RECOVERING THE COSTS OF CUSTOMS' GOODS CLEARANCE ACTIVITIES

DISCUSSION DOCUMENT

August 2019

NEW ZEALAND CUSTOMS SERVICE

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New Zealand Customs Service

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MESSAGE FROM THE ACTING COMPTROLLER

Customs has an important role in protecting New Zealand's border, in helping importers and exporters to trade safely, efficiently and successfully, and in ensuring that low-risk trade happens with minimum disruptions in time and money. In doing this, we contribute to New Zealand's economic competitiveness and growth.

In 2019 we are reviewing the fees we charge for our services. They were last substantially reviewed back in 2006 – and since then, trends in our operating environment, including increases in imports and exports, have put more and more pressure on our ability to clear goods at the border quickly and efficiently.

The review aims to ensure that our fees accurately reflect the costs of our goods clearance work, and that importers, exporters and individuals pay their fair share. To support this work, we have developed a guiding framework based on accepted cost recovery principles, and an 'activity-based costing' (ABC) method. Together, these tools have enabled us to identify the costs of goods clearance activities and determine who should pay for them.

We now know that our fees need to be re-balanced and we need to be more transparent in how we decide on them. This document shows our progress. It proposes some fee changes (and provides the reasons for them) and commits to regular fee reviews. As extra assurance that our review is sound, PwC has independently validated our costing and pricing methods and the ABC model.

In this consultation phase, we would like to know what is important to you or your business, and how our proposals are likely to affect you. Please take the time to send us your views; your feedback will enable us to develop the right fees, for the right reasons.

Bill Perry
Acting Comptroller of Customs

SECTION 1: PURPOSE AND SUMMARY

What is this review about?

Customs is reviewing the fees we charge individuals and businesses for 'goods clearance' – that is, activities that involve assessing goods for risk, detecting error and fraud, and ensuring import and export control systems are complied with. Goods clearance activities also ensure that importers and exporters declare the correct classification, origin and value of their goods, and pay the appropriate duties and taxes.

We want to make sure that our fees accurately reflect the costs of providing goods clearance services, and that they are:

- equitable – our services are funded by those that use them
- efficient – we deliver high service standards at a sustainable cost
- transparent – we provide clear and easily understood information about our funding decisions, including the costs and fees
- justified – we recover only the costs of delivering our services.

The review is based on guidance from the New Zealand Treasury[1] and the Office of the Auditor-General.[2] It does not cover all Customs' fees; for example, it excludes those for licence applications for Customs-controlled areas, and Customs rulings.[3]

Why is the review needed?

Customs' goods clearance fees have not been substantively reviewed since 2006, except for a review of some fees in 2013 to introduce the Joint Border Management System.[4]

Much has changed in the past 13 years:

- Our costs have risen and current fees no longer reflect the actual cost of clearing goods.
- Volumes and trade patterns have changed. This is requiring us to work differently, as well as meet increasing expectations among customers and the government to make trade between countries easy and efficient.
- Where we focus our effort is changing. Facilitating low-risk trade increasingly involves Customs managing risk and non-compliance identified at the border through investigations.

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[1] New Zealand Treasury (2017) *Guidelines for Setting Charges in the Public Sector*, available at: http://www.treasury.govt.nz/publications/guidance/planning/charges.

[2] New Zealand Controller and Auditor-General (2008) *Good Practice Guide: Charging Fees for Public Sector Goods and Services*, available at: https://www.oag.govt.nz/2008/charging-fees/docs/charging-fees.pdf/view

[3] Charged when a business requests a ruling on the origin of a good, the tariff or excise classification of a good and whether a good is subject to a duty concession. It is also charged when importers seek a Valuation ruling from Customs on the value of imported goods.

[4] The Import Entry Transaction Fee was introduced from 2002, while the Export Entry Fee and associated inward and outward cargo reporting fees were introduced in 2006. Customs began recovering the costs of the Joint Border Management System in 2013.

What does the review involve?

This review involves:

- **considering who should pay** for Customs' goods clearance activities by applying the principles of equity, efficiency, transparency and justifiability
- **understanding the actual costs of goods clearance** through a process called 'activity-based costing' (ABC)[5]
- using this understanding in **identifying fees that will recover those costs appropriately**.

The review also considers:

- our current practice for recovering costs associated with the enforcement of intellectual property rights
- the hourly rate we charge for services that Customs' staff provide outside standard working hours.

We are proposing to adjust the level of fees

This discussion document proposes changes to our fees, and asks for your feedback and suggestions so that we can better understand all of the implications for stakeholders.

Tables 1 and 2 set out the proposed fees for goods clearance for the next two years. These fees are based on the actual costs of the activities that we undertake in relation to clearing goods. The proposed fees are presented as a range; the final fee will be set within this range, based on your feedback and further work.

While Customs intends to move towards full cost recovery for goods, this will take some time. This review is the first step along the path. The review suggests that there needs to be some adjustments to more equitably share the costs where they lie, and this is reflected in the proposed fees shown in the tables. Taking this first step includes reducing fees where we now know that our costs are less and increasing others where we know our costs are higher.

It is not proposed at this stage to fully recover the cost from the Inward Cargo Transaction Fee for air cargo (ICTF Air) and the Outward Cargo Transaction Fee - Cargo Report Export for air cargo (OCTF-CRE Air). However, we are proposing to introduce a smaller fee and review our fees after two years. This will provide additional time to work with industry so that we can consider any impact of the fee changes.

Final decisions on the fee changes will be dependent on Cabinet approval.

[5] Activity-based costing (ABC) is a detailed ground-up approach to developing a view of the specific cost of activities.

Table 1: Imports - the proposed fees

Fees	Current fee (inclusive of GST)	Proposed fee (inclusive of GST)	Reasons for the fee change
Import Entry Transaction Fee	$29.26 per entry	**$31.80 - $35.00** per entry	› Activity-based costing has identified actual costs › Additional activities recovered: investigations and seizures
Inward Cargo Transaction Fee	Cargo by air $30.66 per report	Cargo by air **$75.00 - $79.00** per report	› Activity-based costing has identified actual costs, and our effort has increased in the air channel to respond to higher volumes and evidence of increased risk in air freight › Additional activities recovered: investigations and seizures › Increased scope to recover costs for clearing goods at and below $1,000
	Cargo by sea $359.82 per report	Cargo by sea **$450.00 - $520.00** per report	› Activity-based costing has identified actual costs, including craft-related costs › Additional activities recovered: investigations and seizures

Notes for Tables 1 and 2

The proposed fees are based on recovering the costs of Customs' goods clearance activities forecast for the 2019/20, 2020/21 and 2021/22 financial years. The forecast costs are based on Customs' approved baselines[6], which have then been adjusted for depreciation based on the latest approved Customs' capital investment plan[7]. The forecast costs also reflect volume growth in imports and exports, and incorporates cost increases (including cumulative inflation of 24 percent).

[6] The level of annual funding approved by the Crown in each Vote, which is a grouping of one or more appropriations that are the responsibility of a Minister of the Crown and are administered by a department.

7 We intend to increase our frontline mobility and modernise our border systems.

Table 2: Exports – the proposed fees

Fees	Current fee (inclusive of GST)	Proposed fee (inclusive of GST)	Reasons for the fee change
Export Entry Transaction Fee Secure Exports Scheme (SES) members	$12.01 per entry	**$3.10 - $3.50** per entry	› Activity-based costing has identified actual costs › Additional activities recovered: investigations and seizures › Less effort clearing goods as the SES programme provides assurance of supply chain security
Export Entry Transaction Fee Non-SES members	$17.94 per entry	**$6.80 - $7.60** per entry	› Activity-based costing has identified actual costs › Additional activities recovered: investigations and seizures
Outward Cargo Transaction Fee OCTF transactions: • Cargo Report Export • Outward Cargo Report	Cargo by air $11.51 per report	CRE Air **$39.00 - $41.00** per report OCR Air **$22.80 - $24.50** per report	› Activity-based costing has identified actual costs, and our effort has increased in the air channel to respond to higher volumes and evidence of increased risk in air freight › Additional activities recovered: investigations and seizures
	Cargo by sea $28.83 per report	CRE Sea **$6.00 - $6.60** per report OCR Sea **$18.80 - $20.50** per report	› Activity-based costing has identified actual costs and our effort has adjusted to reflect the shift of some Customs resources to air freight › Additional activities recovered: investigations and seizures

Summary of the proposed changes

A brief summary of the proposed changes is outlined in the tables above. You can find more detail in sections 5-8.

Extending the costs we recover

Investigations and seizures – we propose goods clearance fees recover the costs of our activities in investigating illegal activity involving goods and seizing forfeited[8] goods.

Adjusting fees to recover costs

Air and sea cargo – we propose adjusting our fees to reflect more accurately the cost of our work clearing goods allocated to air and sea cargo activities.

Outward Cargo Transaction Fee – we propose dividing the Outward Cargo Transaction Fee (OCTF) into two transaction fees for the Cargo Report Export (CRE) and the Outward Cargo Report (OCR). This reflects the work (and therefore the cost) required to process these two different types of report.

Inward Cargo Transaction Fee (ICTF) – we propose recovering all costs of clearing imported goods valued at $1,000 or less through the ICTF.

