



Regulatory Impact Statement: Strengthening supply chain security through Customs-controlled areas to combat organised crime

Decision sought	Analysis produced for the purpose of informing final Cabinet decisions
Agency responsible	New Zealand Customs Service
Proposing Minister	Minister of Customs
Date finalised	24 June 2025

The Minister of Customs is proposing a strategic framework and series of legislative tools enabling a more targeted, proportionate, and responsive approach to combatting the smuggling of illicit goods and infiltration of the supply chain through the Customs-controlled area (CCA)¹ regime.

The preferred options in this RIS will amend the Customs and Excise Act 2018 (CEA) to:

- Create a principles-based framework for CCAs and third-party operators based on expectations, functions, and risks
- establish a security management plan framework setting detailed requirements for how CCAs are expected to mitigate or manage risks relevant to their CCA context
- enable additional audit mechanisms to provide a more targeted and robust approach
- add further enforcement mechanisms to support an effective and proportionate compliance model
- extend the fit and proper person requirements to include those in key positions of responsibility in a CCA.

This will support modern and fit-for-purpose legislation in relation to the CCA regime.

Summary: Problem definition and options

What is the policy problem?

New Zealand has always faced risk at the border, but the scope, scale, and sophistication of transnational, serious and organised crime (TSOC) has exposed critical vulnerabilities.

There has been a sharp and sustained increase in illicit drug importations. The increasing trusted insider² threat signals a shift from risks being in relation to the goods themselves to now expanding to include people.

This trajectory of TSOC is expected to continue to increase and evolve, with intimidation, firearms, or coercion being used to achieve their outcomes. Without a different legislative approach, Customs is limited in its ability to strengthen the resilience of New Zealand's supply chains from criminal infiltration and disrupting TSOC networks.

¹ A CCA is a secure and controlled licensed environment that is approved to conduct certain functions or activities such as processing international passengers, storing, loading or unloading cargo, and manufacturing excisable goods.

² A trusted insider is any person who, through their employment (past or present) in a supply chain business, uses their access to goods, systems or premises for malicious purposes.

Two underlying problems with the legislative framework of the CCA regime impacts Customs' ability to effectively manage these increasing threats to border security:

1. the CCA currently applies a one-size-fits-all approach for the CCA regime which is no longer effective for managing CCAs or the risks to CCAs
2. the integrity of the border and some of New Zealand's critical infrastructure is dependent on the controls implemented by the CCA licence holder, but there are no clear expectations on how to achieve or monitor compliance.

What is the policy objective?

The objective is to implement a modernised legislative framework that:

- is resilient to the nature and scale of TSOC activity and infiltration
- enables supply chain resilience through targeted, responsive, and risk-based approaches
- reinforces the accountability of CCA licence holders to control and manage risks related to the security of the supply chain.

A complementary objective is CCAs are compliant, secure, accountable, manageable, and responsive to existing and emerging risks.

What policy options have been considered, including any alternatives to regulation?

Given the objective of having a modernised legislative framework, most of the options considered in the RIS are legislative by nature. Customs is exploring and investing in non-regulatory measures including increasing the capacity of its Border Protect Supply Chain team and continued improvements to industry education programmes.

The status quo would leave these underlying issues unaddressed resulting in a less effective border security system.

Several changes are being assessed in this RIS. For this reason, the below points summarise the preferred options.

- Issue 1 – to address the single framework and ambiguous expectations, option 3 will incorporate a series of principles in the legislation reflecting the responsibilities of CCA licence holders and third-party operators, and set expectations on CCAs based on their functions and risks.
- Issue 2 – to strengthen accountability and management of risks, option 4 will establish a legislative tool for CCAs to identify the necessary measures to mitigate or manage risks.
- Issue 3 – to strengthen Customs' management of CCAs, option 2 will provide Customs with a robust set of mechanisms for an effective, targeted, and graduated approach to managing CCA compliance – including adding self-audits, independent external audits, improvement notices, enforceable undertakings, and a graduated set of offences and penalties.
- Issue 4 – to ensure the CCA regime is fit-for-purpose, option 2 will merge the Customs-approved areas for storing exports into the CCA regime, expand the fit and proper person requirements reflecting risk, increase the accountability of third-party operators through the permit for unloading goods, and clarify the legislation to align with the original policy intent.

What consultation has been undertaken?

Customs has undertaken eight weeks of targeted engagement with relevant government agencies and industry (including ports, airports, freight forwarders, logistics companies).

Government and industry stakeholders:

- agree Customs' legislative framework is not fit-for-purpose to effectively respond to the changing threat environment at the border
- broadly support all the preferred options, wanting to ensure Customs minimises unnecessary administrative burden and duplication, and aligns with and leverages existing frameworks (such as civil aviation or maritime security).

Some industry stakeholders questioned whether the CEA should clarify Customs' expectations of third-party operators and the ability to enforce non-compliance of the third parties. Customs has incorporated these suggestions.

Customs has not consulted with export CCAs³ at this stage but this will take place of the next couple of months. Customs will continue to engage with industry stakeholders as the legislation is developed and the changes are implemented.

Are the preferred options in the Cabinet paper the same as preferred options in the RIS?

Yes.

Summary: Minister's preferred option in the Cabinet paper

Costs

There will be direct monetised costs for Customs and CCAs.

