

An Open Letter To Prime Minister Harper

October 16, 2012

CFIA – Canada’s Competent Veterinary Authority?

Canadian Food Inspection Agency is recognized both internationally and domestically as the competent veterinary authority for this country, but what does that mean? My understanding would be that CFIA is the impartial public entity both trusted and entrusted to ensure that overarching terms and conditions of trade agreements for food and agricultural products are being met. On the domestic front this trust / entrust relationship exists with Canada’s food and agriculture supply, processing, and distribution chain as well as with the Canadian consumers of those products. On the international front this trust / entrust relationship would be with CFIA’s international counterparts who play a similar role with their respective country’s industries and consumers. The nature of the overarching terms and conditions are largely related to animal health and welfare, plant health, and food safety.

Recent events, in particular the XL Foods beef recall in response to E. Coli 0157:H7 positive samples, have raised concern with this relationship. That concern is based on a number of facts as follows:

1. Two XL Foods raw beef trimmings shipments tested positive for E. Coli 0157:H7 on September 4, 2012. One of these shipments was at the U.S. border for export to that country and one was in Canada. Both cases were detected by routine sampling and both shipments were destroyed before reaching the terminal market.
2. On September 5, 2012 CFIA issued a Corrective Action Request (CAR) to XL Foods.
3. On September 6, 2012 CFIA made a **verbal** request to XL Foods for distribution information and testing results for August 24th and August 28th production.
4. On September 7, 2012 CFIA issued a CAR to XL Foods regarding E. Coli sampling and testing along with a written request and a September 8th deadline for the information verbally requested the day previous.
5. On September 10th and 11th XL Foods provided the information requested by CFIA and as a result CFIA determined that production from August 24th and 28th as well as September 5th warranted further investigation.
6. On September 13th CFIA removed XL Foods Inc. from the list of establishments eligible to export to the US.
7. On September 16th CFIA issued a Health Hazard Alert for raw beef trimmings products distributed in Canada and XL Foods began recalling those products.
8. Between September 17th and October 12th CFIA issued seventeen Health Hazard Alert updates, each of which has expanded the list of recalled products to the point where it is currently in excess of 1800 products.
9. On September 18th CFIA issued an additional five CARs to XL Foods, with varying completion dates identified.

10. On September 24th, CFIA issued a statement saying that “XL Foods Inc. has developed a response plan. The CFIA has accepted the company’s plan and will monitor corrective actions to verify that they have been implemented effectively.”
11. On September 26th the Food Safety and Inspection Service (FSIS) of the United States issued a public health alert in response to a positive E. Coli 0157:H7 sample found in California and FSIS and CFIA began discussions on additional measures. It was unclear where and when the contamination occurred.
12. On September 27th CFIA issued a statement saying “To date, the company has not adequately implemented agreed upon corrective actions and has not presented acceptable plans to address longer-term issues.”
13. On September 27th CFIA temporarily suspended XL Foods Inc. license to operate. All products at the plant were placed under CFIA detention. XL Foods expanded its voluntary recall to include not only beef trimmings but rather all raw meat products produced not only on August 24th 28th and Sept 5th, but additionally those produced on August 27th and 29th. CFIA issued a statement that “XL Foods Inc. will not resume operations until the CFIA is fully confident in the plant's capacity to effectively manage food safety risks”.
14. On September 29th CFIA accepted XL Foods improved corrective action plans (issued in response to CFIA CARs).
15. On October 2, 2012 Bob Kingston – an officer of the Agriculture Union on leave from CFIA - appeared before the Senate Committee on Food Safety to basically plead for more resources and authority for CFIA; and from his briefing notes we know that his opinion was that “CFIA did not have the resources in place to fully understand what was going on in that plant” (XL Foods). The notes further discuss the degree to which CFIA personnel remain untrained in Compliance Verification Systems, with specific reference to CFIA personnel at XL Foods.
16. On October 3rd Minister Ritz visited the XL Foods Plant at Brooks, and then held a news conference at the CFIA laboratory in Calgary. After a brief statement from Minister Ritz, Mr. George Da Pont was answering reporters’ questions when the news conference was abruptly halted – apparently by Minister Ritz’s personnel. TheMeatSite.com reported October 4th as follows: *Following the meeting at the meat plant, the agriculture minister said that despite pressure from ranchers and the industry the plant would only be reopened when he had received a written assurance from the CFIA president that the manufacturing process was absolutely safe.... "That is why the XL Foods plant will only resume operation when the President of the Canadian Food Inspection Agency has confirmed in writing to me that the health of Canadians is not at risk."*
17. On October 3rd the House of Commons held an emergency debate on the XL Foods recall issue. That followed the Opposition’s focus on the same matter during question period, in which Thomas Mulcair stated "There are not even clear standards for when meat should be discarded if the risk of contamination is too high — no standards." Liberal MP Frank Valeriote called on the

government to order a third-party audit of the resources the Canadian Food Inspection Agency needs to do its job, claiming the agency suffers from a lack of resources. You, Mr. Prime Minister, used the debate to marshal support for Bill S-11, claiming that there were delays in CFIA receiving critical information from XL Foods and that Bill S-11 would rectify that by enhancing CFIA's powers.