Intellectual Property Rights – we propose no longer requiring intellectual property rights-holders to give Customs a $5,000 security bond. Instead, we propose recovering directly from rights holders certain costs that we incur in storing and disposing of infringing goods, and costs related to legal proceedings.

Hourly rate for Customs' officers – we propose updating the hourly rate to reflect more accurately the costs to Customs of providing this service and introducing a three-hour minimum fee (including travel time).

[8] Imported or exported goods are 'forfeit' if they breach the Customs and Excise Act 2018 or an offence has been committed relating to the goods. Sometimes the breach is minor and is resolved without Customs seizing the goods (eg an importer of a restricted item who did not understand the rules and subsequently obtains a permit for a restricted item can proceed with the importation of the item).

How will the changes affect businesses and individual importers and exporters?

Customs' fees need to be updated to reflect a more equitable distribution of costs across the different fees to reflect where costs lie. Appendix 1 sets out case studies that illustrate the potential impacts of these changes on importers, exporters, consolidators/freight forwarders[9] and transporters/carriers.

We acknowledge that these may not represent the impacts for everyone. Your feedback will help us to better understand the potential impacts on businesses and individuals.

Mail clearance

The proposals in this document do not apply to postal items, other than those subject to the IETF and those entering New Zealand through New Zealand Post's commercial (fast freight) arm.

Next steps

Once the consultation is complete and submissions have been considered, we will present our recommendations to the Minister of Customs. These will include a recommended implementation date for any changes; we propose this to be 1 April 2020.

The Minister may then present the recommendations to Cabinet for approval. If Cabinet approves the recommendations, then Customs will make changes to the Customs and Excise Act regulations.

[9] A consolidator or freight forwarder is a person or company that organises shipments for individuals or corporations to get goods from the manufacturer to a market, customer or final point of distribution. Some firms provide a combined freight forwarder and consolidator service, grouping together orders from different companies into one shipment.

SECTION 2: HAVE YOUR SAY

This discussion document is for:

- traders (import and export businesses and individuals buying or selling products internationally)
- transporters/carriers, brokers and consolidators/freight forwarders
- the general public, for example those buying items online.

We value your feedback

We would like to hear your views on the proposed changes, particularly on the practical implications. They will help us to develop our recommendations to the Minister of Customs.

When making a submission, please include:

- the title of this discussion document: *Recovering the Costs of Customs' Goods Clearance Activities*
- your name and title
- your organisation's name (if applicable)
- your address and contact details (eg, phone, fax or email)
- references to the questions and/or sections you are commenting on.

The deadline for submissions is **5 pm on 30 August 2019**. You can provide your submission:

Online: You can provide your feedback online at www.customs.govt.nz/fees-review

By email to feesreview@customs.govt.nz

By post: Consultation: Goods Clearance Cost Recovery
New Zealand Customs Service
PO Box 2218
Wellington 6140

If you have any questions or would like to meet us to discuss elements of this document, please email feesreview@customs.govt.nz.

Your submission may be made public

We intend to publish all written submissions we receive on our website, as well as a summary of submissions covering the main themes that submitters identified, the key decisions that have been made, and the rationale for each decision.

When you make your submission, please advise whether you want your submission or specific information in your submission (such as commercially sensitive or personal information) to be published. Please clearly identify the section(s) and state the reasons for wanting it withheld.

All submissions become public information and any parts of your submission that we don't publish on our website can still be requested under the Official Information Act 1982 (OIA) for release. The OIA specifies that information is to be made available to requesters unless there is a good reason for withholding it. Note that any decision to withhold information can be reviewed by the Ombudsman.

SECTION 3: CURRENT ARRANGEMENTS

Customs activities at the border

Customs has a key role in facilitating New Zealand's international trade. Our objective is to ensure that goods crossing the border comply with domestic and international requirements and that legitimate trade flows freely and efficiently.

Under the Customs and Excise Act 2018 (the Act) Customs has the authority to develop regulations to recover the costs of carrying out its functions – that is, the functions under the Act that relate to goods imports and exports.

We undertake a wide range of activities related to imports and exports

These activities include (but are not limited to):

Intelligence and risk targeting

Through intelligence and risk targeting we aim to protect New Zealand from external risks and threats by preventing illegal and non-compliant goods crossing the border. Once goods are on their way to New Zealand, we use intelligence to guide our risk-targeting approach. Through risk targeting we can focus our resources on high-risk goods. It also means we stop fewer goods for inspection, improving clearance times and keeping border-processing costs low.

Processing activities

Customs clears all goods crossing the border through the Trade Single Window[10], a goods clearance system that processes entries and reports efficiently. Our staff provide client codes[11] and advice on customs requirements, and respond to client queries. They also make Customs rulings, for example, on the origin of a good, process temporary entries and permits.

Examinations, inspections and seizures

Customs has the power to examine all goods crossing the border – such as when an x-ray of a container leads to Customs officers opening the container and removing the goods for inspection. We generally seize goods that are forfeit to the Crown or where there is reasonable cause to suspect that an offence has been committed.

10 Trade Single Window is an electronic channel that the cargo and excise industries use to submit information to and receive responses from border agencies (Customs, the Ministry for Primary Industries, Maritime New Zealand and the Ministry of Health).

11 A unique number that identifies an importer, exporter or manufacturer.

Investigations

Customs may start an investigation if an inspection identifies potentially illegal activity. Investigations provide evidence for enforcement action, and intelligence for further targeting. The process results in a decision to either take enforcement action or close the investigation.

Enforcement

On the basis of an investigation, Customs may take enforcement action, including prosecution.

Collection of Crown revenue

We collect GST (Goods and Services Tax), tariff revenue and excise tax on a range of goods crossing the border.

Supporting the development of trade rules

Customs incurs costs before goods leave their countries of origin, in New Zealand and internationally. For example, we are New Zealand's lead agency in negotiating:

- 'rules of origin', which enable importers and exporters to access tariff concessions
- recognition of Customs' and trading partners' clearance procedures
- the removal of non-tariff barriers[12], to smooth the path for New Zealand exporters clearing goods at trading partners' borders.

Goods clearance process

Some of the above activities are part of the goods clearance process, which seamlessly manages all the revenue and trade-related risks for which Customs is responsible. The goods clearance process involves, for example:

- processing the submission of information on goods through customs declarations and commercial databases
- assessing goods and cargo information against business rules and profiles and alerts
- ensuring that goods are classified and valued correctly for statistical and taxation purposes
- reporting accurately on goods crossing the border
- identifying goods that are subject to import or export controls.

The process starts when a business or person lodges an import or export declaration for clearance, as well as information on the goods they are importing or exporting. Declarations are required and the legal responsibility for making declarations rests with importers and exporters, consolidators/freight forwarders and transporters/carriers.

[12] Trade barriers such as government policies and regulations that favour local suppliers.

We currently partially recover the costs of goods clearance

All goods that enter or leave New Zealand, and all goods that are subject to excise, must be cleared by Customs. We assess all goods and craft to determine which will be subject to additional interaction. We aim to effectively target our interventions to minimise our interaction with those complying with border requirements. To do this we identify and address new and evolving risks, particularly given the increasingly diverse source countries for trade.

The costs that Customs incurs are primarily recovered from importers and exporters and/or their carriers and agents, through two fee types:

- A fixed fee for import and export entries that provide detailed information about the goods. This fee is paid by individual importers/exporters for all goods valued over the *de minimis*.[13]
- A fixed fee for each Inward Cargo Report (ICR) or Outward Cargo Report (OCR), which is paid by transporters/carriers and importers or their agents (consolidators/freight forwarders). These reports are required for all shipments; they provide summary information about the goods carried on a craft, including lower-value goods (valued at $1,000 or less) and goods in transit.

  Cargo reports have less information than import and export entries and can cover a large number of individual consignments[14] from multiple importers or exporters.

When these fees were originally set, the costs were allocated to outputs[15] and then the costs of corporate overheads were applied on the basis of staff numbers.

Table 3 outlines our current fee structure. The table also includes two additional fees that we propose to update. These are:

- the hourly rate charged for certain services provided outside of standard operating hours
- the provision of a $5,000 security bond and recovery of certain costs in connection with assisting Intellectual Property Rights holders to enforce their rights by detaining goods that infringe upon their trademark or copyright.

[13] Imported goods where there is $60 duty owing (generally goods valued at $400 or more) and exported goods worth $1,000 or more. The ‘GST Offshore Supplier Registration Scheme’ comes into force on 1 December 2019. These criteria will change when the related low-value goods decisions are implemented.

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

[15] Outputs are goods and services purchased by the Crown from departments.