The costs on Customs are expected to be small with high certainty, including:

- the one-off costs of making legislation, creating or updating operational policies, and developing guidance for Customs staff and industry
- the ongoing costs of establishing the security management framework and monitoring security management plans and permits for unloading goods, establishing the new audit regime and monitoring audit outcomes, and expanding the fit and proper person requirements
- the ongoing costs for Customs to use the proposed enforcement mechanisms.

Additional resource will be required to support the functions above. Further work is required to quantify the exact resourcing requirements and other business needs to support and maintain the effective implementation of the preferred options. Funding received through Budget 2025 will be directed to support this implementation.

The exact costs for CCAs are unable to be determined as it will vary depending on the type of CCA, size of the CCA, and their existing measures and systems. The costs on a CCA to implement the requirements under a security management plan or undertake audits will be reasonable costs required to effectively mitigate and manage border security threats in their CCA context. The preferred options are not expected to impact CCAs licenced for the purpose of manufacturing excisable goods (except for the expanded fit and proper person requirements) or business competition.

Benefits

The preferred options are expected to bring notable benefits to New Zealand. This will be difficult to quantify until the new framework and operational measures are in place.

³ Export warehouses are places where dutiable and excisable goods can be transferred or stored before export.

A conservative estimate of the impact of the preferred options expects \$160 million to \$410 million in social harm costs to be prevented mostly through disrupting illicit goods entering New Zealand.

The other expected benefits and impacts of the preferred options include:

- reducing TSOC groups' ability to infiltrate and corrupt supply chains through trusted insiders
- increasing the chance of detecting risks and creating visibility of new vulnerabilities
- deterring criminal activity and security threats
- building a better intelligence picture around compliance, risks, and trends enabling greater targeting
- ensuring a safer workplace at CCAs and protecting employees from these threats.

Balance of benefits and costs

The benefits and impacts of the preferred options are expected to outweigh the costs. CCAs will be required to invest in reasonable measures or systems to effectively mitigate and manage border security risks but this will be outweighed by the disruption of TSOC activity and prevented social harm.

Implementation

Implementation will be led by Customs. Royal Assent of the Customs and Excise (Border Security) Amendment Bill is expected by late-2026. Secondary legislation and guidance will also need to be developed to support implementation.

Most of the preferred options will be implemented and come into effect following Royal Assent of the Bill. The new enforcement and audit mechanisms, and security management plans will form part of the current business-as-usual work for Customs.

Customs intends on establishing a reference group of industry and Customs representatives to design elements of the changes (eg security management plans) to ensure effective implementation.

Limitations and Constraints on Analysis

The analysis assumes TSOC threats will not only continue but increase and that better legislative tools (through implementing the preferred options) will result in improved border and supply chain security.

This RIS is focussed on establishing an empowering framework in the legislation. Therefore, most of the options considered in the RIS are legislative by nature.

Customs is unable to determine the costs on individual businesses to implement the preferred options (notably the security management plan). The costs will not be insignificant but Customs expects this will be reasonable in relation to their turnover and what is necessary to effectively mitigate and manage border security risks.

Customs has also identified the following limitations:

- Customs does not have comprehensive data on CCA compliance, as the current audit programme was only established in 2023
- the percentage of self-audits Customs will check (to ensure honest compliance) will be sufficient to ensure audit quality, however, the actual level of Custom audits needed to ensure the integrity of the system has not been established
- any options requiring significant funding were ruled out due to prohibitive costs
- Customs did not consult with export warehouse CCAs due to policy developing after consultation and the initial focus on CCAs with significant security functions.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:

S9(2)(a)

Group Manager Policy and Strategy
8 July 2025

Quality Assurance Statement

Reviewing Agency: Customs and Ministry of Transport

QA rating: Meets

Panel Comment:

The joint New Zealand Customs Service/Ministry of Transport Regulatory Impact Analysis Panel has reviewed the Regulatory Impact Statement and considers the information and analysis summarised in the RIS meets the Quality Assurance criteria. The Panel did note that consultation with Customs-controlled areas licensed to hold goods for export is still to take place and will be undertaken in the next month. Given the consultation with the other affected Customs-controlled areas, the Panel considers Ministers have enough information of sufficient quality, to make an informed decision.

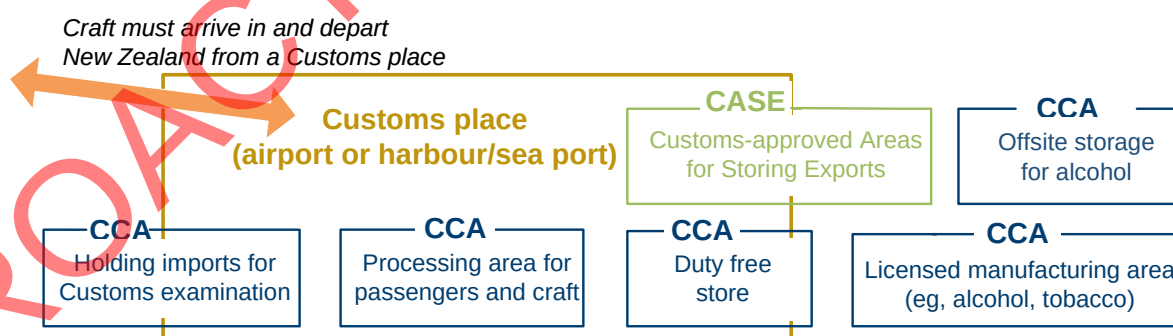
Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The Customs-controlled area regime has remained largely unchanged

