop specific tools to manage marine risks - biofouling - ballast water - vectors within New Zealand
other	Industry groups support shared decision-making in government - industry agreements but oppose cost sharing. Have no control on the risks
other	Leadership and coordination. Is there a lack of leadership and coordination and if so is it a legislative issue? Some areas where better leadership is needed are naturally hard issues and way to solve is get people together to talk and work.
other	More recog of human health in Biosecurity Act.
other	Marine. Biosecurity Act put together before marine pests considered. A whole raft of issues that don’t lend to managing them . Ownership of the sea bed. Clarification scope. Develop specific tools for marine risks, biofouling, vectors and pests. Tool box barely there and not well developed.
other	Biofouling on huge vessels
other	Industry guideline for [oil] rigs developed with MAF
other	Only a few players in oil rig industry world wide
other	Oil and gas industry. Jurisdiction extension to EEZ ? That industry few players. Industry has a guideline developed with MAF to manage biosecurity risks and import into New Zealand. Could it be accommodated within regulatory framework.
other	Pests moving into humans where more significant – nice to have separate acts but disease doesn’t work that way. Came up yesterday. Clearly a gap. Most significant epidemics of humans in last decade came from animals. How administered is a separate issue. But how law set up is a topic before this group.
other	MAF inspectors make mistakes – flow on consequences. Compensation doesn’t cover when inspector ordered unnecessary or damaging treatments. Grossly erroneous may have common law claim. Two specific examples – ex gratia payment process currently complicated.
other	?Human biosecurity – interface between health. Need to make sure not left out. Eg swine flu and other zoonoses. More interest now. Issues how prepare and respond in similar ways. If you don’t do anything nothing gets done.
other	? Will plant index be revisited? Not in this project but a known challenge. Matthew Stone no specific thoughts on the Plant index but acknowledge the interface with organisms known to be in New Zealand and listed with ERMA an area of interaction with ERMA. Operational working through case by case when misalignment. Some might be familiar with New Zealand organisms register project Landcare and Niwa. High hopes will become comprehensive.

Change area	Comment
other	?Interface with other legn? Eg. Wild Animal Control Act? Not at moment because of timing but aware of and also aware there will downstream impacts.
other	?But if major in your face and able to progress, will definitely put into the pot. Think those issues need to be highlighted.
other	?Access to rural property data. Suggest sometime urban data as important. Access sounds simple but not simple in practice. Each territorial local authority has different way of doing it so practical issues. ?Set data standards.
other	Role of CTO part of review? No. Currently a range of views so not in this timeframe.

Pest management

Pest mgmt	pest management strategies are too complex and unwieldy
Pest mgmt	Pest management strategy development is unwieldy – to complex to deal with emerging pests.
Pest mgmt	More flexibility for industry – lead disease control programmes
Pest mgmt	Crown land; impact on regional pest management
Pest mgmt	Cost implications of binding Crown to regional strategies
Pest mgmt	Need mechanism for regions to use to manage pests that don't require national level organism designation - Investigate something between small scale management programme and pest management strategy
Pest mgmt	Regional strategies inflexible. Can't easily add new pests quickly.
Pest mgmt	Pest management – making pest management strategies more flexible so easier for industry lead disease control programmes.
Pest mgmt	Crown land impact on regional pest management strategy objectives.
Pest mgmt	Pest management – noted that Biosecurity Act doesn't prescribe but if you choose to participate, have to follow procedure to get powers and funding. Talked about binding the Crown to regional pest management strategy. About \$ and degree of compliance.
Pest mgmt	Powers available under the Act and ability to manage pests under pest management strategy, regional pest management strategy and small scale management programme. More flexible e.g. something between s 100 and regional pest management strategy. S 100v quite limiting – if not already an unwanted organism have to get it made so. Maybe apply over part of New Zealand to stop spread. Maybe between two levels – more flexible e.g. using geographical boundaries to slow spread.
Pest mgmt	Power strong but hard to access.
Pest mgmt	Approach pest lead. Maybe some scope to cluster, e.g.. Bee industry management strategy – streamlining move.
Pest mgmt	Difficult to get new pests into pass. Onerous process – many steps and consultation. Limiting when need to act quickly. E.g. pests not present in your region before arrive – so can deal with promptly.
Pest mgmt	Crown land ownership. Don't think Crown should be exempt. JSC Timber.
Pest mgmt	? Timing of process from here on in. Future of pest management finished in time to feed into this? Hoping so. Doing what can to fit in. Acknowledge timeframe challenging.