Table 3: Current fees for imported and exported goods

Fees *Customs and Excise Regulations 1996*	Who pays	Current fee (including GST)	Total revenue received in 2017/18 $ million[16] (excluding GST)
IMPORTS			
Import Entry Transaction Fee *Regulation 24A*	Individual importers	$29.26 per entry[17]	$41.880
Inward Cargo Transaction Fee Air *Regulation 13A(2)(b)*	Transporters/Carriers e.g. airlines and consolidators/freight forwarders	$30.66 per report	$2.365
Inward Cargo Transaction Fee Sea *Regulation 13A(2)(a)*	Transporters/Carriers e.g. shipping companies and consolidators/freight forwarders	$359.82 per report	$1.962
EXPORTS			
Export Entry Transaction Fee (SES) *Regulation 28A(1)(a)*	Paid by SES exporters	$12.01 per entry	$1.401
Export Entry Transaction Fee *Regulation 28A(1)(b)*	Paid by all exporters not in the SES	$17.94 per entry	$6.897
Outward Cargo Transaction Fee Air *Regulation 29A(3)(b)*	Transporters/Carriers e.g. airlines and consolidators/freight forwarders	$11.51 per report	$1.117
Outward Cargo Transaction Fee Sea *Regulation 29A(3)(a)*	Transporters/Carriers e.g. shipping companies and consolidators/ freight forwarders	$28.83 per report	$1.055
Hourly rate for Customs officers' attendance *Regulation 4(1)(a)*	Paid by individuals or businesses	$74.21 per hour	$0.396
Intellectual Property Rights (rights-holders) *Trade Marks Act 2002 and Copyright Act 1994*	IPR rights holders	$5,000 security bond and certain costs e.g., legal costs	

[16] Based on Customs' 2017/18 annual report figures.

[17] An entry fee currently applies to each good valued over the *de minimis* (the level under which tax or duty is not collected for imported (physical) goods).

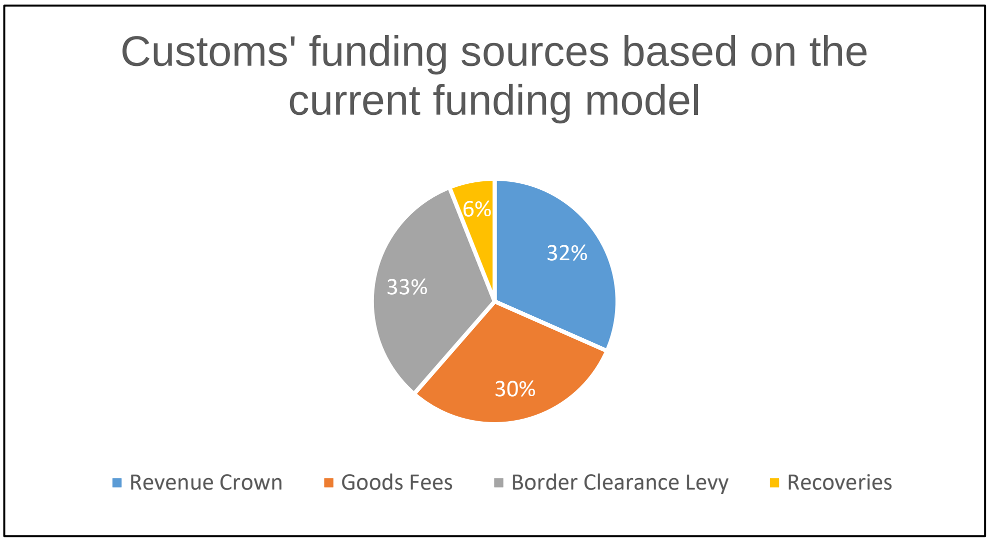
Current funding sources

Customs' current cost recovery arrangements are a mix of Crown and user funding. Customs receives funding for its total operations from:

- the Crown
- the Border Clearance Levy – Customs recovers the full costs it incurs for providing traveller-related activities
- goods-related fees – Customs partially recovers the costs of goods clearance activities from importers and exporters (and associated businesses)
- recoveries – the recovery of costs incurred on behalf of other agencies.

Graph 1 below shows the proportion of funding received from the different funding sources based on existing funding arrangements. The graph covers all of Customs' functions (ie processing both goods and travellers at the border). Customs intends to move towards full cost recovery for goods clearance over time and this would change proportionately the source of funding; increasing the proportion of goods-related transaction fees and reducing the proportion of Crown funding.

Graph 1: Customs' funding sources based on existing funding arrangements (shown as a proportion of total Customs funding)



SECTION 4: THE COST RECOVERY FRAMEWORK

We recognise that our approach to recovering the costs of goods clearance activities needs updating. This review applies a significantly improved approach, which is based on a 'cost recovery framework'.

The cost recovery framework – who should pay?

The cost recovery framework (the Framework) guides us in developing our fees and, in particular, deciding who should pay them. It is based on charging guidelines developed by the Office of the Auditor-General and the Treasury[18], which require all decision-making to consider the following cost recovery principles:

- equity[19] – our services are funded by those that use them
- efficiency – we deliver high service standards at a sustainable cost
- transparency – we provide clear and easily understood information about our funding decisions, including the costs and charges
- justifiability – we recover only the costs of delivering our service

Further detail on these principles and the Framework is set out in Appendix 2.

Assessing goods clearance activities against the cost recovery principles

In determining who should pay, we assessed each of our goods clearance activities against the four cost recovery principles. We asked:

- what is the purpose of the activity or function? Are the outputs designed to deliver benefits or manage risk? What are these benefits and risks?
- can we identify an individual or a group that benefits directly from the activity? On this basis, is the activity best characterised as a private, club or public good? [20]
- if the activity or function is designed to manage risk, is the need for it being generated by an individual or a group? Is it administratively efficient to charge them?
- are there situations where cost recovery may not be justified?

[18] New Zealand Treasury (2017) *Guidelines for Setting Charges in the Public Sector*, available at: http://www.treasury.govt.nz/publications/guidance/planning/charges.

[19] Equity combines excludability (the benefits of the service's output are only available to a person or group) and rivalry (when one person consumes the benefits, those benefits are not available to others).

[20] A private good is a good that is purchased and used by one party and is not available to others, for example, a service requested by an individual such as a Customs ruling. A club good is a good where use by one person does not detract from its use by another, for example, a Mutual Recognition Arrangement. A public good is a good whereby excluding people from its benefits are either difficult or costly, and its use by one person does not detract from its use by another, for example, policy advice.

Considering the economic characteristics of an activity

An activity's benefits can be defined as 'excludable' or 'rival'. A benefit is excludable if it is possible to prevent a party receiving it, and it is rival if parties compete for it. The degree of an activity's excludability and rivalry underpins our definition of it as a private, club or public good. This is reflected in the following diagram.

Diagram 1: Who should pay?[21]

If an activity is a private good, it is usually fair and efficient to charge the user. This is because any benefits:

- are likely to be more immediately tangible and easier to quantify than those gained downstream by other parties (such as taxpayers)
- can be more directly linked to the user or the party that generates the need for the activity.

When deciding who should pay, risks must be considered alongside benefits

It is fair that those who benefit from or create a demand for this activity are charged the full costs of providing it.

Often those who benefit from, and those who generate risks, are one and the same, but not always. If an activity's purpose is to manage risk (for example, by inspecting cargo or craft) the person most directly generating the risk should be charged as they are best placed to take action to minimise the risk. Charging them the full cost of Customs' risk-management activities provides them with the greatest incentive to take that action.

[21] Based on https://treasury.govt.nz/publications/guide/guidelines-setting-charges-public-sector-2017-html.

Equally, if the purpose of the service is to provide a benefit, for example, advice or rulings, then the full cost of the service should be imposed on those people seeking the service. This would ensure that only those who want the activity, actually use it, avoiding unnecessary costs.

Determining whether an individual user or a wider group should pay

Sometimes it is more efficient to charge a group than it is to charge an individual user, for example, it may cost a lot to distinguish one member of the group from another, or find out how much benefit one member receives compared to another. In these cases, it may be more efficient to consider charging the group as a whole.

It can be difficult to find out how much one individual uses or benefits from an activity compared to another. It is likely to be costly and inefficient to exclude parties from the benefits of an activity that has public good characteristics. This makes charging difficult.

Where an activity is a public good, the only feasible option is to fund it from general taxation. This is how Customs' policy advice is funded.

Other factors to take into account before forming a final conclusion on who should pay

There are specific situations where it may be more appropriate for the Crown to fund activities or functions. These include:

- where charging individual fees is inconsistent with government policy, or stands in the way of Customs achieving its wider objectives (e.g. charging a fee to refund overpayments of duty and negotiate international trade arrangements)
- where the administrative cost or inefficiency in charging the end user outweighs any return
- where Customs' or New Zealand's international obligations prevent charging
- where charging would not align with the principles of natural justice (eg charging for reviews of Customs' rulings and prosecution activities).

SECTION 5: WHO SHOULD PAY?

Customs' activities are funded through three channels:

- fees and charges paid by users
- cost recovery from other government agencies
- Crown funding.

The Framework identified that, while we are generally charging for the right activities, there may be opportunities to recover the costs of some others.

In considering who should pay, we applied the Framework and the principle of 'equity' (that we will generally source funding for our services from those that use them). Table 4 shows who pays the cost of goods clearance activities now and who could potentially do so in the future.

Table 4: Goods clearance activities recovered through fees

Activity	Description	Who pays now?	And in the future?	The rationale for change
Processing	Process goods data, provide client codes and advice	Importers/ exporters	Importers/ exporters	This is equitable, as importers/exporters generate the need for the activity. The cost is spread across all importers/exporters.
Risk assessment	Undertake data analysis and action alerts	Importers/ exporters	Importers/ exporters	Risk assessment, screening and targeting to manage the risks generated by importers/ exporters. The cost is spread across all importers/exporters.
Examinations	Plan and execute examinations	Importers/ exporters	Importers/ exporters	Examinations identify illegal activity. The cost is spread across all importers/exporters.