1. Customs requires certain areas to be licensed for the purpose of providing a control point for the movement of people, goods, and craft across the border. The terminology has varied over the years and under the Customs and Excise Act 1996 these areas were consolidated under the 'Customs-controlled area' (**CCA**) terminology.
2. As set out in the Customs and Excise Act 2018 (**CEA**), a CCA is a secure and controlled licensed environment approved to conduct certain functions or activities, including:
 - 2.1. processing international passengers (eg an airport)
 - 2.2. loading or unloading cargo and items (eg a seaport)
 - 2.3. temporarily holding goods for inspection (eg warehouse facilities)
 - 2.4. making, storing, or selling excisable items (eg duty-free or offsite alcohol storage).
3. There are over 1,400 CCAs and two Customs-approved areas for storing exports (**CASEs**). The varied nature of the CCA and CASEs regime is captured in the diagrams below:

Types and number of CCAs			
Ports (including inland ports)	Airports	Warehouse and storage holding goods for international trade	Excise (including duty-free and offsite storage)
14	16	546	868



4. A CCA is not necessarily the whole building (eg an airport) but the part where the activities above are carried out. CCAs are responsible for the goods that are subject to Customs control in their areas. While the licence holder operates the CCA, Customs can monitor, control, or facilitate certain activities including exercising questioning, search, or surveillance powers.

5. CCAs are run by an external licenced business rather than by Customs. This means CCA licence holders are responsible for the goods subject to Customs control in CCA areas and how or which people may access those goods.
6. The expectations and requirements for CCA licence holders are set out in the terms and conditions of their respective licences. The same areas can also be licenced by other agencies for different purposes, such as Ministry for Primary Industries' transitional facilities for biosecurity purposes.
7. The CCA regime is a historical framework designed to manage the risks of Customs' role to protect revenue. Over time, this expanded to reflect Customs' roles of facilitating trade and travel. In 2004, the CEA was amended to include the Secure Exports Scheme anticipating increased security requirements for exports following 9/11.
8. However, the CCA regime has remained largely unchanged since the 1990s. When the CEA was enacted in 2018, any changes to the CCA regime to consider the security context was determined as not needed.
9. The CEA and CCA regime does not effectively or clearly capture and support Customs' role in relation to border security risks prevalent today.⁴ Protecting revenue and facilitating efficient flows of people, goods, and information across the border needs to be balanced with well-measured and effective security at the border.

Several government agencies and sectors operate within the border security system

10. Several government agencies and supply chain subsectors operate within the border nexus and contribute to New Zealand's border security. This includes:
 - 10.1. Supply chain – shipping lines, cargo owners, warehouse facilities, storage facilities, transport operators, airlines, airports, ports, manufacturers, and freight-forwarders
 - 10.2. Government agencies – Customs, Immigration New Zealand, Ministry for Primary Industries, Maritime New Zealand, Civil Aviation Authority, Ministry of Foreign Affairs and Trade, and Ministry of Health.
11. The issues discussed below are not unique to New Zealand, however, internationally there are varied approaches to border controls and security. Even between like-minded countries (eg Australia or Canada), the approach to border management and legislative frameworks are not like-for-like with split functions, wider scope for powers, and somewhat different threat-scapes.

Transnational, serious and organised crime is worsening and causing significant harm to New Zealand

12. Transnational, serious and organised crime (**TSOC**) is crime operating across national borders and often links with domestic criminal groups. It systematically targets New Zealand for profit. It undermines sovereignty by breaching borders (illicit goods), institutions (corruption), and financial systems (money laundering).

⁴ Reflecting border security in the CEA is addressed in another RIS: *Use of border control powers for national security purposes*, as part of the Customs and Excise (Border Security) Amendment) Bill (the Border Security Bill).

13. Illicit drugs are increasingly being imported into New Zealand through legitimate supply chains (including seaports, airports, fast-freight, and other cargo movers). The nature of TSOC is necessitating a change in approach to protecting the border.
14. New Zealand has always faced risk at the border, but there has been a sharp and sustained increase in the scale of illicit drug importations⁵:
- 14.1. the number of illicit drug intercepts at the border has **doubled** between 2018 (1,102) and 2024 (2,125)
- 14.2. the volume of illicit drug intercepts at the border has more than **quadrupled** between 2018 (1.5 tonnes) and 2024 (6.5 tonnes)
- 14.3. the quantity of methamphetamine seized at the border has increased **14-fold** between 2018 (227kg) and 2024 (3,213kg), and nearly **quadrupled** since 2021 (861kg)
- 14.4. in the first four months of 2025, Customs has seized over 400kg of illicit drugs at Auckland Airport **exceeding** the total amount of drugs seized at all New Zealand airports in 2024
- 14.5. domestic methamphetamine consumption **doubled** from 2023 (732kg) to 2024 (1,434kg).⁶
15. Despite major and increasing intercepts at the border, even more is reaching the market undetected. Previously, there was a clear impact on consumption or domestic prices following major seizures but this is no longer the case. Enough is not being stopped to affect the market, even though Customs is seizing more than ever.
16. In 2024, the harm caused to individuals and communities by methamphetamine, cocaine and MDMA crossing the border is estimated to be \$1.65 billion.⁷ This does not include the harm caused by the importation of other illicit drugs, tobacco, and firearms. It is difficult to quantify the full scale of the harm caused by TSOC in New Zealand, but this conservative estimate shows an element of the harm to New Zealand.
17. TSOC groups are sophisticated, adaptive, and exploit vulnerabilities across the supply chain. This includes gaining access to premises or information, co-ordinated approaches with domestic gangs and connections from Australia 501 deportees, and using technology to track the movement of illicit goods as these move through the supply chain. There is also a greater willingness to use increasingly brazen approaches, intimidation, firearms, violence, or coercion to achieve their outcomes.
18. TSOC groups have developed a good understanding of border processes and procedures, the extent or limitations of legislation, and the operation of international supply chains. Consequently, they exploit vulnerabilities especially by corrupting and intimidating people in positions within the supply chain (ie trusted insiders).⁸

⁵ Customs (April 2025), Joint Border Analytics drug seizure dashboard.

