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Name of paper: Customs' Proposed New Goods Clearance Fees
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Purpose of the paper: This Cost Recovery Impact Statement details the impacts of the proposed new goods clearance fees.

Some parts of this paper have been redacted under section 9(2)(d) of the Official Information Act 1982. The redactions appear in the text as grey boxes, with an explanation of why the redaction was made.

The Goods Clearance Fees Cabinet paper and Minute can be accessed here: <https://www.customs.govt.nz/about-us/about-customs/consultation-on-goods-clearance-fees/>.



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Stage 2 Cost Recovery Impact Statement

Customs' Goods Clearance Fees

Agency Disclosure Statement

This Cost Recovery Impact Statement has been prepared by the New Zealand Customs Service (Customs). It analyses proposals to update Customs' current goods clearance fees for imports and exports to better reflect Customs' costs.

The analysis in this Cost Recovery Impact Statement is limited by constraints. In particular, Customs' review of its goods clearance fees was:

- limited to adjusting Customs' existing goods clearance fees without changing the fee structure
- carried out within the ambit of Cabinet decisions already made, including a suite of decisions about collecting GST on low-value goods where Cabinet decided that Customs will cease collecting the Import Entry Transaction Fee on consignments valued \$1,000 or less [DEV-18-MIN-0209 refers].

The analysis in this Cost Recovery Impact Statement is limited by uncertainty about:

- the impact increases in two air cargo fees (the Inward Cargo Transaction Fee Air and Outward Cargo Transaction Fee Cargo Report Export Air) would have on businesses and individuals
- the behaviour changes that importers, exporters, craft operators and freight forwarders might make if the goods clearance fees are changed as proposed
- the distribution of Customs' activities across transport channels in the future, because the focus of Customs' effort changes dynamically in response to risk, and at any time the distribution of activities may change.

In light of these uncertainties, Customs is proposing to:

- only partly recover the costs related to the Inward Cargo Transaction Fee Air and Outward Cargo Transaction Fee Cargo Report Export Air
- monitor the number of entries and reports lodged and update its forecasts periodically, and review its goods clearance fees after two years.

Despite these constraints and uncertainties, this Cost Recovery Impact Statement contains sufficient analysis to inform Cabinet when considering Customs' proposals relating to goods clearance fees.

Anna Cook
Director Policy
New Zealand Customs Service

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Executive summary

1. The New Zealand Customs Service (Customs) undertakes activities to reduce the risk of illegal and non-compliant goods crossing New Zealand's border. Customs collects goods clearance fees from importers, exporters, craft operators and freight forwarders. Currently, these fees partly recover the cost of activities such as processing entries and reports, identifying and assessing risks, and inspecting goods.
2. Customs last substantively reviewed these fees in 2006. Customs is reviewing these fees now because its current goods clearance costs are not equitably shared. Some fees recover more than Customs' costs related to the fee, while other fees recover less. Changes since 2006 affecting Customs' costs include:
 - the Government has asked Customs to increase its border protection activities
 - the level of activity in each transport channel has changed as border risks change and as the number of goods cleared in each transport channel changes
 - a new activity-based costing methodology has given Customs a better understanding of the costs that should be allocated to each fee.
3. Table 1 shows the costs relating to each fee, the revenue if the fees remained unchanged, and the number of entries or reports on which the fees are collected.

Table 1 – Estimated revenue and costs relating to each fee

Fee name	Service or activity	Channel	Entries or reports ^[1]	Fee revenue if rates remained unchanged	Costs ^[2]
			2020/21	2020/21	2020/21
				\$m	\$m
Import Entry Transaction Fee	Clearing goods valued over \$1,000.		1,300,000	32.6	37.0
Inward Cargo Transaction Fee	Clearing goods deemed to be entered. Reporting on all goods on a craft.	Air	98,000	2.6	30.2
		Sea	6,000	1.9	2.7
Export Entry Transaction Fee	Clearing goods on an Export Entry.	Secure Exports Scheme	140,000	1.4	0.4
		Other exports	470,000	7.3	2.8
Outward Cargo Transaction Fee	Clearing goods without an Export Entry.	Air	60,000	0.6	3.9
			Goods on a craft.	56,000	0.6
	Clearing goods without an Export Entry.	Sea	26,000	0.6	0.1
			Goods on a craft.	15,000	0.4
Total				48.0	78.0

[1] Forecasts of entries and reports were provided by Customs' Performance, Analysis and Reporting team.

[2] Includes the cost of investigations and seizures, but excludes the Crown-funded activities listed in paragraph 16.

4. Customs has developed a Cost Recovery Framework to help it to determine who should pay for the activities it undertakes in relation to goods. The main principle in this Framework is equity – services are funded by those who use them. Under this

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Framework, where the purpose of an activity is to manage a risk, the group generating the need for Customs to carry out that activity should fund those costs, except where other considerations would lead to a different conclusion.

5. In light of Customs' Cost Recovery Framework, in relation to goods clearance, Customs proposes to:
 - recover the costs of goods-related investigations and seizures
 - use the Inward Cargo Transaction Fee to recover the costs of clearing consignments valued \$1,000 or less (low-value consignments)¹
 - use the Cargo Report Export to recover the costs of clearing low-value exports and transhipments
 - move to full cost recovery of goods clearance fees, other than for two air cargo fees (Inward Cargo Transaction Fee Air and Outward Cargo Transaction Fee Cargo Report Export Air)
 - partly recover the costs related to these two air cargo fees because of uncertainty about the impact that full cost recovery would have on businesses and individuals.

6. Customs also proposes to:
 - recover certain costs Customs incurs providing services to holders of intellectual property rights, and cease to require rights-holders to lodge a security bond
 - increase Customs' hourly rate for services it delivers outside standard operating hours from \$74.12 (incl GST) to \$133.00 (incl GST), with a minimum charge of three hours.

7. Customs consulted in August 2019 on proposed ranges of fees. The final proposed fees are set out in Table 2. These final proposed fees are within the ranges consulted on, except for three fees where the final proposed fee is less than the range.

Table 2 – Proposed goods clearance fees, and change from the current fees

Fee name	Channel	Current fee \$ incl GST	Proposed fee \$ incl GST	Change
Import Entry Transaction Fee		29.26	33.03	13%
Inward Cargo Transaction Fee	Air	30.66	77.00	151%
	Sea	359.82	520.00	45%
Export Entry Transaction Fee	Secure Exports Scheme	12.01	3.27	-73%
	Other exports	17.94	6.82	-62%
Outward Cargo Transaction Fee				
- Cargo Report Export	Air	11.51	40.00	248%
- Outward Cargo Report		11.51	14.35	25%
- Cargo Report Export	Sea	28.83	5.57	-81%
- Outward Cargo Report		28.83	18.58	-36%

¹ A consignment is all the goods on a craft imported by one importer from one supplier.

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8. Customs' assessment is that the proposed fees are more equitable than the current fees because Customs would be recovering from importers, exporters and their agents the costs that their goods generate (other than the Inward Cargo Transaction Fee Air, and the Outward Cargo Transaction Fee Cargo Report Export Air, where Customs proposes the costs are only partly recovered).
9. During public consultation, some submitters highlighted the public benefits arising from investigations and seizures and said the Crown should pay this cost. Some submitters thought it unfair that legitimate importers and exporters should pay for the costs of investigating illegal activity relating to imports and exports. Customs' analysis supports recovering these costs from importers and exporters and their agents, because the purpose of these activities is to manage risks relating to importation and exportation. It would generally be impracticable or inappropriate to recover these costs directly from the individuals being investigated or who had their goods seized. The next group most closely related to those generating the need for Customs to carry out these activities are importers and exporters and their agents. Charging the group that generates the need for Customs to carry out these activities is in line with Customs' Cost Recovery Framework, and guidance published by The Treasury and the Office of the Auditor-General.
10. Customs' assessment supports only partly recovering air cargo costs because full cost recovery would require substantial percentage fee increases, and Customs is uncertain what impact such substantial increases would have on businesses and individuals. For example, any increases to these fees would disproportionately impact small shipments because Customs collects the same fee regardless of the number of consignments on the cargo report.
11. s 9(2)(d) OIA [REDACTED]
12. Customs' assessment supports recovering certain costs relating to Customs' services for holders of intellectual property rights, and removing the requirement for rights-holders to give Customs a security bond. It also supports increasing Custom's hourly rate, with a minimum three-hour charge. These proposals better ensure that users pay for the costs that they generate.

Status quo

Description of Customs' activities relating to imports and exports

13. Customs undertakes a wide range of activities related to imports and exports. These activities aim to prevent illegal and non-compliant goods crossing New Zealand's border and, at the same time, aim to ensure that New Zealand's trade flows efficiently across borders. Stopping illegal goods crossing the border prevents harm to society associated with those illegal goods.