Activity	Description	Who pays now?	And in the future?	The rationale for change
Business sustaining	Activities required to operate effectively, but not directly linked to core activities e.g. statutory reporting	Importers/ exporters	Importers/ exporters	This ensures Customs activities' are effective and efficient. The cost is spread across every activity.
Investigations	Investigate illegal activity and monitor compliance	Crown	Importers/ exporters	Investigations manage the risks generated by importers/exporters. The cost is spread across the groups.
Examinations	Handle seized goods	Crown	Importers/ exporters	The cost is spread across importers/ exporters. This activity helps to maintain secure import and export functions.

Recovering the cost of investigations and seizures

Individual traders benefit from a system that supports the secure and efficient import and export of legitimate goods while focusing on high-risk areas. It includes activities that protect goods' integrity and security.

We manage risks identified at the border, and penalise non-compliance, by undertaking a range of activities; assessing risks, seizing prohibited goods, investigating and prosecuting offenders, and stopping prohibited and illegal goods entering New Zealand.

Goods-related investigations[22] are carried out when we identify illegal activities and under-valued goods, or when we seek to provide confidence in a trader's supply chain processes that its goods are securely packed and transported. Investigations include running tests, searching cargo and undertaking investigative activities before, at and beyond the border.

[22] Investigations are undertaken in relation to detecting drugs, activities conducted offshore, tobacco, objectionable material, weapons, and money laundering.

All these activities are a vital part of managing the risks of imports and exports, and through them we incur investigation and seizure costs[23]. Without them, there is little purpose in assessing risks and examining goods.

Who should pay?

- Investigations and seizures are designed to manage risk. The Framework suggests that where an activity's purpose is to manage risk, it is equitable to charge the people who generate the need for risk assessments, responses and subsequent investigations, and seizure activities. This is because the people generating the risk are often best placed to influence the need for the activity.
- We considered whether the individuals who undertake illegal activities should pay for the costs related to those activities.

  This is a challenge, because illegal activities can take place in any of the many trade routes into New Zealand. In addition, it is not easy to identify the people organising illegal activities, so it is difficult to recover the investigation costs directly from them.
- Our Framework suggests that if an individual cannot be charged, the next best option, or the most equitable, is to spread the fee across the next group most directly related to the activity i.e. all importers, exporters, transporters/carriers and consolidators/freight forwarders.
- It could be argued that investigations and seizures are a public good, protecting the people of New Zealand from illegal goods, and therefore they should be Crown funded. However, according to the Framework the costs of an activity designed to manage risk are usually recovered from those generating the need for the activity – and they are not all New Zealand taxpayers.

Customs proposes that the costs associated with goods-related investigations and seizures of imported and exported goods be considered direct costs associated with the risk assessment and response. This means the costs should be considered part of the wider clearance process and recovered through fees. These costs represent approximately $23 million to be recovered through fees.

Customs mainly carries out investigations and seizures activities on imports, which may arrive by either sea or air. The greatest level of activity (and costs) takes place in the air channel, reflecting the level of risk we see in air cargo. Accordingly, the proportion of investigations and seizures costs set in the fees reflects this activity, comprising 55 percent in ICTF Air, 30 percent in ICTF Sea, and 16 percent in the IETF.

In our view, all importers, exporters, consolidators/freight forwarders and transporters/carriers should pay as a group. This would align with our approach of recovering the cost of Customs' investigations costs through the Border Clearance Levy. The Levy recovers the costs incurred by Customs and the Ministry for Primary Industries in processing travellers at the border.

[23] The activities undertaken may involve issuing Notices of Seizure, transporting, storing and disposing of the goods.

We propose recovering the cost of an investigation up to the point where we decide to proceed with a prosecution. At this point the activity is ‘enforcement’, which should be Crown funded.

We are aware there may be alternative views and are interested in your feedback.

Questions for your feedback

Question 1: Do you have a comment on the recovery of the costs of goods-related investigations?

Question 2: Do you have a comment on the recovery of the costs of seizing forfeited goods?

Question 3: Are there other options we have not considered?

Recovering the costs of clearing goods valued at and under $1,000 transported by air cargo

Our ability to collect the Import Entry Transaction Fee (IETF) on goods valued at and below $1,000 will cease once the Offshore Supplier Registration system for collecting GST on low-value goods is implemented on 1 December 2019. However, it should be noted that import entries will still be required for some goods valued at under $1,000.[24]

Customs will still incur costs related to clearing these goods that are no longer subject to the IETF.

We have identified three potential ways to recover these costs, and assessed them against our cost recovery principles:

- Use the IETF to recover costs from importers of goods valued above $1,000.
- Use the ICTF to recover costs from consolidators/freight forwarders and transporters/carriers (who carry all imported goods).
- Use Crown funding.

In the case of imported goods, the importers, consolidators/freight forwarders and transporters/carriers cause Customs to incur costs for risk assessing and clearing their goods – so in line with our Framework, the costs should be recovered from these groups.

[24] Entries are a regulatory requirement for an importer. They are currently required for goods valued at below $1,000 when an importer has to meet a regulatory obligation to clear the goods; for example, pay duty on tobacco or present a permit. Customs cannot rely on a cargo report from an operator to enforce compliance on an importer because it is unenforceable; as it is not the importer’s statement. The same applies to licences and permits required by an importer.

Currently:

- importers are required to submit import entries on goods valued over the *de minimis* and pay the IETF
- carriers/transporters and consolidators/freight forwarders provide information to Customs about all the cargo they bring into the country. They pay the ICTF when lodging an Inward Cargo Report (ICR)
- where import entry documentation is not provided (that is, on goods valued below the *de minimis*), the ICR is used to risk assess the goods and the ICTF is charged to cover the costs associated with clearing those goods. Once the IETF changes come into force, the ICTF will be the only fee associated with these goods.

It would be inequitable to:

- extend the goods clearance costs to other importers paying the IETF (this would also result in cross-subsidisation)
- Crown fund the costs associated with those goods (the costs would inevitably fall to taxpayers who, as a group, do not benefit from the service or cause us to incur costs).

Both options also lack transparency in allocating costs to the service provided and the fees charged.

Our preferred option is to use the ICTF to recover all costs of goods valued at $1,000 or less. This is because:

- it is the most equitable option, since it is the remaining fee most closely associated with these goods
- it is consistent with the current approach used to recover the costs of processing imports that are under the *de minimis*.

Questions for your feedback

Question 4: We propose to recover costs related to goods clearance valued at $1,000 or less through the ICTF. Is there another option we have not considered?

Question 5: If the change went ahead, how would it affect your business?

Differentiated rates for the Outward Cargo Transaction Fee

Consolidators/Freight forwarders and transporters/carriers pay cargo transaction fees when they lodge cargo reports. The Outward Cargo Transaction Fee (OCTF) is currently applied to the lodgement and assessment of two different types of reports: the Cargo Report Export (CRE) and the Outward Cargo Report (OCR).

- An exporter or their agent submits a CRE before loading for export, to clear consignments of low-value goods (below the *de minimis*[25]) that do not require export entries. These consignments are usually collated into 'consolidation consignments' by consolidators/freight forwarders.
- A sea or air consolidator/freight forwarder seeking approval to load a consolidation consignment onto a departing craft submits an OCR. This report is a declaration that individual consignments in a consolidation consignment have all been cleared.[26] It lists only each consignment's reference number and Customs clearance number.
- A transporter/carrier submits an OCR after a craft has departed. The report provides us with an assurance that all consignments loaded on the craft have been cleared (whether they are consolidation or single export consignments). Again, the report lists only each consignment's reference number and Customs clearance number.

Through our cost modelling we have identified more accurately the activity levels (and related costs) of these two report types, and concluded that the difference is significant enough to merit applying a separate OCTF rate to each. This would satisfy the principles of equity, efficiency, transparency and justifiability, as the CRE and OCR groups would pay the actual costs of the associated activities we undertake.

Who should pay?

- In this case the OCR and CRE are different reports used for different purposes. This has resulted in a difference in the costs of processing the reports.
- Our Framework asks us to consider which group is generating the need for the service. The CRE and OCR services are designed to manage risk, but the activity required for CRE processing is greater than that for the OCR (which is lodged by consolidators/freight forwarders before loading, and transporters/carriers after craft have departed).
- However, the Framework also asks us to consider reasons to not charge, including efficiency reasons. There could be an argument to keep the existing fees to simplify the charging structure.

[25] Imported goods where there is $60 duty owing (generally goods valued $400 or more) and exported goods worth $1,000 or more. The 'GST Offshore Supplier Registration Scheme' comes into force on 1 December 2019. These criteria will change when the related low-value goods decisions are implemented.

[26] Goods above the *de minimis* are cleared by entries.

We also considered whether we should retain the same rate for sea and air for the OCTF. A single rate would provide for greater flexibility in shifting resources to match service demand. The fees would be approximately $60.00 for air cargo and about $10.00 for sea cargo.

In line with the Framework, our preferred option is to differentiate the rates, reflecting the different activity levels underpinning the CRE and OCR rates.

Questions for your feedback

Question 6: Do you support the Outward Transaction Fee having differentiated rates for the Cargo Report Export and the Outward Cargo Report? Please explain.

Question 7: Are there other options we have not considered?

Question 8: If we were to proceed with the proposed change, how would it affect your business?