⁶ National Drug Intelligence Bureau (2025) [Drugs in Wastewater 2024 Annual Overview](#).

⁷ National Drug Intelligence Bureau (2025) [Drugs in Wastewater 2024 Annual Overview](#).

⁸ As set out in the RIS: *New offence for deliberately circumventing Customs controls*, as part of the Border Security Bill.

19. Over the past two years there have been several operations signifying these risks (including Operation Bridle, Viceroy, S6(c), Selena, Amalgam, and Drain). These operations identified trusted insiders within CCAs and the supply chain (including employees who unload cargo, managers, and customs brokers⁹) who were involved in the importation of 443kg of methamphetamine and 5kg of MDMA.
20. Several judge rulings acknowledge the nature of this type of offending as significant and protecting the border is vital.¹⁰
21. The World Customs Organization estimates 70% of global maritime seizures in the past two years has had a link to a trusted insider threat.¹¹ Auckland International Airport estimate 50% of seizures through their CCA has a link to a trusted insider threat.
22. The increasing threat of trusted insiders signals a shift from risks being in relation to the goods themselves to now expanding to include people (eg employees within the supply chain and others who access a CCA when they shouldn't).
23. Ultimately, TSOC activity has exposed critical vulnerabilities to New Zealand's border security directly impacting the lives and businesses of New Zealanders.

Without a different approach, Customs and Government will be limited in its ability to effectively combat TSOC threats at the border

24. Customs and the wider Government has adapted and targeted its approach to combat TSOC.
- 24.1. Customs' role, priorities and regulatory posture has expanded to respond to these threats through targeted Budget bids to combat TSOC between 2019 and 2025, and establishing the Illicit Tobacco team and Border Protect Supply Chain team.
- 24.2. Relevant border security strategies (eg National Security Strategy, Maritime Security Strategy, and the Transnational Organised Crime Strategy) are clear on the Government's and public's expectations of border security agencies – New Zealand needs to make it difficult for TSOC to operate and safeguard people from threats.
- 24.3. The Government has established a Ministerial Advisory Group on TSOC to provide independent advice to the Minister of Customs and Associate Minister of Police on opportunities and new ways to enable New Zealand's law enforcement and regulatory agencies to work more collaboratively and effectively to detect, deter, and dismantle TSOC networks.
- 24.4. The review and refresh of the Transnational Organised Crime Strategy (2020-2025) was brought forward to strengthen system resilience in recognition of the rapid increase and evolution of TSOC (especially the link between domestic gangs and international criminal networks).

⁹ A customs broker clears shipments of imported or exported goods. They ensure the items meet all legal requirements and all taxes, fees, documentation and other needs have been fulfilled.

¹⁰ For example, King vs Yuan (2024) NZDC 31096.

¹¹ Statistic provided by Project Manager, World Customs Organization Supply Chain Integrity Project, 27 February 2025.

- 24.5. The review of the Maritime Security Act 2004 and Maritime Transport Act 1994 are closely aligned with this Bill on improving port security, reviewing powers, and future-proofing legislation for CCAs at seaports.
- 24.6. The Department of the Prime Minister and Cabinet's work programme on enhancing the cyber security of New Zealand's critical infrastructure aligns closely with this Bill, sharing a similar focus on increasing accountability, taking a risk-based approach, and being outcome-focussed. This work overlaps with CCAs that are seaports and airports.
25. However, it is expected that:
- 25.1. TSOC networks will continue to actively target New Zealand if border controls are seen as relatively weak (either in absolute terms or compared to other countries)
- 25.2. TSOC networks will continue to infiltrate the supply chain, especially using violent, coercive, and sophisticated methods to establish legitimate access and control of supply chain businesses (this includes carrying firearms to retrieve goods, and death threats or blackmail).
26. This would ultimately lead to negative perceptions of the state of New Zealand's border controls. This includes trading partners having less confidence in New Zealand's trusted trader status and reputation as a relatively corruption-free nation.
27. TSOC networks will continue to target New Zealand as demand is high and margins are very profitable. Effective supply constraints and border controls, as well as demand reduction mechanisms, are necessary to reduce harm. Customs is using the available tools but it is not enough to effectively combat these TSOC threats, especially given these border security threats are expected to increase and evolve. This reflects the need to modernise, strengthen, and enhance Customs' approach to ensure greater control, assurance, and integrity at the border.

What is the policy problem or opportunity?

The legislative framework no longer reflects the expectations and context of the CCA regime and border security environment

28. The CEA currently reflects a one-size-fits-all approach for the CCA regime which is no longer effective for managing CCAs, or the risks to and present within CCAs. The CEA reflects an intention to facilitate the movement of goods and people, and to collect and protect revenue.
29. Since 2015 (when the framework was last reviewed), the nature and scale of security threats at the border has accelerated, and this trend is expected to continue. The current border security environment is necessitating changes to enhance Customs' approach to setting expectations, managing CCAs, and reinforcing compliance.
30. Without a fundamental change to Customs' legislative framework or mechanisms, Customs will be limited in its ability to strengthen the resilience of New Zealand's supply chain from criminal infiltration and disrupt TSOC networks.