18. On October 4th Minister Ritz held a second news conference in which he emphasized that the XL plant's license to operate would not be re-instated until he receives written notice from the CFIA that the plant is safe.
19. On October 11th CFIA partially reinstated XL Foods license to operate. This allowed CFIA to monitor the plant's food safety controls in action as the plant employees fabricated about 3000 of the approximately 5000 carcasses that had been under CFIA detention since September 27th.
20. As of the date of writing (October 16th) XL Foods Inc. has not shipped any beef products or slaughtered any cattle since September 27th. They were going to begin moving some products from the plant to rendering under strict CFIA supervision on October 15th.
21. On October 13th XL Foods temporarily laid off almost all of its 2200 employees, citing uncertainty over when CFIA would reinstate their license to operate.

Concerns

1. Loss of confidence in CFIA as the competent authority for domestic consumers of food products. Seventeen Health Hazard Alert updates issued between eleven and thirty-five days after the latest production date with known contamination hardly builds credibility. Recalls and food borne illnesses inevitably erode confidence in all links of the chain, and given the prominent oversight and inspection role CFIA plays their trust relationship with consumers is damaged.
2. The plant has now been closed for nineteen days, and seventeen days have elapsed since CFIA accepted XL Foods' amended corrective action plans (twenty-two days since the initial CFIA acceptance of corrective action plans). By CFIA's own information there was no major non-compliance which led to the suspension of the operating license. The record of CARs issued indicates one on September 5th, one on September 7th, and five on September 18th. It is unreasonable to assume that XL Foods has not completed the procedures outlined in their corrective action plan in the past two and one half weeks of total plant closure. All of this has resulted in a loss of confidence in CFIA as the competent authority for beef producers and processors. Audits and reviews are designed to detect compliance / non-compliance with protocols and procedures and to identify corrective actions (by means of CARs) that are required to come in to full compliance. CFIA's apparent inability to decisively determine what corrective actions are required and then to decisively judge the implementation of corrective actions seriously erodes the trust relationship with processors and producers. This is evidenced by CFIA's own apparently contradictory

statements of September 24th and 27th where-in they accepted the company's response plan (Sept. 24th) and use the lack of "acceptable plans to address longer term issues" (Sept.27th) as justification for suspending the facility's license to operate.

3. Whole muscle cut recalls are very rare in E. Coli 0157:H7 recalls and the scale of this whole muscle cut recall is unprecedented to my knowledge. To be sure the Public Health Alliance of Canada has identified four cases of E. Coli linked to the XL Foods plant from people who consumed steaks purchased at Costco. However, CFIA has established that there was opportunity for cross contamination of the steaks with ground beef in the Costco retail outlet, and there is always the possibility of cross contamination or improper food handling at the consumer level. Indeed it seems unusual that all four human illnesses related to whole muscle cuts came from the same meal, given that Costco would have prepared several packages of steak from a single strip loin and would have processed several strip loins in the same shift.
4. The Canadian food inspection service (CFIA) is scheduled for an audit by USDA-FSIS in autumn, 2012. Quoting John Cotter of The Canadian Press, the previous audit conducted in 2009: *"found weaknesses in the ability of Canadian inspectors to verify consistent sanitation and hazard protection in some slaughter plants, but noted the agency was planning to take action to deal with the shortcomings. It also said agency inspectors and supervisors were routinely not following procedures for monitoring sanitation controls as laid out by the CFIA. "Principal areas of weakness included the inability of inspection personnel to implement consistent sanitation and hazard analysis and critical control points verification procedures," says the report, which was sent to the CFIA in October 2010."And, more significantly, (there is) the lack/loss of consistent supervisory reviews to identify weaknesses in inspection performance when it occurred."* Indeed these are the very issues addressed by some of the more significant CARs at XL Foods nearly two years later. They are also the issues identified by Bob Kingston in his appearance before the Senate Committee on Food Safety October 2, 2012.
5. One day after FSIS and CFIA began discussions on additional measures regarding the XL recall, and presumably on the advice of Minister Ritz and CFIA, XL Foods initiated the unprecedented massive whole muscle cuts recall.
6. There is a concern that the scale and extent of the XL Foods recall may have been an over reaction. Quoting the October 12th Canadian Press article by Lina Dib: *Dr. Sylvain Quessy, who teaches meat hygiene and is the vice-dean at the faculty of veterinary medicine at the University of Montreal, says that, from a statistical standpoint, the number of illnesses associated with the type of E. coli in the XL Foods safety investigation — 15 Canadian cases in a month — is not especially alarming." Everyone's worrying about a number of cases that is not excessive compared with what you'd normally expect," he said. "What we're telling people — it's as true now as it was before — is you need to cook your meat properly. (And) wash your hands and wash the things the raw meat touched and you eliminate the danger." Quessy says recent federal steps don't make meat any more or less safe than it would have been six months ago.*