..

Crown-funded activities

It will still be necessary for the Crown to fund some of Customs' activities. These relate to advice to Ministers, enforcement activities/prosecutions, appeals and reviews of decisions, revenue collection and assurance, Secure Exports Scheme[27] (SES) programme costs, international trade arrangements, electronic objectionable material and the postal stream. See Table 5 for more detail.

Table 5: Activities to be funded by the Crown

Activity	Description	Who pays now?	And in the future?	Rationale
Advice to Ministers	Policy, ministerial servicing etc.	Crown	Crown	Core function to support the Crown
Enforcement activities	Prosecutions, fines and penalties	Crown	Crown	Contrary to natural justice to recover from individuals or the group.
Appeals and reviews of decisions	Includes administrative reviews and reviews of seizure	Crown	Crown	Contrary to natural justice to recover from individuals or the group.
Revenue collection and assurance	Excise, GST and drawbacks	Crown	Crown	Output of revenue collection is additional revenue for the Crown.
SES (costs of running the scheme)	Process SES applications, manage relationships and audit scheme compliance	Crown	Crown	In principle, costs should be borne by scheme participants. However, recovering the cost may be prohibitive for some businesses. This may be reviewed in the future.

[27] The SES is operated by Customs and provides assurance that SES members' export supply chains are protected against tampering, sabotage, smuggling and transnational crime. The benefits of membership include:

- reduced export transaction fees
- internationally recognised supply chain security standards
- minimised Customs delays at overseas borders
- priority in recovering from trade disputes.

Activity	Description	Who pays now?	And in the future?	Rationale
International trade arrangements	Negotiation of free trade agreements, mutual recognition agreements, and removal of non-tariff barriers	Crown	Crown	Includes wider Crown relationship interests. Potential negative impacts on small businesses and trade if costs recovered from traders.
Objectionable material (electronic)	Intangible goods, e.g. 3D schematics and objectionable material	Crown	Crown	It is difficult to identify and recover costs from the group creating the risk.
Postal stream	Inward mail of low-value goods	Crown	Crown	Currently there is no mechanism to recover these costs. It would be inequitable to charge this cost to all traders.

SECTION 6: HOW WE SET THE PROPOSED FEES

We used ‘activity-based costing’ (ABC) to develop our proposed fees. This involved:

- assigning our costs to three broad categories: directly attributable costs, corporate services costs, and business sustaining costs[28]
- applying a two-step costing methodology that used ‘causal drivers’ to attribute resources firstly to activities, and then to services (or outputs)
- allocating the cost of corporate services (for example finance and people and capability) to the operational users of those services
- assigning business sustaining costs to fees, proportionately on the basis of cost
- dividing the total cost of activities allocated to the fee by the forecast transaction volumes (either import or export entries or cargo reports).

We also worked directly with frontline Customs staff to test and enhance our understanding of the cost drivers[29] for each core activity they identified.

The method we used to identify our costs and forecast volumes, and translate these to fees, was externally quality assured by PricewaterhouseCoopers[30] (PwC); who found our approach to be “comprehensive and based on sound logic and reasoning”.

Forecast volumes

The transaction volumes we used are based on three-year forecasts derived from historical time series data. These forecasts are updated periodically. Where we have access to industry information, this is compared to the forecasting models produced. With the exception of Outward Cargo Reports (OCRs), all volumes will increase in the next four financial years.

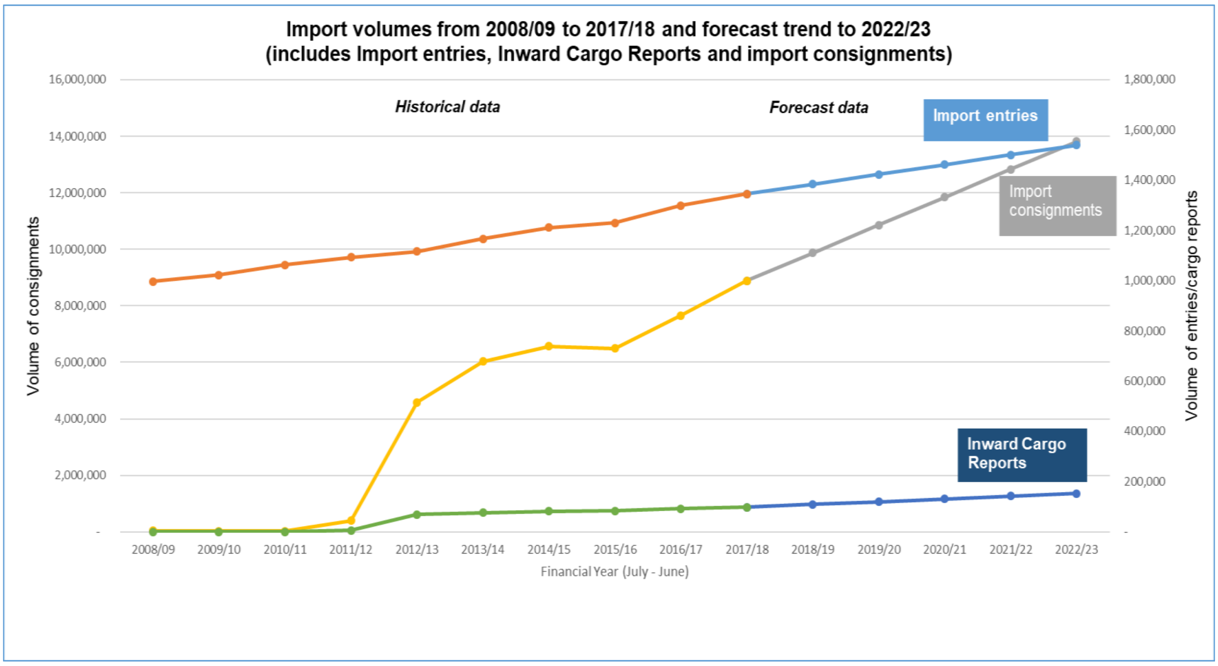
Graphs 2 and 3 which follow provide both historical (from 2008/09-2017/18) and forecast information (from 2018/19 to 2022/23) on import and export volumes.

[28] Business sustaining costs represent the expenditure that is required for Customs to operate effectively, but is not directly linked to core activities. Examples include statutory reporting and management of the Customs’ website (www.customs.govt.nz).

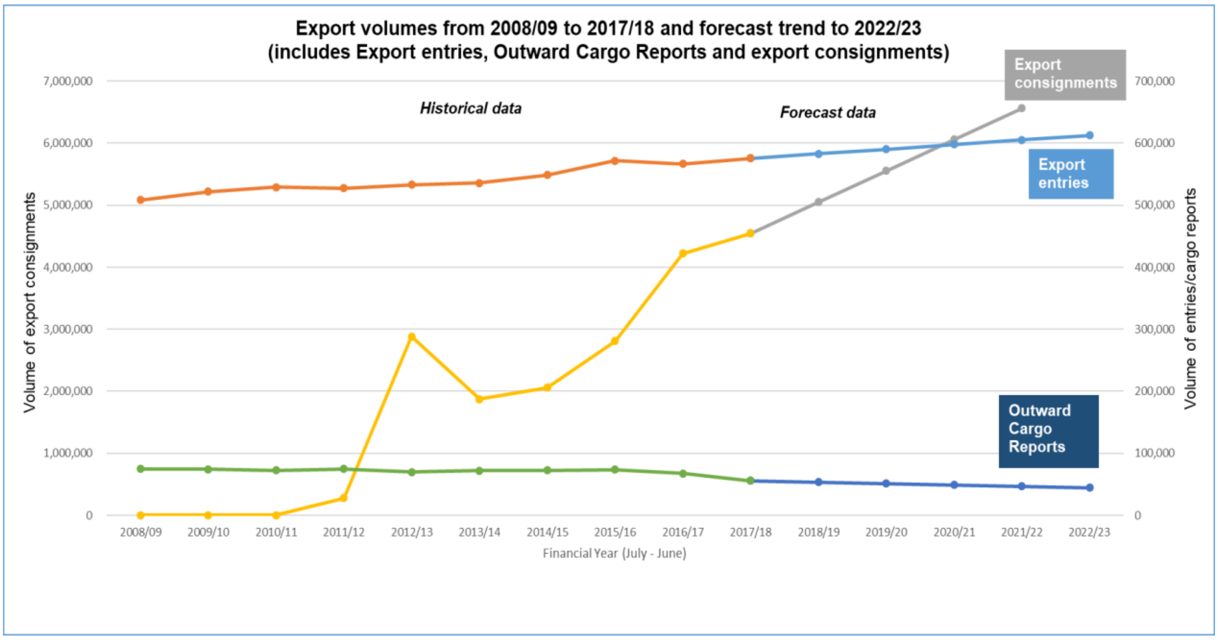
[29] The unit of an activity that causes the change in an activity's cost.

[30] PwC (January 2019) *ABC Model and Pricing Model. Methodology Review and Assumptions Testing*.

Graph 2: Import volumes from 2008/09 to 2017/18 and forecast trend to 2022/23 (includes Import entries, Inward Cargo Reports and import consignments).



Graph 3: Export volumes from 2008/09 to 2017/18 and forecast trend to 2022/23 (includes Export entries, Outward Cargo Reports and export consignments).