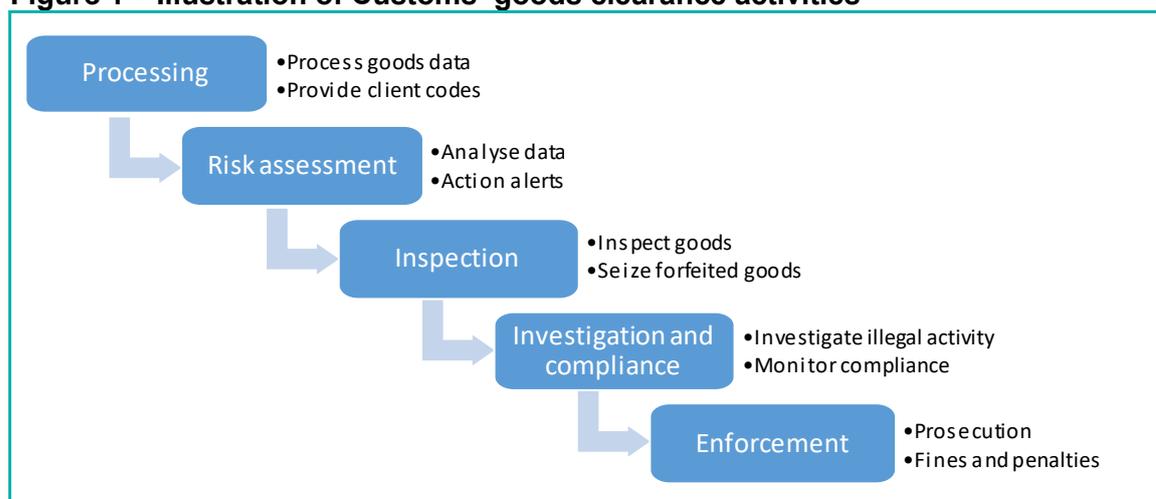
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14. Currently, Customs partially recovers the cost of some activities relating to imports and exports, in particular:
- **processing import and export documentation:** for example, Customs processes import and export documentation electronically through Trade Single Window, issues client codes needed to lodge Import Entries and Export Entries, advises customers, makes Customs rulings (for example, on the origin of a good), and processes temporary entries
 - **identifying and assessing risks relating to goods:** Customs uses intelligence and risk targeting to focus its resources on high-risk goods, enabling Customs to stop fewer goods for inspection and improving clearance times
 - **inspecting goods:** Customs inspects targeted goods to detect illegal or non-compliant goods. For example, Customs officers could X-ray a container, open the container and remove the goods for inspection.
15. Customs does not currently recover the costs of goods-related investigations and seizures. Customs can seize goods if it suspects the goods breach the Customs and Excise Act 2018 or an offence has been committed relating to the goods. Customs incurs costs undertaking investigations where it has evidence of potential illegal activity. These activities are described further in paragraph 35.
16. Customs also does not recover the cost of certain other activities it carries out relating to imports and exports:
- policy advice
 - enforcement action, including prosecution, administrative penalties and infringement notices
 - collecting duty, including GST, tariff duty and excise-equivalent duty
 - negotiating with other countries where Customs is New Zealand's lead agency for:
 - 'rules of origin', enabling importers and exporters to access tariff concessions
 - recognition of Customs' and trading partners' clearance procedures
 - the removal of non-tariff barriers, to smooth the path for New Zealand exporters clearing goods at trading partners' borders.
 - managing the Secure Exports Scheme
 - clearing low-value mail governed by the Universal Postal Union. Customs is currently constrained in its ability to recover the cost of these activities.

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17. Customs' goods clearance activities are illustrated in Figure 1.

Figure 1 – Illustration of Customs' goods clearance activities



Previous decisions relating to goods clearance fees

18. On 31 October 2001, the Cabinet Finance, Infrastructure and Environment Committee decided to introduce an import transaction fee to recover a portion of the costs of goods clearance [FIN Min (01) 26/1 refers]. On 20 September 2004, the Cabinet Business Committee decided to alter the structure and level of the fees that assist in meeting Customs' costs relating to imports, and to introduce fees to assist in meeting Customs' costs relating to exports [CBC Min (04) 9/16 refers]. The Government set these fees at levels that partly recovered Customs' costs. The Government reviewed these fees in 2006 [EDC Min (06) 5/14 refers].
19. On 17 October 2012, the Cabinet Economic Growth and Infrastructure Committee decided to increase these fees in connection with the costs of the Joint Border Management System that enables importers and exporters to electronically lodge border declarations in one place [EGI Min (12) 23/4 refers].
20. In previous Budgets, Governments have increased Crown funding for Customs' goods clearance activities. For example, in Budget 2016, the Government increased Crown funding in Output Class *Clearance and Enforcement Services Related to Goods* by \$2.9 million per year to improve efficiency and effectiveness.² In Budget 2018, the Government increased Crown funding in this Output Class by \$7.3 million per year to disrupt drug smuggling networks.³
21. On 19 September 2018, the Cabinet Economic Development Committee decided that, from 1 December 2019, Customs will cease to collect the Import Entry Transaction Fee on consignments valued \$1,000 or less, and directed Customs to report back on how its shortfall in cost recovery revenue should be funded [DEV-18-MIN-0209 refers]. This decision was one of the suite of decisions relating to a new regime for collecting GST on low-value goods. The intent of this decision was to avoid any delays at the border if Customs was to collect the Import Entry Transaction Fee and associated Biosecurity System Entry Levy on low-value consignments.

² The Treasury (2016). *Estimates of appropriations – Vote Customs – External Sector – Estimates 2016/17*. <https://treasury.govt.nz/resources/vote-customs-external-sector-estimates-20162017>.

³ The Treasury (2018). *Estimates of appropriations – Vote Customs – External Sector – Estimates 2018/19*. <https://treasury.govt.nz/publications/estimates/vote-customs-external-sector-estimates-2018-2019>. The Crown funding provided was \$2.6 million in 2018/19 increasing to \$7.3 million in 2021/22 and outyears.

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Customs' current goods clearance fees

22. Cabinet's previous decisions to partly recover goods clearance fees have resulted in the current goods clearance fees shown in Table 3. The authority to charge these fees is provided by section 409 of the Customs and Excise Act 2018. The fees are prescribed in the Customs and Excise Regulations 1996.

Table 3 – Documents, activities and Regulations relating to goods clearance fees

Fee name	Document charged	Activity funded	Fee \$ incl GST	Regulation
Import Entry Transaction Fee ^[1]	Import Entry	Clearing consignments valued over \$1,000.	Air and Sea - 29.26	Regulation 24A
Inward Cargo Transaction Fee	Inward Cargo Report lodged to clear low-value consignments, or lodged to report on all cargo on a craft.	Clearing low-value consignments. Inspection of craft carrying cargo. Processing reports about cargo.	Air - 30.66 Sea - 359.82	Regulation 13A
Export Entry Transaction Fee	Export Entry	Clearing goods on export entries.	Secure Exports Scheme - 12.01 Other - 17.94	Regulation 28A
Outward Cargo Transaction Fee	Cargo Report Export lodged to clear goods that do not require an entry. Outward Cargo Report lodged to report on already-cleared cargo.	Clearing goods that do not require an export entry. Processing reports about cargo.	Air - 11.51 Sea - 28.83	Regulation 29A

[1] From 1 December 2019, Customs will only collect the Import Entry Transaction Fee on entries valued over \$1,000.

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23. The amount of revenue Customs collects from goods clearance fees depends on the number of entries and reports on which these fees are charged. Table 4 shows the forecast number of entries and reports. These forecasts are derived from historical time series data, and where Customs has access to industry information, this is compared to the forecasting models produced by Customs.

Table 4 – Forecast number of entries and reports^[1]

Fee name	Channel	2019/20	2020/21	2021/22
		Entries or reports	Entries or reports	Entries or reports
Import Entry Transaction Fee ^[2]		1,400,000	1,300,000	1,300,000
Inward Cargo Transaction Fee	Air	95,000	98,000	102,000
	Sea	5,900	6,000	6,100
Export Entry Transaction Fee	Secure Exports Scheme	130,000	140,000	140,000
	Other	460,000	470,000	470,000
Outward Cargo Transaction Fee				
- Cargo Report Export	Air	61,000	60,000	59,000
- Outward Cargo Report		56,000	56,000	55,000
- Cargo Report Export	Sea	26,000	26,000	26,000
- Outward Cargo Report		15,000	15,000	15,000

[1] Forecasts of entries and reports were provided by Customs' Performance, Analysis and Reporting team.

[2] Includes an estimate of the number of Import Entries, Simplified Import Entries and Private Importer Declarations valued \$1,000 or less from 1 July 2019 to 30 November 2019.

24. Table 5 shows Customs' estimated revenue from goods clearance fees if the rates remained unchanged.

Table 5 – Estimated revenue if goods clearance fees remained unchanged

Fee name	Channel	2019/20	2020/21	2021/22
		\$m	\$m	\$m
Import Entry Transaction Fee		35.3	32.6	33.4
Inward Cargo Transaction Fee	Air	2.5	2.6	2.7
	Sea	1.9	1.9	1.9
Export Entry Transaction Fee	Secure Exports Scheme	1.4	1.4	1.5
	Other	7.2	7.3	7.3
Outward Cargo Transaction Fee				
- Cargo Report Export	Air	0.6	0.6	0.6
- Outward Cargo Report		0.6	0.6	0.6
- Cargo Report Export	Sea	0.6	0.6	0.6
- Outward Cargo Report		0.4	0.4	0.4
Total		50.5	48.0	49.0

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25. Expenditure relating to goods clearance is primarily funded from Output Class *Clearance and Enforcement Services Related to Goods*. Table 6 shows the estimated costs from 2019/20 to 2021/22 relating to each goods clearance fee. The table includes the cost of investigations and seizures because Customs is proposing to recover these costs (see paragraph 38).