Change area	Comment
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Prepare and respond to pests and diseases	
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Respond	How to implement government - industry agreements for small fragmented industries? - Should production sectors pay or the importers - Industry not keen to pay if don't get import on border decisions - Response implementation on the ground needs to work in better with individuals affected - Mandate a huge issue
Respond	Do importers need to be part of the cost-sharing conversations
Respond	Importers already pay ... \$120m (but what is the cost of incursions by comparison)
Respond	Measures at the border already cost importers significant \$
Respond	Incursions may result from "ad hoc" imports rather than commercial
Respond	Trade is two -way but [are] our biosecurity requirements less onerous than countries we export to?
Respond	Importers not seeing biosecurity as NZ Inc issue, just a barrier - need education / sanctions
Respond	Act should encourage early reporting - debate over whether New Zealanders are well enough informed to report
Respond	BUT - imports are part of New Zealand life / society - issue is getting "connection" between importers / broader New Zealand interests
Respond	Government - industry agreements – readiness and incursion response. How will be implemented for small and fragmented industries? Who should pay general question? Under GIA beneficiary sections will pay. Should importers also pay? Industry groups not keen to pay if don't get input into border decisions in the first place.
Respond	Also improve how response managed on ground. More input. Mandate also of agreements.
Respond	Importers the scapegoat. But imports important to what New Zealand is now so connect imports and exports and cost sharing discussions. Importers pay \$120m pa of cost of PAM \$60m response.
Respond	Many commercial importers already taking biosecurity seriously. More risk from ad hoc situations. Also trade two way.
Respond	Need to be able to respond quickly and not be constrained by arguments over who pays.
Respond	How can we encourage early reporting of pests? - directly relates to MAF's responsiveness / impact on trade - need better, faster technology
Respond	Wont be able to get importers buy in until importers are just as responsible for paying for the clean up as primary industry - "insurance fund"
Respond	Government and industry agreements. Updated
Respond	Government - industry agreements. – support shared decision-making but opposed to cost sharing. – funding issues – common and to sort out.
Respond	Need to be able to respond quickly and not be constrained by who pays arguments.
Respond	Insurance fund – cost sharing around pest and disease management. Importers will get involved if a small levy going into an insurance fund – so don't have to stump up so much when it happens.
Respond	Post border – what consideration given to New Zealand reduced input systems therefore reduced ability of producers to react with aggressive agrichemicals vs incursions. Have to be up to date re modern practice.

Change area	Comment
Respond	New process cost sharing partnership. But partnership with exports and production. Not import sector. Where balance coming from. - Douglas Birnie - ongoing debate – importers paying now. ? is who pays residual. Typically don't know so most interested involved. But if can prove liability a different matter.
Respond	? Regional council biosecurity preparedness. Especially through Civil Defence. Currently – have a concept but always a little glitch eg not consistent New Zealand wide of territorial local authorities - important to liaise with councils re pest management and response. Eg Southland – 49% is Crown land, lowest population, large coastline. And big % of GDP.

Participants

Wellington (26 November 2009)

Independent facilitator	John Hellstrom
MAFBNZ	Barry O'Neil
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Federated Farmers	Mark Ross
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Nursery and Garden Industry Assn	Malcolm Woolmore
Nursery and Garden Industry Assn	Ian Gear
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NZ Fresh Produce Importers Assn	Kevin Nalder
NZ Retailers Assn	Barry Hellberg
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OMV New Zealand Ltd	Simon Frazer
Pip Fruit	Mike Butcher
Plant and Food Research Ltd	Philippa Stevens
Pork Industry Board	Sam McIvor
Pork Industry Board	Frances Clement

Port Companies of NZ	Barrie Saunders
Port of Tauranga	Graeme Marshall
Scion	Eckehard Brockerhoff
Summerfruit NZ	Marie Dawkins
The Sustainability Council	Simon Terry
Wellington Zoo	Simon Eyre
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Customs Brokers and Freight Forwarders	Rosemarie Dawson
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ISS-McKay; NZ Manager / Cruise Services	Douglas Colaco
ISS-McKay; Liner agencies operations manager	Ron Sequeira
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NZ Flower Growers Assn	Chris Smellie
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PIANZ etc	Michael Brooks
Mitsui OSK Lines	Mark Worsley
NZ Forest Owners Assn	Bill Dyck
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Fonterra	Lindsay Burton
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Rural Women of NZ	Wendy McGowan
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Premium Flowers NZ Ltd	Lance Straker
Heinz Watties	Karen Riddell
Enquiry received after workshop	
Prolife Foods	Lisa Berghas
Shipping New Zealand	Bruce Heather
Auckland International Airport Limited	Mike Clay
Apologies	
MAFBNZ	Tim Knox
MAFBNZ	Stephen Butcher
MAFBNZ	Jeremy Lambert
MAFBNZ	Pete Thomsom
Air New Zealand	Hugh McMillan
Allied Pickfords	Ray Loader
Business New Zealand	Phil O'Reilly
Chch International Airport	Rick Jones
CMA CGM & ANL (NZ) Ltd	Peter Trent
Fonterra	Sean Newland
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Horticulture New Zealand	Peter Silcock
IMVDA	Malcolm Yorston
IUCN SSC Invasive Species Specialist Group	Shyama Pagad
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NZ Bloodstock Airfreight	Greg Northcott
NZ Customs	Simon Williamson
NZ Shippers Council	Nigel Jones
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