Note: while the volume of Outward Cargo Reports has decreased, the number of consignments submitted per report has increased.

The proposed fees

Customs' proposed goods cost recovery fees are based on the actual costs of the activities that Customs undertakes (this is outlined later in the section). The proposed fees for goods clearance of imports and exports for the next two years are set out below in Tables 6 and 7. These fees are presented as a range as the final fee will be set within this range.

In addition to goods clearance fees, we are also proposing to update two other fees:

- Intellectual Property Rights – we propose no longer requiring intellectual property rights-holders to give Customs a $5,000 security bond. Instead, we propose recovering directly from rights-holders certain costs that we incur in storing and disposing of infringing goods, and legal proceedings.
- Hourly rate for Customs' officers – we propose updating the hourly rate to reflect more accurately the costs to Customs of providing this service and introducing, a three-hour minimum fee (including travel time).

Further information on these two fees is set out in sections 7 and 8.

Table 6: The proposed fees - imports

Fees	Current fee (inclusive of GST)	Proposed fee (inclusive of GST)
Import Entry Transaction Fee	$29.26 per entry	**$31.80 - $35.00** per entry
Inward Cargo Transaction Fee	Cargo by air $30.66 per report	Cargo by air **$75.00 - $79.00** per report
	Cargo by sea $359.82 per report	Cargo by sea **$450.00 - $520.00** per report

Table 7: The proposed fees - exports

Fees	Current fee (inclusive of GST)	Proposed fee (inclusive of GST)
Export Entry Transaction Fee Secure Exports Scheme members	$12.01 per entry	**$3.10 - 3.50** per entry
Export Entry Transaction Fee Non-SES members	$17.94 per entry	**$6.80 - $7.60** per entry
Outward Cargo Transaction Fee OCTF transactions: • Cargo Report Export • Outward Cargo Report	Cargo by air $11.51 per report	CRE Air **$39.00 - $41.00** per report
		OCR Air **$22.80 - 24.50** per report
	Cargo by sea $28.83 per report	CRE Sea **$6.00 - $6.60** per report
		OCR Sea **$18.80 - $20.50** per report

These fees do not reflect full cost recovery. In order to recover the full costs of goods clearance, some of the fees for air cargo would need to increase significantly. The Inward Cargo Transaction Fee (ICTF) for air cargo would need to increase from $30.66 to between $330.00 - $365.00, and the Outward Cargo Transaction Fee – Cargo Report Export for air cargo (OCTF-CRE Air) would need to increase from $11.51 to $84.00 - $91.00.

A smaller increase is proposed for these fees, and a review of the fees will occur after two years.

Allocating activities and their costs to fees

A significant part of the cost recovery process has been to map activities and their costs to fees. Tables 8 and 9 show Customs' current import- and export-related fees, and the activities and overall cost attributed to each fee.

Table 8: Activities and costs attributed to each import fee

All figures are inclusive of GST	Import Entry Transaction Fee	Inward Cargo Transaction Fee (Air)	Inward Cargo Transaction Fee (Sea)
Current fee	$29.26	$30.66	$359.82
Services	Processing entries and clearing goods valued over $1,000 (from 1 Dec 2019)	Processing inward cargo reports for air cargo and clearing air cargo valued at $1,000 or less	Processing inward cargo reports for sea cargo and clearing sea cargo valued at $1,000 or less
Activities that make up these services	**Processing**: advise customers, process data (eg, Joint Border Management System), process entries **Risk assessment**: analysis and modelling, review declarations, follow up on alerts **Examination:** examine consignments using x-ray or dogs etc and handle seized goods **Investigations and compliance:** investigate illegal activity, assessment reviews		
	Make rulings, grant codes, process permits and temporary entries, search cargo craft		Portion of National Maritime Coordination Centre costs, search cargo craft
Cost of providing services (forecast average 2019/20 to 2021/22)	$36.80 million	$30.00 million	$2.80 million

Table 9: Activities and costs attributed to each export fee

All figures are inclusive of GST	Export Entry Transaction Fee	Outward Cargo Transaction Fee (Air)	Outward Cargo Transaction Fee (Sea)
Current fee	$12.01 (SES) $17.94 (non-SES)	$11.51	$28.83
Services	Clearing goods with export entries	Processing CREs and clearing air cargo without export entries Processing OCRs	Processing CREs and clearing sea cargo without export entries Processing OCRs
Activities that make up these services	**Processing**: advise customers, process data, for example, the Joint Border Management System **Risk assessment**: analysis and modelling, review declarations, follow up on alerts **Examination:** examine consignments using x-ray or dogs etc and handle seized goods **Investigations and compliance:** investigate illegal activity		
	Process entries, grant codes (non-SES)		
Cost of providing services (forecast average 2019/20 to 2021/22)	$0.39 million(SES) $2.80 million (non-SES)	$3.90 million (CRE) $0.70 million (OCR)	$0.13 million (CRE) $0.24 million (OCR)

Changes in air and sea cargo report fees

Inward Cargo Transaction Fee Air

ABC enabled us to assign activities (and their costs) to fees with greater accuracy and detail than previously. As a result, we are proposing an increase in the ICTF Air fee per report. This reflects increased goods clearance activity in response to increases in air freight and evidence of increased associated risks.

The number of consignments submitted increased from approximately two million when the ICTF Air was set in 2006 to approximately 14.6 million in 2017/18. The proposed new fee rate better reflects the costs due to increased activity as well as decisions to include the costs of investigation activities and those related to low-value goods within the ICTF Air.

If we were to introduce the full recovery of Customs' costs then the rate for air cargo would align more closely to that for sea cargo. However, the ICTF Sea rate is still higher because it costs us more to process sea cargo than air cargo due to the size of shipping vessels and the more expensive X-ray equipment required.

Outward Cargo Transaction Fee (Cargo Report Exports and Outward Cargo Reports)

Based on the modelled costs, we propose reducing the OCTF for sea cargo and increasing the OCTF for air cargo.

The OCTF for CRE Air is higher than the current rate as there has been an increase in the volume of lower-value items in the air space; this means reports are generally larger and more costly to clear. OCRs include data on all cargo (e.g. export entries) and generally have more lines of data than CREs.

Questions for your feedback

Question 9: From your experience, what factors contribute to consolidators/freight forwarders submitting reports with single consignments or consolidating consignments?

Question 10: If the proposed changes went ahead, how would they affect your business?

Expenditure allocated to fees

Table 10 shows the expected expenditure allocated to each of the goods-related fees for 2018/19 and the next three years. For 2018/19, expenditure is allocated using Customs' existing costing model. For 2019/20 to 2021/22, forecast expenditure is allocated using Customs' activity-based costing methodology (described on page 27).

Table 10: Goods clearance expenditure based on the current costing model and the activity-based costing model

Forecast expenditure (millions)	Current model	Activity-based costing model		
	2018/19	2019/20	2020/21	2021/22
Imports				
Import Entry Transaction Fee	$45.216	$35.793	$36.959	$37.528
Import Cargo Transaction Fee Air	$2.517	$28.714	$30.497	$30.863
Inward Cargo Transaction Fee Sea	$2.175	$2.691	$2.837	$2.889
Exports				
Export Entry Transaction Fee (SES)	$1.464	$0.376	$0.393	$0.401
Export Entry Transaction Fee (non-SES)	$6.995	$2.735	$2.761	$2.789
Cargo Report Export Air	-	$3.920	$3.925	$3.933
Outward Cargo Report Air	$1.064	$0.695	$0.695	$0.696
Cargo Report Export Sea	-	$0.125	$0.125	$0.126
Outward Cargo Report Sea	$1.063	$0.242	$0.242	$0.242
Total goods clearance forecast	**$60.494**	**$75.291**	**$78.434**	**$79.467**

This expenditure is proposed to be funded by a mix of Crown funding and goods cost recovery fees.

SECTION 7: CHANGES TO INTELLECTUAL PROPERTY RIGHTS SERVICES

We are proposing to change our current practice for recovering certain costs associated with the enforcement of intellectual property rights (IPR).

In particular, we intend to:

- remove a current requirement for IPR holders (rights holders) to provide a $5,000 security bond
- re-establish a process in which we recover from rights holders certain costs we incur in undertaking IPR-related activities.

Working on behalf of rights holders

Customs' IPR border protection functions include the power to take enforcement action on behalf of rights holders. This power is part of New Zealand's legal framework for helping rights holders to protect their intellectual property, and is consistent with New Zealand's international obligations.[31]

If a person infringes upon a rights holder's IPR, the rights holder can take court action seeking a civil remedy.[32] This process includes lodging a border protection notice (BPN) requesting that Customs detain goods that are being imported, transhipped through New Zealand or exported that are suspected of infringing upon the right holder's trademark or copyright.[33]

Our activities on behalf of those lodging BPNs include:

- accepting the BPNs, publishing them and training our staff to detect goods that infringe upon the intellectual property the BPNs describe
- when we detect goods that we suspect infringe upon IPR, handling those goods at the port, transporting them to a storage place and storing them
- determining whether the goods appear to infringe upon IPR, including processing the goods' surrender if the importer/person transhipping/exporter surrenders them
- participating in any court proceedings relating to the goods
- disposing of the goods (if necessary).