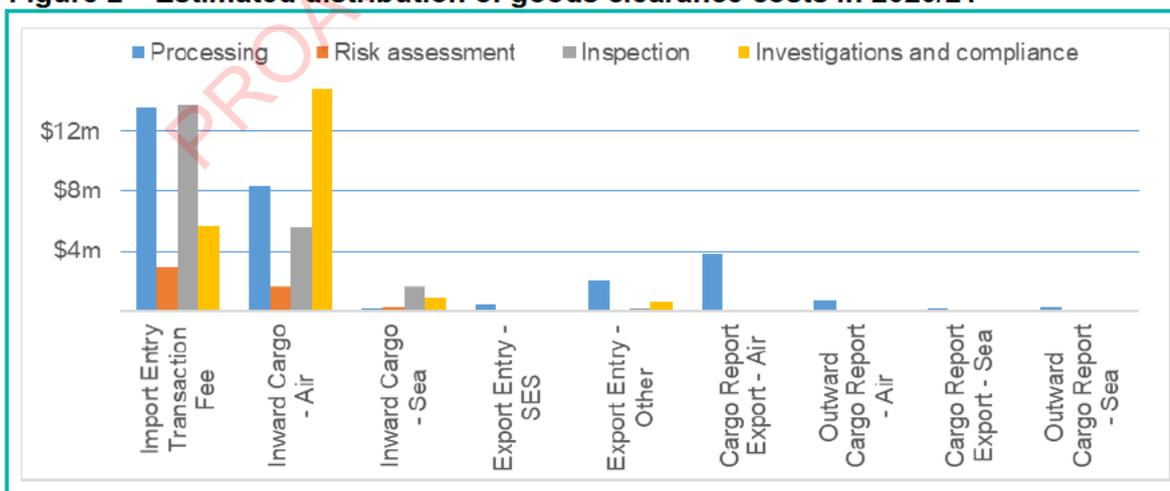
Table 6 – Estimated costs relating to goods clearance fees^[1]

Fee name	Channel	2019/20	2020/21	2021/22
		\$m	\$m	\$m
Import Entry Transaction Fee	Air and Sea	35.8	37.0	37.5
Inward Cargo Transaction Fee	Air	28.6	30.2	30.5
	Sea	2.7	2.8	2.9
Export Entry Transaction Fee	Secure Exports Scheme	0.4	0.4	0.4
	Other	2.7	2.7	2.8
Outward Cargo Transaction Fee				
– Cargo Report Export	Air	3.9	3.9	3.9
– Outward Cargo Report		0.7	0.7	0.7
– Cargo Report Export	Sea	0.1	0.1	0.1
– Outward Cargo Report		0.2	0.2	0.2
Total		75.2	78.0	79.0

[1] Includes the cost of investigations and seizures, but excludes the Crown-funded activities listed in paragraph 16.

26. Various activities contribute to these costs. Figure 2 shows the contribution of processing, risk assessment, inspections and investigation activities. This figure highlights that investigations contribute the most to Customs' costs of clearing imports. Export costs come mostly from processing activities. The focus of Customs' effort changes dynamically in response to risk, and at any time this distribution of activities may change.

Figure 2 – Estimated distribution of goods clearance costs in 2020/21^[1]



[1] This figure excludes the cost of Crown-funded activities: enforcement, collecting duty, clearing low-value mail, negotiating trade arrangements, and managing the Secure Exports Scheme.

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27. One driver of Customs' goods clearance costs is the number of consignments being cleared. Table 7 shows the number of consignments in each transport channel. This table highlights that the largest number of consignments are cleared using Inward Cargo Reports for air cargo.

Table 7 – Estimated number of consignments cleared

Document used to clear consignment	Channel	Consignments ^[1] 2020/21
Import Entry	Consignments valued over \$1,000	1,300,000
Import Entry or Simplified Import Entry ^[2]	Consignments valued \$1,000 or less	460,000
Inward Cargo Report	Air	11,000,000
	Sea	23,000
Export Entry	Secure Exports Scheme	140,000
	Other	470,000
Cargo Report Export ^[3]	Air	6,000,000
	Sea	140,000

[1] These estimates are based on forecasts and data provided by Customs' Performance, Analysis and Reporting team. They do not incorporate the effect of any behaviour changes that importers, exporters, freight forwarders and craft operators might make if the proposed fees were implemented, or following Cabinet's decision that Customs will cease to collect the Import Entry Transaction Fee on consignments valued \$1,000 or less from 1 December 2019.

[2] This estimate excludes low-value mail items.

[3] Consignments on Cargo Report Export include transshipments and consignments that do not require an export entry.

28. Table 8 illustrates how the costs relating to each fee would be funded if the fees stayed at the current level. This table highlights that the Crown would fund most of the costs relating to air cargo. Some of the export-related fees would collect more than the costs relating to those fees.

Table 8 – Funding that would be required if goods fees were not changed

Fee name	Channel	Estimated cost 2020/21 \$m	Revenue from fees 2020/21 \$m	Balance requiring funding \$m
Import Entry Transaction Fee	Air and Sea	37.0	32.6	4.4
Inward Cargo Transaction Fee	Air	30.2	2.6	27.5
	Sea	2.7	1.9	0.8
Export Entry Transaction Fee	Secure Exports Scheme	0.4	1.4	-
	Other	2.8	7.3	-
Outward Cargo Transaction Fee				
- Cargo Report Export	Air	3.9	0.6	3.3
- Outward Cargo Report		0.7	0.6	0.1
- Cargo Report Export	Sea	0.1	0.6	-
- Outward Cargo Report		0.2	0.4	-

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Why these fees are being reviewed

29. Customs' goods clearance fees have not been substantively reviewed since 2006. Changes since 2006 mean that the current fees no longer reflect the cost of clearing goods. Those changes include:
- **Increased input prices:** Customs' costs have changed since 2006. For example, wages in New Zealand have risen by 31 percent since 2006⁴
 - **Increased number of air cargo consignments:** Customs' costs relating to each air cargo report has increased as the number of consignments per cargo report has increased
 - **Increased activity to manage border risks:** the Government has asked Customs to increase its border protection activities. For example, in Budget 2018, the Government increased funding in Output Class *Clearance and Enforcement Services Related to Goods* by \$7.3 million per year to disrupt drug smuggling networks⁵
 - **Changes in Customs' focus:** the quantity of activity in each transport channel has changed as border risks change
 - **Better allocation of costs to services:** a new activity-based costing methodology has given Customs a better understanding of the costs that should be allocated to each fee.⁶
30. The fees are also being reviewed because Customs proposes recovering investigations and seizure costs relating to goods clearance (see paragraph 38). Customs also proposes that the cost of clearing low-value consignments (other than low-value mail) be recovered using the Inward Cargo Transaction Fee (see paragraph 46).
31. If Customs continued without changing its fees, those fees would not be as equitable as they could be, and would continue to not accurately reflect Customs' costs.

⁴ Percentage change between June 2006 and June 2019. Statistics New Zealand. (2019). Labour Cost Index. Table: All Sectors Combined, All Salary and Wage Rates. Retrieved from: <http://archive.stats.govt.nz/infoshare/SelectVariables.aspx?pxID=3b3ee291-d047-459c-8538-db162e9ec9c5>.

⁵ The Treasury. (2019). *Estimates of appropriations – Vote Customs – External Sector – Estimates 2019/20*. Retrieved from: <https://treasury.govt.nz/publications/estimates/vote-customs-external-sector-estimates-2019-2020>.

⁶ New Zealand Customs Service. (2019). *ABC Costing Methodology*. Retrieved from: <https://www.customs.govt.nz/globalassets/documents/misc/abc-costing-methodology.pdf>.

Cost recovery principles and objectives

32. Customs has developed a Cost Recovery Framework based on charging guidelines developed by the Office of the Auditor-General⁷ and The Treasury.⁸ Customs published its Framework in its Discussion Document *Recovering the Costs of Customs' Goods Clearance Activities* relating to goods clearance fees.⁹
33. Customs' Cost Recovery Framework includes the following principles:
- **equity:** Customs' services are funded by those that use them. This is the key principle because it determines who should pay for each service
 - **efficiency:** Customs delivers high service standards at a sustainable cost
 - **transparency:** There is a transparent link between the cost of resources, the activities that consume those resources, the services those activities contribute to, and the fee used to recover those costs
 - **justifiability:** Customs recovers only the costs of delivering its services.
34. These principles form the objectives against which this Cost Recovery Impact Statement assesses Customs' proposals. Also considered are the impacts of the proposals on businesses, individuals and the Crown.

Policy rationale for cost recovery

Investigations and seizures relating to goods clearance

35. Currently, the Crown funds the cost of investigations and seizures relating to imports and exports. These investigations and seizure activities can relate to the illegal importation or exportation of goods such as drugs, weapons, tobacco and objectionable material. Investigations relating to imports and exports can also relate to counter terrorism, money laundering, and goods that infringe upon intellectual property rights. This review did not consider investigations relating to collecting duty because those investigations will continue to be Crown-funded.
36. Customs can seize goods if it suspects the goods breach the Customs and Excise Act 2018 or an offence has been committed relating to the goods. Activities relating to seized goods include issuing a Notice of Seizure, and storing and disposing of the goods.
37. Customs can undertake investigations where it has evidence of potential illegal activity. Investigations result in a decision to either take enforcement action or close the investigation. Investigation activities also provide intelligence for further targeting. Activities Customs carries out relating to investigations can include:
- engaging with other New Zealand agencies and overseas counterpart agencies to disrupt criminal networks in New Zealand and overseas involved in importing or exporting illegal goods

⁷ Controller and Auditor-General. (2008). *Good Practice Guide: Charging Fees for Public Sector Goods and Services*. Retrieved from: <http://oag.govt.nz/2008/charging-fees/docs/charging-fees.pdf>.