31. Ultimately, the legislative framework and the outcomes we are seeing no longer align with the policy intent. This leaves us with a weak legislative framework to combat increasing and sophisticated TSOC threats.

The integrity of the border and safety of CCA staff depends on the controls implemented by CCAs with no clear framework on what is expected or how it will be monitored

32. The high-trust model between Customs and CCAs means the systems and tools underpinning New Zealand's border security depends on the controls implemented by the CCA licence holder. The security concerns held by Customs may not be shared or prioritised to the same extent by the licence holder, as they pursue their commercial motivations. For example, Operation Germania found the CCTV at a CCA warehouse was not working. The CCA licence holder did not intend on fixing it as they were moving buildings within a few weeks – the lack of working CCTV directly impacted the investigative process for offending that had recently occurred.
33. Several specific issues have arisen as a result of these factors.

Issue 1 – Customs has a single framework to manage CCAs

34. Although a one-size-fits-all legislative framework for regulating CCAs was previously suitable and sufficient, this is no longer fit for purpose. Different CCA functions carry different risks, especially in the current border security environment. The expectations of CCA licence holders are set out in the terms and conditions of their licence but Customs does not clarify what, how, or if expectations differ depending on the: type of CCA (for example, a port compared to a warehouse facility) origins and presence of freight (eg some international airports only service trans-Tasman routes whereas others are connected across the Pacific, Asia, and America) nature of the CCAs' operations and the subsequent risk faced by the CCA (eg ports that undertake significant transshipment activity compared to other ports that largely deal with bulk cargo). The current framework does not recognise the role and expectations of third-party operators providing services within CCAs, (eg stevedores or baggage handlers). As CCAs need to be secure, those working in the CCA need to ensure the CCA is secure. The legislative framework is silent on the expectations of third-party operators. This approach does not support and reinforce the expectations and accountabilities of key players within the CCA regime, falling short of good regulatory practices.

Issue 2 – the CCA regime produces weak accountability for both Customs and CCAs

38. Customs does not provide CCAs with specific details on how they need to meet Customs' expectations. Even though the CCA licence may say the CCA premises must be secure, there is no further detail outlining what that must look like, especially for their CCA context.
39. This leaves some CCAs uncertain of Customs' expectations of them and whether their security measures are sufficient. This hinders Customs' ability to effectively assess CCA compliance, as there is no agreed set of detailed requirements or standards to assess the CCA against.

Issue 3 – Customs has limited legislative tools to effectively manage CCA compliance

40. Customs does not have comprehensive data on the nature and extent of CCA non-compliance, as the Customs' current audit programme was only started in July 2023. Customs undertakes targeted audits, however, this is a limited resource. Given the current border security environment and the intention of these proposed amendments, this auditing approach is not fit-for-purpose going forward. There is also a significant gap in Customs' current range of enforcement mechanisms. On one end, Customs can issue warnings or impose lower-level fines (eg for non-compliance with the terms and conditions of a licence) and on the other end Customs can suspend or revoke a CCA licence. However, suspending or revoking a CCA licence is rarely used given the consequences to the operator are significant. This limits Customs' ability to adequately and proportionately deal with serious non-compliance, and the penalties are no longer a sufficient deterrent. Customs' targeted audits, prosecutions, and other site visits have brought attention to the limited legislative tools Customs has to effectively manage and reinforce CCA non-compliance. Issue 4 – Customs' legislative framework is not fit for purpose in the current border security context Customs has identified gaps and opportunities where the CCA could be more effective and durable now and in the future. Border security will continue to evolve so it is critical the legislation is clear on intent both for legislative and operational purposes. Further, Customs is seeing persistent and significant exploitation of vulnerabilities within the supply chain through third-party operators. Third-party operators provide critical services within some CCAs (eg loading or unloading cargo). Due to the direct access to goods, employees of these third-party operators are often targeted by TSOC networks.
45. The assurance and compliance of these third-parties have largely been the responsibility of CCA licence holders. However, Customs and the CCA is limited in its ability to reinforce accountability and deal with non-compliance. For these reasons, this approach to managing the compliance of third-party operators is no longer sufficient.

What consultation has been undertaken?

46. Customs has undertaken eight weeks of targeted engagement with relevant government agencies and industry stakeholders. Customs considered this approach was appropriate, rather than wider public consultation, as the proposals are targeted towards and only impact CCAs.
47. Customs engaged with the following government agencies: Civil Aviation Authority, Department of the Prime Minister and Cabinet, Government Communications Security Bureau, Maritime New Zealand, the Ministries of Justice, Transport, and Primary Industries, New Zealand Police, New Zealand Security and Intelligence Services, and Te Puni Kōkiri.
48. Customs has informed the following government agencies: Department of Internal Affairs, and the Ministries of Business, Innovation and Employment, Defence, Foreign Affairs and Trade, and Regulation.
49. Customs also engaged with CCAs and key industry groups connected to the CCA environment, including but not limited to, ports, international airports, logistic companies (eg Customs Brokers and Freight Forwarders Federation of New Zealand),

excise CCAs (eg WineWorks) and other relevant stakeholders (eg Imperial Tobacco, British American Tobacco).