Customs currently has 334 BPNs.[34]

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31 Explanatory note to the Trade Marks (International Treaties and Enforcement) Amendment Bill

32 MBIE, "Enforcing your intellectual property rights". Webpage accessed 10 April 2018. https://www.mbie.govt.nz/business-and-employment/business/intellectual-property/intellectual-property-enforcement/

33 Section 137 of Trade Marks Act 2002; section 136 of Copyright Act 1994.

34 www.customs.govt.nz/ipr Accessed 11 April 2019.

Customs has the authority to require IPR holders to pay a $5,000 security bond, under the Copyright Act 1994 and Trade Marks Act 2002. This enables us to recover certain costs we incur in providing services to rights holders to enable them to enforce their IPR.[35]

Under current regulations rights holders are required to provide an indemnity for certain costs we incur in helping them to enforce their rights (i.e. the costs of detaining or disposing of goods, and legal costs).[36]

However, while Customs has continued to require rights holders to provide an indemnity, we have seldom sought to recover our costs. As the security bond payment creates compliance costs for the rights holder and administration costs for Customs, we propose that we cease to require it.

Recovering costs incurred

Under the Copyright and Trade Marks Acts' indemnity mechanisms, we can charge fees to cover certain costs, including the following:

- transport, storage and/or disposal of goods suspected of infringing upon rights holders' rights
- participation in court proceedings.

We propose re-establishing Customs' practice of recovering these costs from IPR holders through the indemnity provisions. In each case we will advise the rights holder of the estimated cost to ensure that it is reasonable and to assist them to decide on their course of action.

Questions for your feedback

Question 11: Do you agree that IPR holders should no longer have to pay Customs a $5,000 security bond?

Question 12: Do you support our intention to recover from IPR holders certain costs that we incur in helping them to enforce their IPR? If not, please explain the reason for your answer.

[35] Copyright (Border Protection) Regulations 1996, r 6; Trade Marks Regulations 2003, r 159.
[36] Copyright (Border Protection) Regulations 1996, r 6; Trade Marks Regulations 2003, r 159.)

SECTION 8: INCREASING THE HOURLY RATE FOR AFTER-HOURS SERVICES

We propose to increase the hourly rate we charge for services that Customs staff provide outside 'standard operating hours' (these are specified in the *New Zealand Gazette*[37]). We are authorised to recover the costs of these services by section 408(1)(a) of the Customs and Excise Act 2018.

The hourly rate typically applies when Customs officers:

- are required to clear passengers after hours – generally those on late, chartered, private or diverted flights. The hourly rate is paid in addition to the Border Clearance Levy
- undertake specialist work related to goods' imports and exports outside working hours. This can include using equipment that only Customs officers can operate, and supervising goods' destruction at an importer's request.

The current hourly rate of $74.21 (including GST) has not changed since 1988, aside from GST increases. We propose a new hourly rate of $133 (including GST). This is based on an average Supervising Customs Officer's salary, and also covers indirect staff costs (such as training) and corporate overheads. It does not include costs relating to activities, such as the costs of personal protective equipment and motor vehicles.

The proposed rate compares favourably with those of other government agencies. For example, the Ministry for Primary Industries (MPI) has a charge-out rate of $149.56 (including GST) for biosecurity inspectors/advisors (double-time call-out). To ensure consistency in our costing approach, we have developed the new rate using ABC.

In line with other agencies' practice, we propose charging a three-hour minimum fee (including travel time) since Customs' staff are paid a minimum of three hours per call out (outside 'standard operating hours').

Question for your feedback

Question 13: Do you have any comment about the proposal to increase the fee and move to a three-hour minimum fee?

[37] https://gazette.govt.nz/notice/id/2018-go4484

SECTION 9: MONITORING, REPORTING ON AND REVIEWING OUR FEES

This section describes how we will monitor, report on and review our goods clearance fees.

Once Customs has implemented full cost recovery for goods clearance activities, we intend to operate a memorandum account for the proposed fees and introduce regular reporting on its operations. This would ensure that we do not cross subsidise and that users pay the actual costs Customs' incurs.

We would at this point put in place a separate annual reporting mechanism to show how the revenue from fees is used.

Annual performance monitoring and reporting

In the interim, we will continue to monitor our performance against well-defined financial and non-financial performance measures in Customs' departmental Annual Report, which is published after the end of the financial year. This report is publicly available on our website.

Reviews

As a general rule, we will review our goods clearance fees every three years, according to the Auditor-General's guidelines.[38] The first review will be held in two years, rather than three years due to the significant change in some of the fees. This will provide additional time to work with the sector so that we can better understand any impacts on individuals and businesses.

Question for your feedback

Question 14: Do you agree with the proposed monitoring arrangements? If not, please explain why.

[38] Charging Fees for Public Sector Goods and Services, 2008.

APPENDIX 1: CASE STUDIES SHOWING THE IMPACTS OF THE PROPOSED COST RECOVERY FEES

These case studies are based on Customs' proposal to introduce a staged implementation to recover Customs' costs. The case studies show the impacts of our proposed import fees on importers, exporters, transporters/carriers and consolidators/freight forwarders.

Impacts on import fees

The fees are based on the Government's plan to introduce GST on low-value imported goods from 1 December 2019. From that date Customs will stop collecting GST, duty, the IETF and the Biosecurity System Entry Levy (BSEL) on consignments valued at $1,000 or less (except for tobacco and alcohol products). However, we will continue collecting GST on imported goods valued above $1,000.

The BSEL is charged by the Ministry for Primary Industries (MPI) and is included in these examples to show the overall impact of Government fees. MPI charges the BSEL on import entries that attract the IETF, and on ICRs that attract the ICTF.

Fees paid by importers (per import entry). All fees include GST.

A consignment valued at more than $1,000

Fee type	Current	Proposed
IETF	$29.26	$31.80 - $35.00
BSEL	$23.41	$26.45
Total	**$52.67**	**$58.25 - $61.45**

A consignment valued at $1,000 or less

Fee type	Current	Proposed
IETF	$29.26	$0
BSEL	$23.41	$0
Total	**$52.67**	**$0**

Notes

1. **Importers could also have to pay ICTFs if transporters/carriers and consolidators/freight forwarders pass on those costs (described in the next section).**
2. MPI updated the BSEL rates from 1 July 2019. This rate includes the BSEL Levy and the Joint Border Management System (JBMS) component.
3. A 'consignment' is a shipment of goods being imported and can include multiple items.
4. All rates include GST.

Fees paid by consolidators/freight forwarders and transporters/carriers (per ICR). All rates include GST.

Transporters/Carriers and consolidators/freight forwarders pay ICTFs and BSELs when they lodge ICRs. The actual fee depends on whether goods enter New Zealand by air or sea. Transporters/Carriers and consolidators/freight forwarders are charged the fee because Customs incurs costs relating to their cargo (other than costs covered by the IETF).

Note: A consolidator/freight forwarder organises shipments for individuals or companies to get goods from the manufacturer to a market, customer, or final distribution point. Some firms provide a combined freight forwarding and consolidation service, grouping together orders from different companies into a single shipment.

Air transporters/carriers and consolidators/freight forwarders

Fee type	Current	Proposed
ICTF Air	$30.66	$75.00 - $79.00
BSEL	$17.53	$20.56
Total	**$48.19**	**$95.56 - $99.56**

Sea transporters/carriers and consolidators/freight forwarders

Fee type	Current	Proposed
ICTF Sea	$359.82	$450 - $520
BSEL	$17.53	$20.56
Total	**$377.35**	**$470.56 - $540.56**

Transporters/Carriers and consolidators/freight forwarders may choose to pass on these costs to the importers as part of their shipping costs. However, we have no access to information on whether these costs are passed on or how they are passed on.

The portion of the cost passed on could depend on:

- the consolidators/freight forwarders' and transporters/carriers' charging structures
- the number of consignments in their shipments (some shipments contain several hundred consignments, which could reduce the portion passed on to each importer).

The following table shows the approximate impact of costs within cargo report fees being passed on to importers:

- For a report with five consignments, the proposed air cargo fee of $75 (lower range) and $79 (higher range) would respectively be $15 and $15.80 per consignment.
- If the air cargo report had 250 consignments, the proposed fee would be $0.30 (lower range) and $0.32 (higher range) per consignment.
- The proposed sea cargo fee of $450.00 - $520.00 would be approximately $90.00 – $104.00 per consignment for a report with five consignments. For a sea cargo report with 250 consignments, the proposed fee of $450.00 - $520.00 would be approximately $1.80 – $2.08 per consignment.

Estimated impact on importers (Air)

Fee type	5 consignments Per report	250 consignments Per report
ICTF Air	$15 - $15.80	$0.30 - $0.32
BSEL	$4.11	$0.08
Total	**$19.11 - $19.91**	**$0.38 - $0.40**

Estimated impact on importers (Sea)

Fee type	5 consignments Per report	250 consignments Per report
ICTF Sea	$90 - $104	$1.80 -$2.08
BSEL	$4.11	$0.08
Total	**$94.11 - $108.11**	**$1.88 - $2.16**

Impacts on export fees

The case studies show the impacts of our proposed export fees on importers, exporters, transporters/carriers and consolidators/freight forwarders.

Fees paid by exporters (per export entry). All rates include GST.