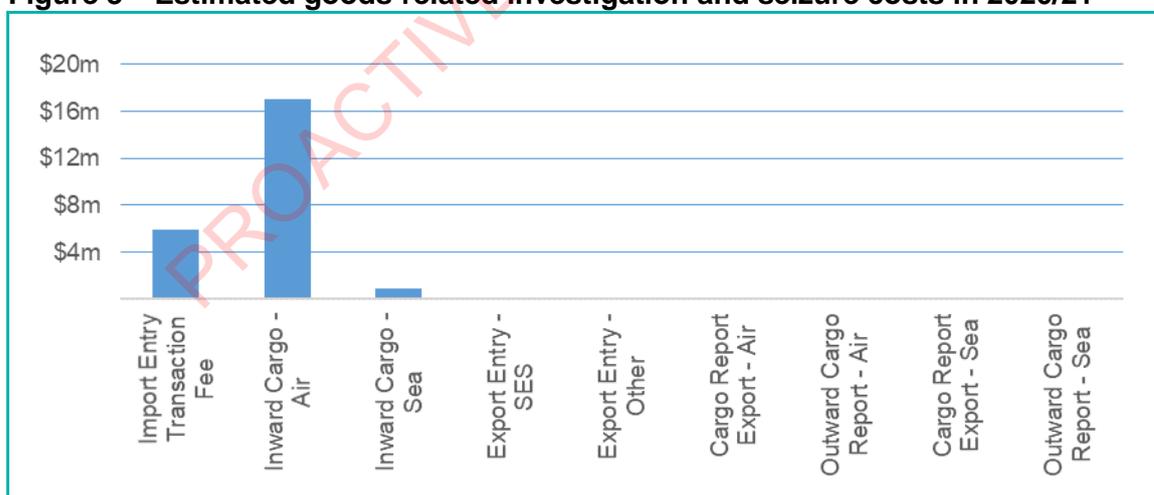
⁸ New Zealand Treasury. (2017). *Guidelines for Setting Charges in the Public Sector*. Retrieved from: <http://www.treasury.govt.nz/publications/guidance/planning/charges>.

⁹ New Zealand Customs Service (2019). *Recovering the Costs of Customs' Goods Clearance Activities*. Retrieved from: <https://www.customs.govt.nz/globalassets/documents/misc/discussion-document---goods-cost-recovery---for-consultation.pdf>.

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- gathering and sharing intelligence, analysing data and identifying risks and targets
 - intercepting targeted goods, undertaking covert inspections, making controlled deliveries, undertaking surveillance and executing search warrants
 - gathering, examining, enriching and classifying evidence including forensically imaged data.
38. Customs proposes that, in principle, the costs of investigations and seizures relating to imported and exported goods (other than investigations relating to collecting duty and clearing low-value mail items) should be recovered from craft operators, freight forwarders, importers and exporters paying the goods clearance fees.
39. Customs has identified the investigations costs relating to each fee primarily by spreading the cost of goods-related investigations to each transport channel depending on the proportion of investigations during 2017/18 that were related to each transport channel.¹⁰ Any methodology for allocating investigations costs is unlikely to be precise because any one investigation could involve multiple transport channels and could involve traveller movements as well as goods, and the focus of Customs' investigations is dynamic and changes over time.
40. Investigations and seizures relating to goods clearance (other than investigations relating to collecting duty and clearing low-value mail) are estimated to cost in the order of \$23 million per year. Figure 3 shows the estimated investigations and seizure costs relating to each fee in 2020/21. This figure highlights that most investigations costs relate to imports, and in particular low-value consignments imported by air. There have been fewer investigations relating to exports. These investigations and seizure costs are estimated to account for 16 percent of the total costs relating to imports valued over \$1,000, and more than half the costs relating to inward air cargo.

Figure 3 – Estimated goods-related investigation and seizure costs in 2020/21^[1]



[1] These costs exclude the cost of investigations relating to collecting duty.

41. Customs assessed the proposal to recover the costs of investigations and seizures against the equity principle described in paragraph 33. Investigations and seizures are an integral part of Customs' activities that aim to manage the risk of illegal goods crossing New Zealand's border. In line with Customs' Cost Recovery Framework, where an activity's purpose is to manage risk, it is equitable to charge the parties who generate the need for Customs to carry out that activity.

¹⁰ New Zealand Customs Service. (2019). *Pricing and Fee Setting – Methodology for Cost Recovery*. Retrieved from: <https://www.customs.govt.nz/globalassets/documents/misc/pricing-and-fee-setting-methodology.pdf>.

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42. Charging individuals who Customs investigates or seizes goods from is not usually practical or appropriate.¹¹ Customs might not identify the individuals responsible for the illegal activity, they might be unable to pay, and there may be natural justice reasons for not recovering costs from the individuals Customs is investigating. All importers, exporters, craft operators and freight forwarders potentially create the need for Customs to carry out an investigation. Given that Customs cannot recover the costs from the individuals being investigated, it is equitable to recover these costs from the group next most directly related to the investigation and seizure activity – that is, all importers, exporters, freight forwarders and craft operators. Investigations activities also generate intelligence that informs risk assessment of all imports and exports.
43. There are other regulatory systems where the cost of investigations is recovered from users of the system. Customs recovers investigations costs relating to arriving and departing travellers, as part of its activities aimed at stopping illegal activity by travellers. Maritime New Zealand and the Civil Aviation Authority recover investigations costs in their regulatory systems aimed at managing safety risks inherent in aviation and shipping.

Cost of clearing low-value imports

44. Normally, imported goods must be entered on Import Entries containing high-quality data, but Customs allows low-value consignments to be cleared on the basis of lower-quality data contained in an Inward Cargo Report. Most low-value consignments (other than low-value mail) are cleared on Inward Cargo Reports. Customs estimates that, in 2020/21, low-value consignments will be imported using the following channels (other than mail):¹²
 - 11 million air cargo consignments cleared on Inward Cargo Reports
 - 23,000 sea cargo consignments cleared on Inward Cargo Reports
 - 460,000 low-value consignments cleared on Import Entries or Simplified Import Entries.
45. As mentioned in paragraph 21, Cabinet has decided that Customs will cease collecting the Import Entry Transaction Fee on consignments valued \$1,000 or less from 1 December 2019.
46. Customs proposes using the Inward Cargo Transaction Fee to recover the costs of clearing low-value consignments (other than mail), because it is the fee next most closely related to these goods. The Inward Cargo Transaction Fee is collected from freight forwarders who lodge Inward Cargo Reports to clear low-value consignments, and from craft operators who lodge Inward Cargo Reports to report on all the cargo on their craft.¹³ The data in craft operators' reports are used for intelligence and risk assessment, and help Customs to target goods within the cargo for inspection.

¹¹ Customs can recover costs related to seizure of goods in special circumstances under clause 6(4) of Schedule 5 of the Customs and Excise Act 2018 where the Chief Executive makes a determination following a review of seizure. Customs can also seek to recover certain costs through the court process.

¹² These estimates are based on forecasts and data provided by Customs' Performance, Analysis and Reporting team. They do not incorporate the effect of any behaviour changes that importers, exporters, freight forwarders and craft operators might make if the proposed fees were implemented, or following Cabinet's decision that Customs will cease to collect the Import Entry Transaction Fee on consignments valued \$1,000 or less from 1 December 2019.

¹³ Inward Cargo Reports are also lodged for other purposes but the Inward Cargo Transaction Fee is not collected (for example, reports on sea cargo consolidations).

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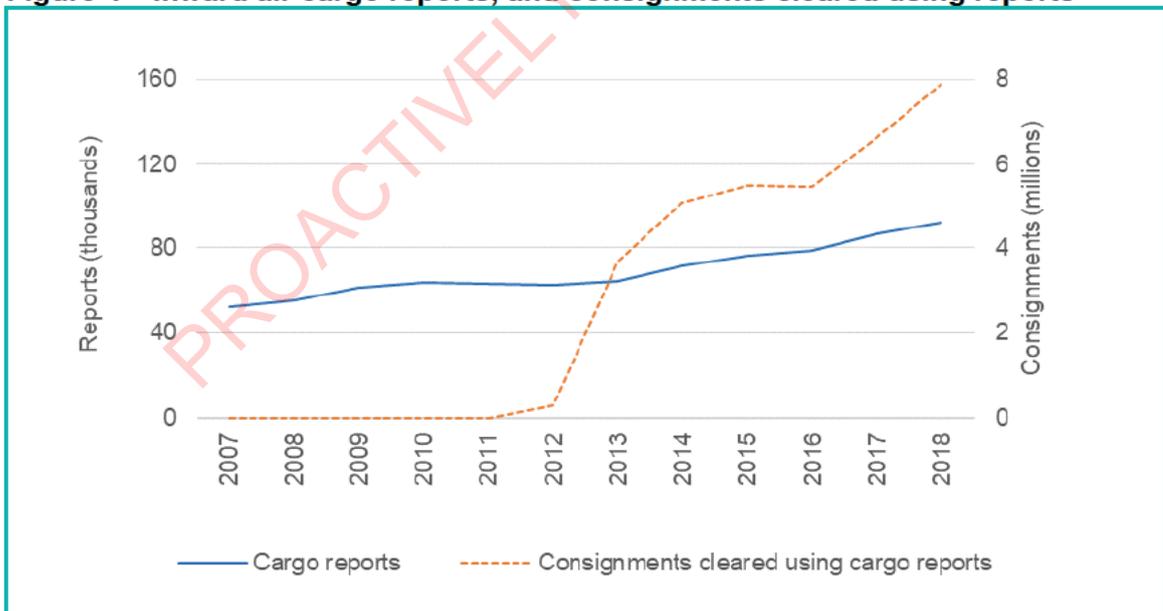
47. Table 9 shows the estimated costs relating to inward air cargo (other than costs recovered using the Import Entry Transaction Fee and low-value mail), and the estimated revenue from the Inward Cargo Transaction Fee. Almost all of the costs relating to the Inward Cargo Transaction Fee Air relate to clearing low-value consignments. The costs relating to the Inward Cargo Transaction Fee Sea relate to inspecting cargo ships as well as clearing low-value consignments and empty sea containers.