7. Political Involvement in the issue has complicated the resolution. There have been calls for Minister Ritz to resign. Minister Ritz has asserted that the plant will not re-open until he has received a letter from Mr. Da Pont, President of CFIA, certifying that the food produced at the plant is safe, or absolutely safe, or that the health of Canadians is not at risk. Opposition and Liberal MPs as well as CFIA personnel and the Public Service Alliance of Canada are using the situation to lobby for enhanced resources for CFIA. And, Mr. Harper, you and Minister Ritz are urging speedy passage of Bill S-11 in the wake of the recall.
8. CFIA has known for some time that they would be undergoing a follow-up audit from USDA. Both CFIA and the Public Service Alliance of Canada are concerned by recent budget cuts, and are lobbying for restored or enhanced budget and staffing levels. At the least it appears that they are using the XL recall in an opportunistic fashion.

Personal Analysis

The XL Foods beef recall is turning out to be no win situation for almost all involved, from politicians to beef processors to regulatory agencies to beef producers to consumers. At present the beef producers and consumers are enduring losses and higher prices (respectively) while those at the heart of the issue – XL Foods, CFIA, and Minister Ritz – remain stuck in a Mexican Stand-off. That is not to make light of the enormous losses XL Foods must be incurring.

Food safety in the entire supply chain is a shared responsibility of all involved including producers, processors, distributors, retailers, consumers, and CFIA. There is evidence to support some degree of incompetence at all levels of that chain, and, I suggest, some degree of political incompetence in setting unrealistic / unachievable objectives for CFIA and the beef industry to meet. Given the shared responsibility and the dynamic and complex nature of beef production, processing, and distribution it must be daunting for Mr. Da Pont to write the letter required for reinstatement of the license to operate. It is discouraging to learn that shortcomings in the Canadian food inspection system identified by the 2009 USDA audit remain unresolved; and that full training of CFIA personnel in Compliance Verification Systems has not yet been accomplished despite recommendations of the 2009 Weatherill Report. It appears that the federal government doesn't trust many Canadians to always apply the recommendations for safe food handling and so are being particularly stringent with other sectors of the supply chain. This logic, taken to the extreme, results in the conclusion that the only sure way to avoid food-borne illness is to avoid food.

As a producer at the primary level of the beef supply chain it is disconcerting that CFIA can make these licensing decisions in isolation. They are not required to consider industry impacts or other consequences of their decisions – and in the face of significant and serious threats to human health that is appropriate. However, that requires a determination of “significant and serious” that seems to have been somewhat arbitrary in the XL investigation. The isolated decision making process should be equally disconcerting for consumers of food products who eventually pay the price for reduced

food supplies that result from loss of confidence in the regulator and from supply chain disruptions. The closure, even on a temporary basis, of the XL slaughter facility results in more live cattle being exported to the U.S. for slaughter and more beef products being imported from the U.S. for Canadian consumption. That is an effective outsourcing of food safety to the U.S. because of our veterinary authority agreements on equivalency. Could it be that the U.S. has become uncomfortable with those equivalency agreements? The September 26th FSIS / CFIA discussions on additional measures might suggest this.

CFIA is undoubtedly a veterinary authority as evidenced by the ongoing suspension of a plant responsible for almost 40% of Canada's beef slaughter capacity. I believe I have outlined my concerns over autonomy and competency. For me that raises the question: Canada's competent veterinary authority or self serving bureaucracy?

Mr. Harper I have described the stand-off that exists in this situation. I ask you to personally intervene to break this impasse. It appears to me that industry, agency, and government all bear some responsibility in the occurrence and handling of this food safety challenge. Two thousand people are out of work, cattle are backing up in the supply chain, cash flows are grinding to a halt, and consumers are facing supply shortages and increased prices. Confidence has been eroded at all levels of the chain and long term impacts on beef supply will ensue in the absence of speedy resolution.

Respectfully submitted,

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