SES member exporting a consignment valued at more than $1,000

Fee type	Current	Proposed
EETF-SES	$12.01	$3.10 - $3.50
BSEL	N/A	N/A

Export consignment (outside SES) valued at $1,000 or less

Fee type	Current	Proposed
EETF Non-SES	$0	$0
BSEL	N/A	N/A

Export consignment (outside SES) valued at more than $1,000

Fee type	Current	Proposed
EETF Non-SES	$17.94	$6.80 - $7.60
BSEL	N/A	N/A

Notes

1. **Exporters could also have to pay OCTFs if consolidators/freight forwarders and transporters/carriers pass on those costs (described in the next section).**
2. There is no BSEL fee for exports.
3. All rates include GST.

Fees paid by consolidators/freight forwarders and transporters/carriers (per OCR and CRE)

All rates include GST.

The OCTF is charged per report and is paid by the consolidator/freight forwarder and transporter/carrier when they lodge a cargo report. The fee also depends on whether goods leave by air or sea. Consolidators/Freight forwarders and transporters/carriers are charged at different points of the goods clearance process as the information they provide in their reports contributes to Customs' clearance activities.

Separate fees within the OCTF

- The OCTF currently applies at the same rate to the CRE and OCR.
- CREs are submitted by consolidators/freight forwarders to obtain Customs' clearance for consignments valued at $1,000 or less.
- OCRs are submitted by consolidators/freight forwarders to obtain Customs approval to load goods on a departing craft. OCRs are also submitted by transporters/carriers after craft have departed, providing assurance that the consignments loaded on the craft had been cleared.

Our preferred option is to have separate OCTF rates for CREs and OCRs, because of the different related costs.

OCTF Air paid by consolidators/freight forwarders per CRE

Fee type	Current	Proposed
CRE Air	$11.51	$39.00 - $41.00

OCTF Air paid by transporters/carriers and consolidators/freight forwarders per OCR

Fee type	Current	Proposed
OCR Air	$11.51	$22.80 - $24.50

OCTF Sea paid by consolidators/freight forwarders per CRE

Fee type	Current	Proposed
CRE Sea	$28.83	$6.00 - $6.60

OCTF Sea paid by transporters/carriers and consolidators/freight forwarders per OCR

Fee type	Current	Proposed
OCR Sea	$28.83	$18.80 – $20.50

Consolidators/freight forwarders and transporters/carriers may choose to pass on these costs to exporters as part of their shipping costs. However, we have no access to information on whether these costs are passed on or how they are passed on.

The portion of the cost passed on could depend on the transporters/carriers' and consolidators/freight forwarders' charging structures and the number of consignments in each shipment.

- For a report with five consignments, the proposed CRE Air cargo fee of $39.00 - $41.00 would translate to approximately $7.80 - $8.20 per consignment, and the proposed OCR Air cargo fee would translate to approximately $4.56 - $4.90 per consignment.
- If a CRE for air cargo has 250 consignments, the proposed fee of $39.00 - $41.00 would translate to approximately $0.155 - $0.165 per consignment. The OCR Air cargo fee would translate to approximately $0.09 - $0.10 per consignment.
- If the CRE Sea cargo report held 250 consignments, the proposed fee of $6.00 - $6.60 would translate to approximately $0.02 - $0.03 per consignment. The OCR Sea cargo fee would translate to approximately $0.075 - $0.08 per consignment.

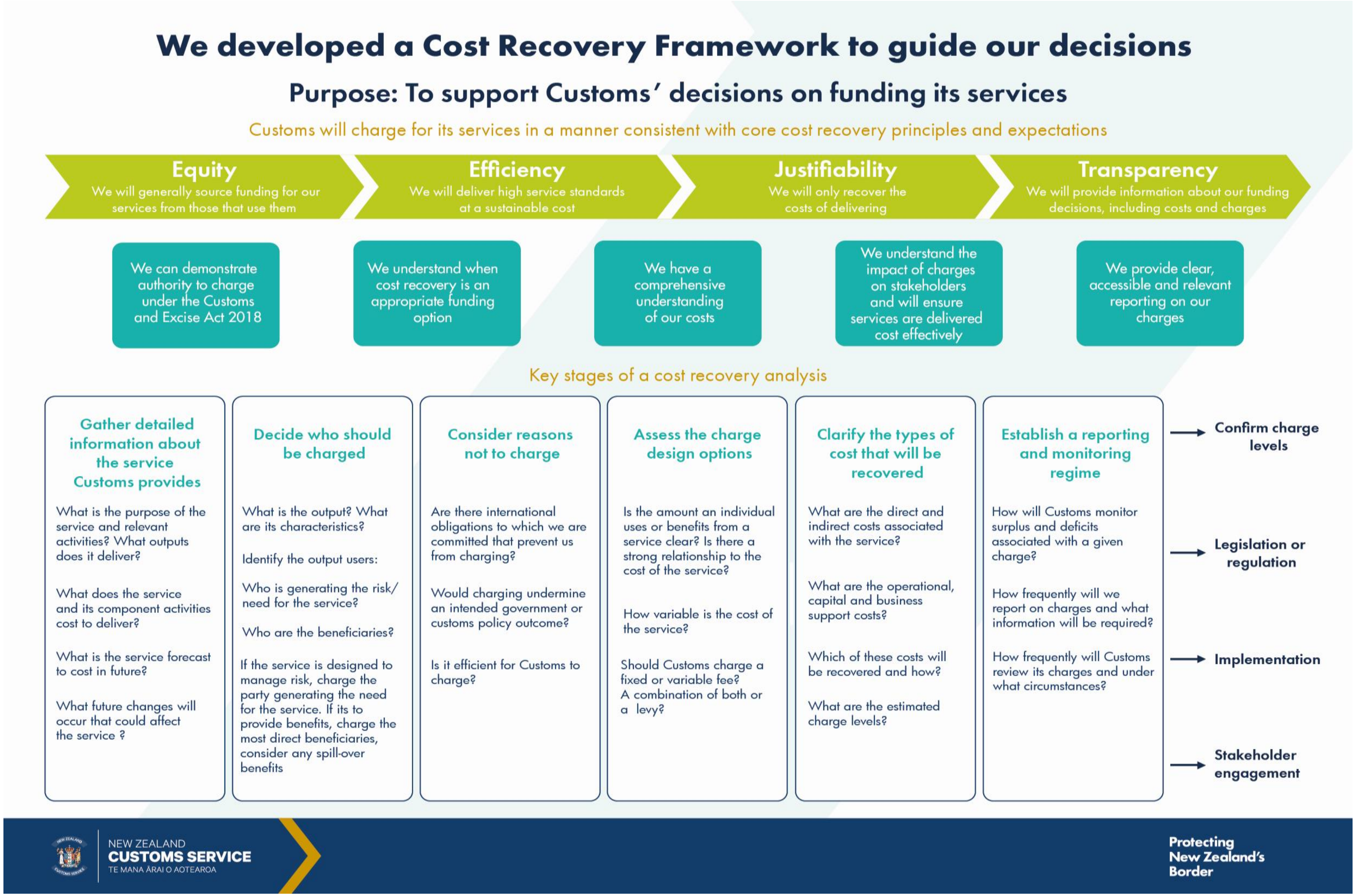
Estimated impact on exporters (Air)

Fee type	5 consignments Per report	250 consignments Per report
CRE Air	$7.80 - $8.20	$0.155 - $0.165
OCR Air	$4.56 - $4.90	$0.09 - $0.10

Estimated impact on exporters (Sea)

Fee type	5 consignments Per report	250 consignments Per report
CRE Sea	$1.20 - $1.32	$0.02 - $0.03
OCR Sea	$3.76 - $4.10	$0.075 - $0.08

APPENDIX 2: CUSTOMS' COST RECOVERY FRAMEWORK



APPENDIX 3: LIST OF QUESTIONS

Recovering the cost of investigations and seizures

Question 1: Do you have a comment on the recovery of the costs of goods-related investigations?

Question 2: Do you have a comment on the recovery of the costs of seizing forfeited goods?

Question 3: Are there other options we have not considered?

Recovering the costs of clearing goods valued at and under $1,000 transported by air cargo

Question 4: We propose to recover costs related to goods clearance valued at $1,000 or less through the ICTF. Is there another option we have not considered?

Question 5: If the change went ahead, how would it affect your business?

Differentiated rates for the Outward Cargo Transaction Fee

Question 6: Do you support the Outward Cargo Transaction Fee having differentiated rates for the Cargo Report Export and the Outward Cargo Report? Please explain.

Question 7: Are there other options we have not considered?

Question 8: If we were to proceed with the proposed change, how would it affect your business?

Change in air and sea cargo report fees

Question 9: From your experience, what factors contribute to consolidators/freight forwarders submitting reports with single consignments or consolidating consignments?

Question 10: If the proposed changes went ahead, how would they affect your business?

Changes to intellectual property rights services

Question 11: Do you agree that IPR holders should no longer have to pay Customs a $5,000 security bond?

Question 12: Do you support our intention to recover from IPR holders certain costs that we incur in helping them to enforce their IPR? If not, please explain the reason for your answer.

Increasing the hourly rate for Customs' officers outside standard operating hours

Question 13: Do you have any comment about the proposal to increase the fee and move to a three-hour minimum fee?

Monitoring, reporting and reviewing our fees

Question 14: Do you agree with the proposed monitoring arrangements? If not, please explain why.