Table 9 – Inward Cargo Transaction Fee – estimated cost and revenue if fees remained unchanged

Channel	Cost mainly relates to	Reports	Estimated cost	Estimated revenue if fees remained unchanged
			2020/21 \$m	2020/21 \$m
Air	Clearing low-value consignments	98,000	30.2	2.6
Sea	Inspecting craft Clearing low-value consignments and empty containers.	6,000	2.7	1.9

48. The current Inward Cargo Transaction Fee Air recovers far less than the cost of clearing low-value consignments. One reason is that investigations and seizure costs are half of the total cost of clearing low-value air consignments. Also, the number of low-value consignments has increased far faster than the revenue collected from reports. This is illustrated by Figure 4. Further reasons are described in paragraph 29.

Figure 4 – Inward air cargo reports, and consignments cleared using reports^[1]



[1] Data on the number of Inward Cargo Reports for air cargo and consignments cleared on Inward Cargo Reports, were provided by Customs' Performance, Analysis and Reporting team. These data relates to financial years.

49. Customs assessed the proposal (to use the Inward Cargo Transaction Fee to recover the cost of clearing low-value consignments) against the equity principle described in paragraph 33. Customs does not usually interact with importers of low-value consignments directly. Instead, Customs interacts with freight forwarders who lodge reports seeking to have low-value consignments cleared, and craft operators who carry these consignments in their cargo. It is equitable for Customs to recover the costs of clearing these goods from the parties Customs interacts with concerning these goods.

s 9(2)(d) OIA

50. s 9(2)(d) OIA

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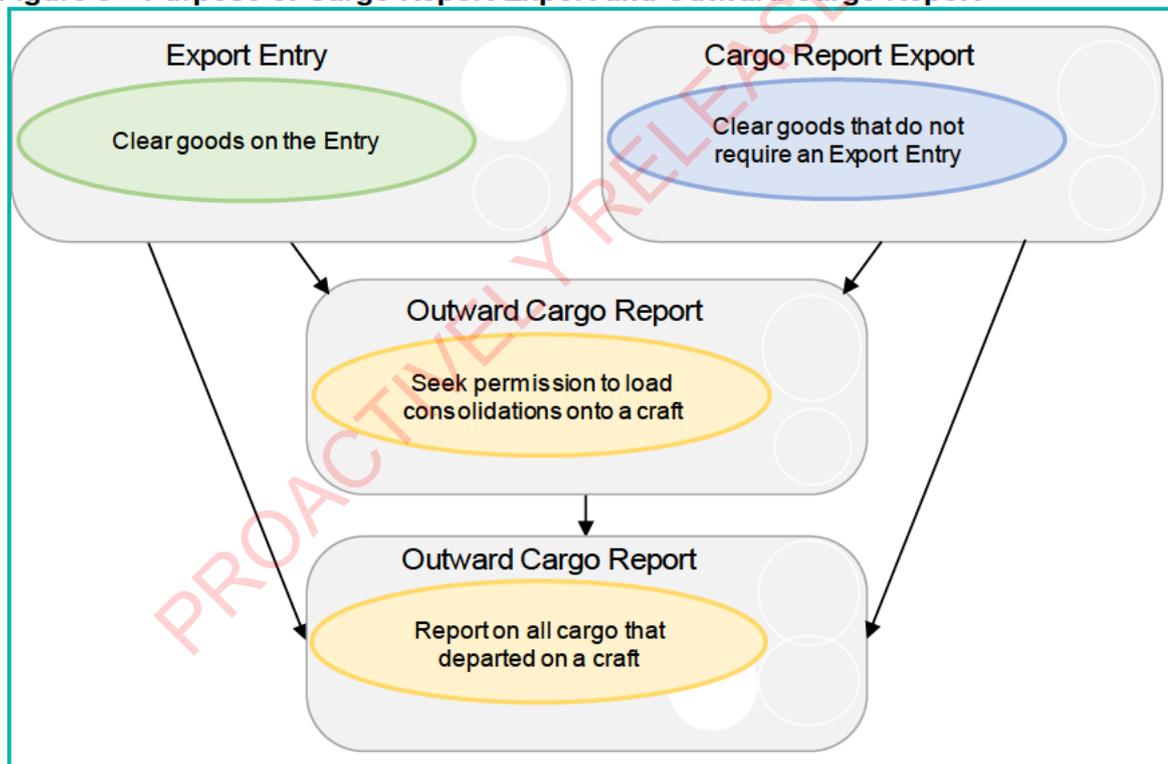
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Separate fee for Cargo Report Export and Outward Cargo Reports

60. Customs currently charges the Outward Cargo Transaction Fee on two different reports that are used for different purposes:
- Cargo Report Exports, lodged to clear low-value goods and transhipments¹⁴
 - Outward Cargo Reports lodged by freight forwarders to obtain permission to load already-cleared goods onto a craft, and lodged by craft operators to report on all the goods on the craft after it has departed.¹⁵ Customs can use the data on these reports to reconcile with other data about the cargo, and for intelligence purposes.
61. Normally, exported goods must be entered on Export Entries containing high-quality data. Goods that do not require an entry, such as low-value consignments and transhipments, may be declared with lower-quality data in a Cargo Report Export. Each report may contain multiple consignments.
62. Figure 5 illustrates the purposes of the Cargo Report Export and Outward Cargo Report.

Figure 5 – Purpose of Cargo Report Export and Outward Cargo Report



¹⁴ New Zealand Customs Service. (2018). TSW fact sheet: Cargo Report Export requirements. Retrieved from: <https://www.customs.govt.nz/globalassets/documents/tsw/cargo-report-export-requirements.pdf>.

¹⁵ New Zealand Customs Service. (2018). TSW fact sheet: Outward Cargo Report requirements. Retrieved from: <https://www.customs.govt.nz/globalassets/documents/tsw/outward-cargo-report-requirements.pdf>.

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63. Table 12 shows the costs relating to each type of report charged the Outward Cargo Transaction Fee. The costs relating to each type of report are different because the reports relate to different goods and are lodged for different purposes.

Table 12 – Estimated costs relating to the Outward Cargo Transaction Fee^[1]

Channel	Fee name	Reports	Cost	Cost relates to
		2020/21	2020/21	
			\$m	
Air	Cargo Report Export	60,000	3.9	Clearing low-value consignments and transhipments
	Outward Cargo Report	56,000	0.7	Processing the report
Sea	Cargo Report Export	26,000	0.1	Clearing low-value consignments and transhipments
	Outward Cargo Report	15,000	0.2	Processing the report

[1] Excludes costs relating to clearing Export Entries recovered using the Export Entry Transaction Fee.

64. Customs proposes that the Outward Cargo Transaction Fee be set at different rates for the Cargo Report Export and the Outward Cargo Report, with each fee being used to recover costs relating to that type of report.
65. Customs assessed this proposal against the equity principle described in paragraph 33. It is more equitable than the current situation because, for example, parties who submit Cargo Report Exports would only pay for costs relating to clearing goods on those reports.

Full cost recovery of certain goods clearance fees

66. Customs proposes fully recovering the costs of goods clearance, for fees other than the Inward Cargo Transaction Fee Air and the Outward Cargo Transaction Fee Cargo Report Export Air. The proposed fees are set out in Table 14.
67. In line with Customs' Cost Recovery Framework, where an activity's purpose is to manage risk, it is equitable to charge the parties who generate the need for that activity. Craft operators, freight forwarders, importers and exporters are often well-placed to influence the need for, and the cost of, Customs' activities relating to imports and exports. For example, the change in the way goods are imported and exported, with a large increase in low-value consignments, has affected Customs' costs. It is equitable to charge craft operators, freight forwarders, importers and exporters for the costs that they generate.
68. One output of goods clearance activities is the stopping of illegal and non-compliant goods crossing New Zealand's border.¹⁶ Stopping illegal and non-compliant goods benefits all New Zealanders and has the nature of a "public good".¹⁷ However, as the purpose of these activities is to manage risks, it is appropriate to charge the parties generating the need for Customs to undertake these activities.

¹⁶ Another output of goods clearance activities is that duty is collected, but duty-related activities are not included in the costs proposed to be recovered from goods clearance fees.

¹⁷ A "public good" is a good that is non-excludable (no one can be prevented from benefiting) and non-rival (the benefit one individual gains does not detract from the benefit that others gain).

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69. Customs is proposing to fully recover the costs of goods clearance (other than the Inward Cargo Transaction Fee Air and Outward Cargo Transaction Fee Cargo Report Export Air, and other than Crown-funded activities listed in paragraph 16) because Customs is carrying out these activities to manage risks, and recovering the cost from the parties generating the risk is in line with Customs' Cost Recovery Framework.
70. Customs has assessed fully recovering the cost of its activities against the objectives in paragraph 33. Customs' assessment is that, compared to the current fees, the proposed fees would be:
- more equitable because the groups generating the cost would be funding them
 - more efficient because parties would take into account the average cost when making decisions about importing or exporting, and industry representatives would have incentives to help Customs to seek efficiencies
 - more transparent because there would be a clear linkage between Customs' costs, the activities that consume those costs, and the fees charged to recover those costs
 - more justifiability because only relevant costs would be covered by each fee.