50. Government agencies and industry stakeholders strongly supported the intention of these proposals and the need for change.
51. Most discussions centred on the security management plan proposal to ensure there is no unnecessary duplication of requirements. For this reason, Customs will include a provision recognising equivalent requirements – so if a port already has an approved Port Facility Security Plan, then they have met Customs' physical security requirements and only need to cover off the remaining Customs' requirements. This approach was highly supported across agencies and industry.
52. Other concerns or questions raised related to either how the proposal will be framed in legislation or considerations for implementation. Customs will continue to engage with agencies and industry as legislation is developed and the changes are implemented.
53. Customs did not consult with export CCAs on the proposals as the policy developed after consultation finished. Customs has now considered the ability to apply the proposals in this RIS to export and off-site storage CCAs as they have security elements with a border nexus. Customs intends on consulting with these additional CCAs, however, this is expected to occur as or after policy decisions are sought.
54. There are two suggestions raised by industry stakeholders that have been added to or changed in this package of proposals:
 - 54.1.introducing high-level expectations of third-party operators who provide services within CCAs pertinent to the functions of the CCA (eg stevedores, operators who provide baggage handling services) to better reflect legal liability
 - 54.2.introducing improvement notices to strengthen Customs enforcement mechanisms.

What objectives are sought in relation to the policy problem?

55. The objective is a modernised legislative framework that:
 - 55.1.is resilient to and effective in combatting the nature and scale of TSOC activity and infiltration of supply chains
 - 55.2.enables supply chain resilience through targeted, proportionate, responsive, and risk-based approaches
 - 55.3.reinforces the accountability of CCA licence holders to control and manage risks related to supply chain security at a reasonable cost
 - 55.4.is clear and fit-for-purpose.
56. A complementary objective is for CCAs to be compliant, secure, accountable, manageable, and responsive to existing and emerging risks.

What scope will options be considered within?

57. This RIS focusses on establishing an empowering framework in the legislation to enable a more targeted, responsive, and risk-based approach to managing the CCA regime and the evolving border security environment.
58. The proposals in this RIS are targeted towards CCAs with a security function at or connected to the border. This includes ports, airports, and import and export warehouse or storage facilities. For this reason, the proposals will not impact CCAs that are solely licenced for the purpose of manufacturing excisable goods.
59. Given the objective of having a modernised legislative framework, most of the options considered in the RIS are legislative by nature. Customs is also exploring and investing in other non-regulatory measures:
- 59.1. In 2019, Customs established a Border Protect Supply Chain team who engage and educate industry on TSOC threats. The team promotes reporting of suspicious activity and increases Customs' presence as a deterrent. This has led to increased industry referrals, investigations of trusted insider threats, and seizures of illicit goods. Budget 2025 will increase the capacity of this team to support Customs' enforcement activity and countering insider threats.
- 59.2. Customs has increased industry engagement to establish partnerships to mitigate risk, identify vulnerabilities and generate intelligence to direct enforcement action. This includes the Border Protect programme to raise awareness of the signs of criminal infiltration and how to report suspicious activity to Customs. Over 300 reports were received in 2023/24 leading to seizure of various prohibited goods and generated investigative leads.
60. But even with this team and programme in place, the identified issues still persist. Customs' legislative framework is no longer fit for purpose to effectively combat TSOC threats and the current approach with high-level requirements is no longer fit for purpose.

Section 2: Assessing options to address the policy problems

Issue 1 – Customs has a single framework to manage CCAs

What criteria will be used to compare options to the status quo?

61. The following criteria is used to compare options to the status quo: clarity – a transparent and understandable approach ease of implementation – reasonable and sufficient resources and expertise to support implementation fit for purpose – the framework for the CCA regime is suitable and durable for now and in the future reflects risk – considers levels or types of risk to inform expectations. All the criteria are weighted and prioritised the same.

What options are being considered?

Option One – status quo

63. This option would retain the single legislative framework for CCAs and leave the expectations of licence holders in the terms and conditions of their licence.

Option Two – clarify expectations in CCA licences

64. This option would add further detail into CCA licences to expand on Customs' expectations and requirements for certain aspects.
65. This would expand on and delineate high-level expectations around physical security, personnel security, information security, and operational security (including functions undertaken by third-party operators). Guidance material would be developed for Customs operations so there is a clear and consistent approach and understanding about different expectations dependent on the type of CCA.
66. This option could be implemented through existing processes.

Option Three – establish a series of principles and expectations in legislation (preferred)

67. This option would create a principles-based framework for the CCA regime.
68. This will include principles based on the:
- 68.1. responsibilities of Customs, CCA licence holders, and third-party operators who provide services within a CCA pertaining to the function of that CCA
 - 68.2. management of risk
 - 68.3. outcomes sought by the CCA regime.
69. The principles will enable secondary legislation to detail Customs' expectations of CCAs in a stratified way reflecting functions and associated risks. For example, expectations could increase or differ between the following categories: export warehouses, import warehouses and storage facilities, and seaports and airports.
70. This would provide a clear, consistent, high-level standard to ensure CCAs are operating to an appropriate level of rigour based on their functions and risks.

How do the options compare to the status quo?