Partial cost recovery for air cargo fees

71. Customs is proposing to partly recover the costs of clearing the Inward Cargo Transaction Fee Air and Outward Cargo Transaction Fee Cargo Report Export Air, with a review of these fees after two years. Customs is proposing partial cost recovery because full cost recovery would have required substantial increases to these fees and Customs is uncertain about the impact that would have on businesses and individuals. Under full cost recovery, the Inward Cargo Transaction Fee Air would have needed to increase from \$30.66 to \$330–\$365 per report (an increase of up to 1,000 percent), and the fee for Cargo Report Export Air from \$11.51 to \$84–\$91 (an increase of up to 700 percent). Feedback from early engagement with stakeholders was that some businesses would struggle to absorb or pass on such large increases.
72. During public consultation, some freight forwarders said they would pass the cost of these fees on to their clients, but others said that their business arrangements preclude them from passing these costs on. Public consultation also highlighted that any increases to these fees would disproportionately impact small shipments because Customs collects the same fee regardless of the number of consignments on the cargo report. These impacts are discussed further in the Impact Analysis section of this Cost Recovery Impact Statement.

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73. The proposed fee of \$77 (incl GST) for inward air cargo and \$40 (incl GST) for outward air cargo would fully utilise the contingency set aside in Budget 2019 to fund the shortfall in cost recovery revenue for clearing low-value consignments.¹⁸ Table 13 illustrates that, under this proposal, the Crown will continue to fund most of the cost of clearing air cargo.

Table 13 – Proposed source of funding for air cargo fees in 2020/21

Fee name	Cost	Fee revenue	Crown funding
	\$m	\$m	\$m
Inward Cargo Transaction Fee Air	30.2	6.6	23.6
Outward Cargo Transaction Fee – Cargo Report Export Air	3.9	2.1	1.8
Total	34.1	8.7	25.4

74. Customs considered other options, including gradually increasing the fee until it reached full cost recovery in three or four years, or limiting the fee increases to 100 percent. However, some of these options would have required additional Crown funding, or would ultimately have the same uncertain impact on businesses and disproportionate impacts on small shipments as those described in paragraph 72.
75. Customs has assessed partial cost recovery against the objectives in paragraph 33. Customs' assessment is that, compared to the current fees, the proposed fees for the Inward Cargo Transaction Fee Air and the Outward Cargo Transaction Fee Cargo Report Export Air are:
- more equitable because the groups generating the cost would be funding more of the costs that they generate than currently (although still not all of the cost)
 - more efficient because the parties generating the costs would take more of those costs into account when making decisions
 - more transparent because there would be transparency between Customs' costs and the activities that consume those costs. However, there would be no transparency between the costs of the activities and the amount of the fee
 - more justifiability because only relevant costs would be covered by each fee.
76. Customs considers that the proposed increases to the Inward Cargo Transaction Fee Air and the Outward Cargo Transaction Fee Cargo Report Export Air balance the improvement in equity from moving towards full cost recovery against the uncertain impact that large percentage increases in these fees could have on businesses and individuals. This proposal would provide the opportunity to monitor the impact of the proposed fee increase and to review the charging structure.

¹⁸ The Treasury. (2019). Summary of Initiatives in Budget 2019. Retrieved from: <https://treasury.govt.nz/publications/summary-initiatives-budget-2019-html#160>.

Proposed fee levels

77. Table 14 shows the current and proposed goods clearance fees, highlighting the percentage change in the fees if the proposals were implemented:

Table 14 – Current and proposed goods clearance fees

Fee name	Channel	Current	Proposed	Percent change
		\$ incl GST	\$ incl GST	
Import Entry Transaction Fee	Air	29.26	33.03	13%
	Sea			
Inward Cargo Transaction Fee	Air	30.66	77.00	151%
	Sea	359.82	520.00	45%
Export Entry Transaction Fee	Secure Exports Scheme	12.01	3.27	-73%
	Other exports	17.94	6.82	-62%
Outward Cargo Transaction Fee	Air	11.51	40.00	248%
		11.51	14.35	25%
	Sea	28.83	5.57	-81%
		28.83	18.58	-36%

Customs efficiency improvements

78. Customs' costs, and hence the proposed fees, are influenced by the efficiency of Customs' operations. Customs operates an efficient border clearance system. Customs aims to stop illegal and non-compliant goods, while clearing legitimate goods quickly and efficiently. For example, in 2018/19:¹⁹

- the value of harm avoided through drug seizures – \$1.8 billion – was higher than in the previous year
- 99 percent of goods were cleared in less than 30 minutes (excluding goods referred for compliance checks)
- 99 percent of goods were cleared based on Customs' risk assessment without requiring an inspection or document check.

79. To further understand the efficiency of its services, Customs is carrying out random samples to estimate the percentage of compliant and non-compliant goods in each transport channel.

80. Customs' performance compares well on international benchmarks. For example, in a World Bank survey of international freight forwarders, New Zealand ranked 13th on the efficiency of goods clearance.²⁰

¹⁹ New Zealand Customs Service. (2019). *Annual Report 2018*. Retrieved from: <https://www.customs.govt.nz/globalassets/documents/corporate-documents/annual-report-2019/2019-annual-report.pdf>.

²⁰ World Bank. (2018). *The Logistics Performance Index and its Indicators*. Retrieved from: <https://lpi.worldbank.org/>.

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81. Customs has various efficiency and service improvement initiatives planned or being implemented, including:
- participating in a cross-government initiative to streamline online forms
 - improving workflow tools and web services, including web services for smaller importers and exporters
 - upgrading contact centre software to enable better monitoring of call types
 - implementing a mobile app for staff that should reduce inspection timeframes
 - introducing a national work queue for service delivery
 - upgrading the Financial Information System, enabling brokers to check credit limits
 - creating centres of excellence for specific services, eg Temporary Import Entries
 - using activity-based costing to deeply understand how Customs' resources are consumed by activities and how activities contribute to services, and using this understanding to identify areas to focus on improving efficiency.

International considerations

82. Customs' proposed goods clearance fees are consistent with New Zealand's international obligations, including the World Trade Organisation's Agreement on Trade Facilitation²¹ and New Zealand's free trade agreements. These obligations allow customs authorities to charge fees, provided that such fees are commensurate with the service provided.
83. Customs looked at the cost recovery approach used by other countries that operate similar border clearance activities as ours. Australia's border clearance activities and charging structure were the most similar to ours. Australia charges fees on imports valued over AUD\$1,000. It does not charge a fee on imports valued under AUD\$1,000, or a fee on exports. Canada does not charge any fee for standard goods clearance.
84. Table 15 shows that, based on the published fees, Customs estimates that a consignment valued at NZD\$5,000 would attract a customs fee of NZD\$54.35 if imported into Australia, as well as biosecurity fees.

Table 15 – Estimated fees for importing a consignment valued at NZD\$5,000

Fee name	Channel	Customs	Biosecurity	Total
		NZD\$	NZD\$	NZD\$
New Zealand	Air, Sea	33.03	26.45	59.48
Australia ^[1]	Air	54.35	35.87	90.22
	Sea	54.35	45.65	100.00

[1] These estimates are based on current Australian customs²² and biosecurity²³ fees and the Customs exchange rate for the Australian dollar (AUD) of 0.92 from 21/10/2019 to 03/11/2019.²⁴

²¹ World Trade Organisation. (2013). *Agreement on Trade Facilitation*. Retrieved from: https://www.wto.org/english/docs_e/legal_e/tfa-nov14_e.htm.

²² Australian Government Department of Immigration and Border Protection. (2015). *Department of Immigration and Border Protection Notice No. 2015/44*. Retrieved from: <https://www.abf.gov.au/help-and-support-subsite/CustomsNotices/2015-44.pdf>.

Impact analysis

Impact of proposed fees relating to imports

85. Table 16 illustrates the impact of Customs' proposals on fees Customs collects from importers who lodge Import Entries. In addition to the Import Entry Transaction Fee, Customs collects the Biosecurity System Entry Levy on behalf of the Ministry for Primary Industries. § 9(2)(d) OIA

Table 16 – Total fees paid per Import Entry

Fee	Consignments valued over \$1,000		§ 9(2)(d) OIA
	Current	Proposed	
	\$ incl GST	\$ incl GST	
Import Entry Transaction Fee	29.26	33.03	
Biosecurity System Entry Levy	26.45	26.45	
Total	55.71	59.48	

§ 9(2)(d) OIA

86. Importers are estimated to lodge 1.3 million Import Entries for goods per year valued over \$1,000 in 2020/21. In 2017/18 there were an estimated 70,000 importers. Under Customs' proposal for the Import Entry Transaction Fee, these importers would pay \$3.77 more per entry. This increase, of 13 percent, is less than the cumulative consumer price inflation of 27 percent since this fee was last substantively reviewed in 2006.²⁵ In the public consultation on the proposed fees, submitters did not indicate that there would be changes in the number of imports as a result of the increase in this fee. Potentially, this might be because this increase is small relative to the value of imports valued over \$1,000.
87. Table 17 shows the total fees paid to Customs by parties who lodge Inward Cargo Reports. Aside from the Inward Cargo Transaction Fee, Customs also collects the Biosecurity System Entry Levy on behalf of the Ministry for Primary Industries.