	Option One – status quo	Option Two – clarify expectations in licence	Option Three – add principles and expectations to legislation
Clarity	0 The legislation and CCA licences will remain unclear as to the expectations Customs has of licence holders	+	++ This would clarify the intended purpose, expectations and outcomes of the CCA regime and set expectations differing based on function or risk within the wider CCA regime context
Ease of implementation	0 No implementation would be required	- This would require amending all 1,400 CCA licences and identifying the differences in expectations across all of them. This would be very time consuming and require specific expertise	++ This would only require the one-off cost of making legislation and, combined with the other proposals in this RIS, would be supported by Customs and industry guidance
Fit for purpose	0 The CCA regime will rely on operational measures to adapt to the border security context	++ Providing this detail through the licence would enable the expectations to be easily updated if risks or expectations change	++ This would shift us to a principles-based and outcome-focussed legislative regime that is enduring through a changing threat environment. Setting detail in secondary legislation will ensure these can be updated in a timely manner as necessary
Reflects risk	0 The current framework will not delineate different risks reflecting functions of the CCAs	++ Compared with option three, this would enable Customs to identify and reflect the risks most pertinent to the context of each CCA (not just types of CCAs)	+ This would set Customs' focus on effectively achieving the regulatory objectives and outcomes accounting for existing and emerging risks. This would enable Customs to identify and reflect types of risks pertinent to each type of CCA
Overall assessment	0 This option retains the one-size-fits-all framework for regulating CCAs in the border security context	+	++ This would shift us to a principles-based and outcome-focussed legislative regime. This approach would provide clarity across the sector on how Customs' expectations of CCAs increase or change based on CCA function and most prevalent risks

Key:

++ much better than the status quo - - much worse than the status quo
+ better than the status quo - worse than the status quo
0 about the same as the status quo

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

71. Option three (the preferred option) will shift Customs from a single one-size-fits-all CCA regime to a principles-based and outcome-focussed framework. This will set clear high-level expectations, intention, and outcomes sought through the CCA regime.
72. Option three will provide clear expectations of Customs on CCAs and third-party operators who provide services within CCAs based on risk and function. While CCAs remain ultimately accountable for their obligations through the CEA, this would ensure third-party operators:
- 72.1. are aware of the expectations Customs and CCAs have of them
- 72.2. understand their role in the supply chain and border security system
- 72.3. are accountable to their contractual obligations with the CCA.
73. This will provide greater transparency and accountability for both Customs and CCAs.
74. The preferred option will directly inform and provide the legislative foundation for the other preferred options set out in this RIS.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred options in the RIS?

75. Yes.

Issue 2 – the CCA regime produces weak accountability for both Customs and CCAs

What criteria will be used to compare options to the status quo?

76. The criteria to compare options to the status quo includes: accountable – CCAs are responsible for identifying, mitigating, and managing the risks they face adaptable – to be able to adapt to existing or emerging risks cost – limited to imposing reasonable costs feasible – the extent to which the option can be implemented effectively targeted – ability to target significant risks or vulnerabilities pertinent to specific CCAs/context in a proportional way. The accountability criterion is weighted more than the other criteria as it directly links to the objective.

What options are being considered?

Option One – status quo

78. This option would retain the current approach where CCAs are left to determine how they will meet Customs' high-level expectations set in their licence.

Option Two – prescribe requirements in CCA licence

79. This option would add in detailed requirements in every individual CCA licence specifying what measures or processes they are required to implement to fulfil Customs' expectations.
80. This can be implemented through the existing framework and processes which means legislative change would not be required. Section 63 of the CEA enables the chief executive of Customs to impose a new term, condition or restriction on a CCA licence.

Option Three – prescribe requirements in legislation

81. This option is similar to option two, but it would prescribe the requirements in legislation based on the type or function of CCAs.
82. This would be set out in secondary legislation to ensure the provisions remain fit-for-purpose without needing to undertake lengthy primary legislative change.

Option Four – create a bespoke security management framework (preferred)

83. This option would establish a security management framework that provides the ability for Customs to require a CCA to develop and follow a security management plan. This tool will be enabled in the legislation and the plan will be tied to the relevant CCA licence.
84. Under this option, Customs would require a CCA to have a security management plan to identify risks and confirm the necessary and appropriate measures are in place to mitigate or manage those risks. The security management plans would only be required of CCAs that have functions at or relating to the border (eg importing, exporting or storing goods, or processing passengers) and would be implemented through a phased approach reflecting the CCAs with significant security risks.
85. A security management plan will be a detailed set of requirements focussed on the key security elements: physical (eg CCTV, fencing), personnel (eg vetting, access cards, training), information (eg cyber security, access to certain systems), and operational (eg a register for persons entering the facility). The CCA would be able to choose how they intend on fulfilling those requirements.
86. These plans will tie into the existing high-level expectations, but the detail of the plan will be able to be tailored, flexible, and targeted towards the individual circumstances of each CCA based on the type and nature of the risk.

87. The security management plans will be targeted towards CCAs with critical border functions (eg ports, airports, warehouses or storage facilities).¹² The measures to implemented through the security management plans will reasonable measures required to effectively mitigate and manage border security threats.
88. Customs is aware there are existing similar requirements (eg Port Facility Security Plan approved by Maritime New Zealand under the Maritime Security Act 2004 which covers physical security). To minimise unnecessary administrative burden or costs Customs will include a provision within this new framework that complements and recognises equivalent requirements. This means if a port CCA already has a Port Facility Security Plan, those physical security requirements can be automatically applied to Customs' border security context without further duplication, as the CCA and port security area largely overlap.