Table 17 – Total fees paid per Inward Cargo Report

	Air		Sea	
	Current	Proposed	Current	Proposed
	\$ incl GST	\$ incl GST	\$ incl GST	\$ incl GST
Inward Cargo Transaction Fee	30.66	77.00	359.82	520.00
Biosecurity System Entry Levy	20.56	20.56	20.56	20.56
Total	51.22	97.56	380.38	540.56

²³ Australian Government Department of Agriculture and Water Resources. (2017). *Departmental Charging Guidelines 2017*. Retrieved from: <http://www.agriculture.gov.au/SiteCollectionDocuments/biosecurity/australia/cost-recovery-arrangements/charging-guidelines-2017.pdf>.

²⁴ New Zealand Customs Service. (2019). *Customs Exchange Rates*. (Webpage). <https://www.customs.govt.nz/business/import/customs-exchange-rates/> (Accessed 21 October 2019).

²⁵ Percentage change between June 2006 and June 2019. Statistics New Zealand. (2019). *CPI All Groups for New Zealand*. Retrieved from: <http://archive.stats.govt.nz/infoshare/SelectVariables.aspx?pxID=5c07c3be-7950-45e1-b099-f0e89eec84eb>.

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88. Craft operators and freight forwarders pay this fee and may choose to pass on these costs to their customers. The cost passed on per consignment could depend on:
- the craft operators' or freight forwarders' business arrangements: some freight forwarders said they pass these costs on to their clients, but others said that their business arrangements preclude them from passing those costs on
 - the number of consignments being cleared: the fee is the same regardless of the number of consignments cleared on the report. Inward Cargo Reports can be used to clear multiple consignments. Many Inward Cargo Reports contain just a few consignments, but a quarter of all consignments imported by air are on Inward Cargo Reports that contain over 1,000 consignments.
89. Table 18 shows the potential impact for each consignment cleared if craft operators and freight forwarders passed on the cost of the Inward Cargo Transaction Fee:

Air cargo

- If a report was used to clear five low-value air consignments, the proposed air cargo fee of \$77 would be \$15.40 per consignment. In 2017/18, half of the Inward Cargo Reports lodged by freight forwarders contained five or fewer consignments.²⁶ These consignments were estimated to comprise less than one percent of total air consignments on Inward Cargo Reports.
- If a report was used to clear 250 low-value air consignments, the proposed air cargo fee of \$77 would be \$0.31 per consignment. Three-quarters of air cargo consignments on reports lodged by freight forwarders were on reports containing 250 or more consignments.

Sea cargo

- If a report was used to clear 20 sea consignments, the proposed sea cargo fee of \$520 would be \$26 per consignment. Half of the sea cargo reports lodged by freight forwarders contained 20 or fewer consignments. These consignments were estimated to comprise five percent of total sea consignments on Inward Cargo Reports lodged by freight forwarders.
- If a report was used to clear 235 sea consignments, the proposed sea cargo fee of \$520 would be \$2.21 per consignment. Three-quarters of sea cargo consignments on reports lodged by freight forwarders were on reports containing 235 or more consignments.

Table 18 – Per-consignment cost of the Inward Cargo Transaction Fee

	Air		Sea	
	5 consignments \$ incl GST	250 consignments \$ incl GST	20 consignments \$ incl GST	235 consignments \$ incl GST
Inward Cargo Transaction Fee	15.40	0.31	26.00	2.21
Biosecurity System Entry Levy	4.11	0.08	1.03	0.09
Total	19.51	0.39	27.03	2.30

²⁶ The distribution of consignments on cargo reports lodged by freight forwarders was estimated using data about consignments on Inward Cargo Reports lodged in 2017/18, including consignments cleared using entries as well as consignments cleared using cargo reports. These data were provided by Customs' Performance, Analysis and Reporting team.

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90. Table 18 highlights that Customs' proposed fees could have a disproportionate impact for reports containing only a few consignments, because the fee is the same regardless of the number of consignments contained in the report. For example, Customs estimates that less than one percent of consignments cleared on Inward Cargo Reports for air cargo account for half of the revenue collected from Inward Cargo Reports used to clear air cargo. By contrast, Customs estimates that three quarters of air cargo consignments account for less than 15 percent of that revenue. Submitters indicated that reasons for lodging reports containing only one (or a few) consignments includes the urgency of the consignment and the route the consignment is taking. Customs will monitor the impact of the proposed fees on reports containing few consignments, and its review of these fees in two years' time may consider how the fee structure could be made more equitable.

Impact of proposed fees relating to exports

91. Under Customs' proposal, exporters of goods valued over \$1,000 would pay lower fees than currently. In 2017/18 there were an estimated 17,000 exporters of goods valued over \$1,000.
92. The impact of the proposed Outward Cargo Transaction Fees will depend on how craft operators and freight forwarders choose to pass on these fees to their customers. The portion passed on per consignment could depend on:
- the craft operators' or freight forwarders' business arrangements
 - the number of consignments on the report, because the fee is the same regardless of the number of consignments on the report.
93. Table 19 shows the potential impact on consignments if craft operators and freight forwarders passed on the cost of the Outward Cargo Transaction Fee Cargo Report Export.
- If a report was used to clear five low-value consignments, the proposed air cargo fee of \$40 would be \$8 per consignment. In 2017/18, two-thirds of Cargo Report Exports contained five or fewer consignments.²⁷ These consignments were estimated to comprise less than two percent of total air consignments cleared using these reports.
 - If a report was used to clear 235 low-value consignments, the proposed air cargo fee of \$40 would be \$0.17 per consignment. Three-quarters of air cargo consignments were on reports containing 235 or more consignments.

Table 19 – Per-consignment cost of the fee charged on Cargo Report Export

	Air		Sea	
	5 consignments \$ incl GST	235 consignments \$ incl GST	5 consignments \$ incl GST	235 consignments \$ incl GST
Outward Cargo Transaction Fee – Cargo Report Export	8.00	0.17	1.11	0.02

94. Table 19 highlights that Customs' proposed Outward Cargo Transaction Fee Cargo Report Export could have a disproportionate impact for reports containing only a few

²⁷ Based on data about consignments on Cargo Report Exports lodged in 2017/18. These data were provided by Customs' Performance, Analysis and Reporting team.

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consignments, because the fee is the same regardless of the number of consignments contained in the report. Reasons that reports contain only one (or a few) items include the urgency of the consignment or the route the consignment is taking. Customs will monitor the impact of the proposed fees on reports containing few consignments, and its review of these fees in two years' time may consider how the fee structure could be made more equitable.

Services for holders of intellectual property rights

95. Rights-holders of intellectual property rights can lodge a Border Protection Notice asking Customs to detain goods that it suspects of infringing upon those rights. This service helps rights-holders to enforce their intellectual property rights. Under the Copyright Act 1994 and Trade Marks Act 2002, Customs may recover costs such as the costs it incurs when it engages a third party to provide the following services to rights-holders:
- transport, store or dispose of goods that appear to infringe upon the intellectual property rights of a rights-holder
 - participate in court proceedings.²⁸
96. When rights-holders lodge Border Protection Notices, they indemnify Customs for these costs. Customs has currently accepted Border Protection Notices from 353 rights-holders.²⁹ The number of goods Customs detains varies from year to year. In 2018/19, Customs dealt with 71 consignments that appeared to infringe upon the rights of a rights-holder. In recent years, however, Customs has seldom sought to recover costs it incurs from rights-holders. This proposal would involve re-establishing Customs' practice of recovering these costs from rights-holders.
97. Currently, Customs requires rights-holders to provide a \$5,000 security bond when they lodge a Border Protection Notice. This proposal would involve no longer requiring rights-holders to provide this security bond.
98. Compared to current practice, the proposal to re-establish the practice of recovering costs will ensure that rights-holders pay for costs that Customs incurs providing services for them. The impact on rights-holders will depend on each case. These costs are relatively seldom incurred, and the amounts differ in each case. Customs will inform the rights-holder, where practicable, of the estimated cost before incurring it.
99. The proposal to cease requiring the \$5,000 security bond would remove an unnecessary administrative cost for Customs in managing those bonds, and an unnecessary compliance cost for rights-holders. On the rare occasion when Customs has recovered its costs it has not drawn on the bond, and the amount to be recovered can significantly exceed the amount of the bond. Customs can cease providing this service to a rights-holder who fails to pay.

Customs' hourly rate

100. Customs currently charges an hourly rate of \$74.12 (incl GST) for services it delivers outside standard operating hours. The statutory authority to charge this rate is provided by section 408(1)(a) of the Customs and Excise Act 2018. Customs has charged this hourly rate when clearing passengers from flights that were late or diverted or were chartered or private flights. In relation to goods, Customs has charged the hourly rate

²⁸ Copyright (Border Protection) Regulations 1996, clause 6. Trade Marks Regulations 2003, clause 159.

²⁹ New Zealand Customs Service. (2019). *Intellectual property rights and notices*. (Webpage). www.customs.govt.nz/ipr (Accessed 16 October 2019).

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when undertaking specialist work related to imports and exports outside standard hours. This has occurred, for example when Customs officers were supervising the destruction of goods at the importer's request. Customs' hourly rate services are relatively rarely used, and in 2017/18 Customs received a total of \$14,000 from these services.

101. Customs proposes to increase the hourly rate to \$133 (incl GST), with a minimum charge of three hours, to more closely reflect the actual cost of the staff who provide hourly-rate services. Charging an average hourly rate is more efficient than calculating the actual cost in every instance because it is simpler to calculate and provides certainty to users of this service. The minimum three-hour charge reflects the minimum amount Customs pays its staff for working outside standard hours. This service is currently subsidised by the Crown.
102. Compared to the current hourly rate, this proposal is more equitable and better encourages users to take Customs' cost into account before requesting Customs to undertake services that attract the hourly rate.

Consultation

103. When undertaking this fee review, Customs established a Stakeholder Reference Group of industry representatives. This group provided a forum to test Customs' thinking and to understand the implications of proposals. The Group provided useful feedback on specific proposals and offered to assist with the public consultation process.
104. Customs published the Discussion Document *Recovering the Costs of Customs' Goods Clearance Activities* on its website and invited submitters to provide feedback by email, or use an online survey. The survey tended to be favoured by individuals and small to medium enterprises.
105. Customs raised awareness about the consultation by emailing 48,000 Trade Single Window users, industry stakeholders for air passengers (because the hourly rate is mostly used to clear international passengers), and holders of Border Protection Notices (in relation to the proposals relating to intellectual property rights). Customs also included items in Customs Release, Customs' weekly news release sent to 1,300 subscribers.
106. Customs held eleven targeted consultation meetings so that it could better understand the impact of the proposals for businesses and individuals. Customs met a cross section of import and export businesses, including small and large businesses. Customs also met with industry representative organisations.
107. s 9(2)(d) OIA [REDACTED]
108. Relevant government agencies were consulted on draft proposed changes to Customs' goods clearance fees and their feedback was incorporated in the proposals. The agencies consulted were: the Ministry for Primary Industries, the Ministry of Transport, the Ministry of Business, Innovation and Employment, the Ministry of Foreign Affairs and Trade, Airways New Zealand and The Treasury. The Department of the Prime Minister and Cabinet was informed.
109. In relation to investigations and seizure costs, some submitters suggested that Customs should recover the costs from individuals that Customs investigates or seizes

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goods from. However, this is not usually practical or appropriate. Customs might not identify the individuals responsible for the illegal activity, they might be unable to pay, and there may be natural justice reasons for not recovering investigations costs from the individuals Customs is investigating. It is therefore equitable to recover these costs from the group next most directly related to the investigation and seizure activity – that is, all importers, exporters, freight forwarders and craft operators. As a group, importers, exporters, craft operators and freight forwarders generate the need for Customs to undertake investigations and seizures relating to imports and exports.

110. Some submitters suggested that the Crown should fund investigations and seizures because they are public goods, and because it would be unfair to charge legitimate traders for the costs of investigating the illegal behaviour of some importers and exporters. Investigations and seizures are public goods because they benefit the public. However, Customs' Cost Recovery Framework indicates that, where an activity's purpose is to manage risks, it is equitable for the costs to be recovered from those who generate the need for Customs to carry out that activity. All 70,000 importers and 17,000 exporters, and their agents, potentially generate the need for Customs to carry out investigations.
111. Some submitters suggested that investigations and seizure costs should be funded through fines or penalties. It would not be appropriate for Customs' activities to be funded through penalties because the purpose of penalties is to hold offenders to account and to promote compliance, not to generate revenue.
112. Some submitters suggested recovering the costs from selling seized goods. Customs disposes seized goods where appropriate, and this reduces the amount to be recovered from goods fees. Some seized goods, such as illegal drugs, cannot be sold.
113. Submitters were concerned about the impact of the increase to the Inward Cargo Transaction Fee Air, indicating that it would:
 - disproportionately impact cargo reports containing few consignments, and impact small- to medium-sized businesses who import small shipments of low-value goods. Some submitters suggested changes to the charging structure to address these concerns, such as a charging mechanism based on the number of consignments being cleared on a cargo report
 - impact freight forwarders whose cargo reports contain many consignments, if the freight forwarder has no efficient way of passing the cost on to their customers
 - be unfair to craft operators because they should not be contributing to the cost of clearing low-value goods.
114. Customs intends to review these air cargo fees in two years' time (see page 33), and this will provide an opportunity to review the charging structure and potentially address these concerns.
115. Submitters were concerned about the impact of the increase to the Cargo Report Export Air, indicating that it would:
 - add to costs and make exporters less competitive
 - disproportionately impact exports of small shipments of low-value goods, often exported by small- to medium-sized businesses
 - disproportionately impact small transhipments and may lead to a loss of business.

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116. Some submitters suggested changing the charging structure to address these issues. Customs intends to review these air cargo fees in two years' time (see page 33), including reviewing the charging structure.
117. Most submitters agreed with Customs' proposal to recover certain costs from holders of intellectual property rights – ten of the 17 submitters who expressed a view, including two of the four submitters who were rights-holders. Some submitters who opposed the proposal said that recovering costs could deter rights-holders from lodging Border Protection Notices with Customs. Other submitters considered that, if Customs stopped requiring a bond, more rights-holders might lodge Border Protection Notices, creating more work for Customs. Some submitters suggested that Customs should recover its costs from the parties whose goods appear to infringe upon intellectual property rights. However, the purpose of this service is to help rights-holders to enforce their intellectual property rights, and rights-holders can seek to recover costs from parties who infringe upon their rights.
118. Most submitters who commented on the proposals for Customs' hourly rate supported them. Some submitters suggested that the Crown should fund services that Customs delivers outside standard operating hours. However, Customs' assessment is that, compared to Crown funding, it is more equitable for parties to pay for the cost of the hourly rate services that they request.

Conclusions and recommendations

119. Customs' assessment is that the proposed goods clearance fees are more equitable than the current fees because the proposed fees would be collected from importers and exporters and their agents, who are responsible for generating costs for Customs.
120. Customs' assessment is that the costs of goods-related investigations and seizures should be recovered from goods clearance fees rather than funded by the Crown. Customs cannot recover these costs from the individuals Customs investigates. Parties involved in importation and exportation are next closest group linked to these costs. While submitters highlight that this service is a public good because it prevents harm, where the purpose of an activity is to manage risks, the group generating the need for Customs to carry out that activity should fund those costs, except where other considerations would lead to a different conclusion.
121. Customs' assessment supports only partly recovering air cargo costs because full cost recovery would require substantial percentage fee increases and Customs is uncertain what impact that would have on businesses and individuals. For example, any increases to air cargo fees disproportionately impact small shipments because Customs collects the same fee regardless of the number of consignments on the cargo report.
122. s 9(2)(d) OIA
[REDACTED]
123. Customs' assessment supports recovering certain costs relating to Customs' services for holders of intellectual property rights, and removing the requirement for rights-holders to give Customs a security bond. It also supports charging an hourly rate that reflects Customs' costs, including a minimum charge of three hours. These proposals better ensure that users pay for the costs that they generate.

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124. In conclusion, Customs recommends that the proposals described in this Cost Recovery Impact Statement be implemented.

Implementation plan

125. Customs already has fee collection systems in place, and the industry has systems that interface with Customs' systems. If Customs' proposals are approved, implementing them would involve:

- the Government amending the Customs and Excise Regulations 1996 to:
 - set the new fees
 - amend the description of costs to include investigations and seizures
 - clarify the requirements for entering low-value consignments and the collection of associated fees
 - **§ 9(2)(d) OIA**
- Customs and industry updating their systems to change the amounts charged and amounts to be paid
- Customs communicating with its customers about the fees and the reason for them.

126. It is intended that these changes would occur from 1 April 2020. There are no material implementation risks.

Monitoring and evaluation

127. If Customs' proposals are approved, Customs would operate a memorandum account for fees that are fully cost-recovered. Customs would report publicly on the cost and revenue relating to each fee covered by the memorandum account. Customs will monitor and report the breakdown of these costs, particularly as the focus of Customs' activities could change at any time depending on risks. Customs would propose to eliminate any surplus or deficit that accumulates in relation to each of these fees by adjusting that fee level in a future review.

128. The amount of revenue Customs collects from goods clearance fees depends on the number of entries and reports that importers, exporters, freight forwarders and craft operators lodge with Customs. Customs will therefore monitor the number of entries and reports, and update its forecasts periodically. Where Customs has access to industry information, Customs will compare it to the output of Customs' forecasting models.

129. The proposed increases to the Inward Cargo Transaction Fee and Outward Cargo Transaction Fee could have a disproportionate impact for reports containing only a few consignments. **§ 9(2)(d) OIA**

130. Customs will continue to monitor measures of the quality of its services. Some measures that were published in Customs' annual report were described in paragraph 78. Customs will also continue to work on efficiency improvement initiatives.

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131. Customs intends to introduce a more formal engagement process with stakeholders. This process could involve stakeholders in monitoring and assisting in identifying areas where Customs could improve efficiencies. Customs would also seek to understand from stakeholders how the proposed fees (if implemented) impact on their businesses.

Review

132. If Customs' proposals are approved, Customs would review its goods clearance fees in two years' time. Customs will consider the outcome of monitoring the impacts of these fees on businesses and individuals, how these impacts could be mitigated over time, and how the fee structure could be made more equitable.

133. Submitters raised concerns relating to the fee structure, including:

- cargo fees are the same regardless of the number of consignments being cleared
- craft operators pay the same fee as parties lodging reports to seek clearance of low-value goods.

134. Customs intends to introduce a more formal engagement process with stakeholders, and will work with stakeholders to ensure they can participate in the review process.

135. Aside from this review in two years' time, Customs would review its fees every three years, or sooner if a fee is dramatically under- or over-recovering.

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