¹² Note not all CCAs will be required to develop and implement a security management plan eg CCAs that manufacture excisable goods.

Key:

++ much better than the status quo -- much worse than the status quo

+ better than the status quo

- worse than the status quo

0 about the same as the status quo

How do the options compare to the status quo?

	Option One – status quo	Option Two – prescribe requirements in licence	Option Three – prescribe requirements in legislation	Option Four – create a bespoke framework
Accountable	0 This option would only reinforce accountability once non-compliance has occurred	++ Setting the requirements in the licence will somewhat increase the accountability of licence holders compared to the status quo, but the duty will remain on Customs to identify the risks and mitigations	0 Setting requirements in legislation will not necessarily increase the accountability of licence holders as Customs identifies the risks and mitigations	++ This is expected to have the greatest increase in CCA accountability because CCAs will work with Customs to identify risks and mitigations, and be directly accountable for it
Adaptable	0 The status quo is limited and inflexible to respond to the evolving border security risks	++ This is more adaptable than option three but it would require significant resource from Customs' to continually update relevant licence conditions	-- Setting the requirements in legislation would mean Customs and CCAs will not be able to adapt as quickly to new and emerging risks, and it would rely on Customs identifying the risks	++ This option (if paired with a review mechanism addressed through issue three) will ensure the CCA can quickly identify and adapt to new risks
Cost	0 This retains the hands-off approach to managing CCA compliance, so no additional costs would be imposed	- This is similar to option four, as the measures/costs could be tailored to each CCA. But this option does not provide the CCA with the choice of what measures to implement – it would be Customs who determines the measures	-- This option would impose the most significant costs on a CCA as the legislation would not be able to tailor measures to the individual context of the CCA, instead just based on function or risk	- This option would impose costs compared to the status quo, but these would be reasonable, proportionate, and specific to the CCA. This option also gives the CCA the ability to choose the measures to implement

	Option One – status quo	Option Two – prescribe requirements in licence	Option Three – prescribe requirements in legislation	Option Four – create a bespoke framework
Feasible	0 Given this retains existing settings, it would be feasible to continue this approach	- This option could be pursued under the status quo, but Customs does not think this is feasible as there is no review mechanism for CCA licences. Although a review mechanisms could be made, it could have unintended impacts on the validity of the licence if review timeframes are not maintained	+ This is a feasible option requiring a lot of work up front to determine what the expectations are for each category of CCA. Noting, this level of detail would be set in secondary legislation	++ This option is more feasible compared to the others as it can be developed and implemented in line with operational priorities and resourcing
Targeted	0 The status quo is not targeted based on functions and associated risks	++ This will enable Customs to develop specific requirements targeted to each CCA context	+ Although better than the status quo, this option will only target types of CCAs rather than individual CCAs	++ CCAs will determine the measures and processes that suit their business needs and meet Customs' expectations
Overall assessment	0 The status quo fails to meet several elements of the criteria and objective, and does not provide an effective and resilient framework to combat TSOC threats	+ Although this is an available non-regulatory option, it does not strengthen the accountability of CCAs to control and manage TSOC risks to the same extent as option four, and it does not give the CCA the ability to choose what works for them	+ This option would provide more clarity compared to the status quo, but it is unlikely to provide us with a resilient legislative framework given the scale and nature of TSOC threats. As with option two, this option does not strengthen the accountability of the CCA to the same extent as option four	++ This is a targeted, responsive, and risk-based approach enabling supply chain resilience from TSOC threats. This option best builds off the other preferred options in this RIS by being risk-based, outcome-focussed and strengthening the accountability of CCAs through a bespoke legislative framework

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

89. The preferred option (option four) takes us away from the one-size-fits-all approach to a flexible, targeted and risk-based framework. Detailed requirements for CCAs will increase consistency and accountability to minimise vulnerabilities and risks in CCAs. This directly ties into the expectations and principles set out in issue one.
90. Customs must have continued oversight and management of the critical players within the CCA regime (through security management plans) to effectively combat TSOC threats. In particular, the security management plans:
- 90.1. recognise CCAs are best placed to determine the measures and processes that will appropriately and sufficiently mitigate and manage border security risks relevant to their CCA context
 - 90.2. will provide a clear indicator if CCAs are compliant and secure, and enable CCAs (supported by Customs) to respond to new risks posed by TSOC actors
 - 90.3. will enable better systematic monitoring and oversight by Customs to provide the assurance it needs as the regulator of this regime.
91. The security management plan (paired with audit mechanisms under issue three) will create an effective cycle for regular risk identification, updating and implementing practices and processes, and reviewing these. New risks or vulnerabilities identified through one CCA's security management plan or audit may also inform security management plans of other CCAs, further supporting the wider integrity and assurance at the border. This will provide Customs and CCAs with greater visibility and flexibility to mitigate and respond to emerging threats, minimising the risk of TSOC threats or activities shifting to different or weaker parts of the supply chain.
92. In 2004, Customs implemented the Secure Exports Scheme. This programme certifies New Zealand exporters, transport operators, and loading sites who meet Customs secure supply chain expectations. Although limited to the export context, the learnings, experience, and effectiveness of this programme can inform Customs' approach to security in the import context.
93. This RIS and the current border security environment is focussed on the threats tied to importation. Customs acknowledge this environment could change, for example to impact New Zealand exports. For this reason, the legislation will enable Customs to require security management plans from CCAs who have security functions at or connected to the border reflective of risk. This will mean Customs' legislative framework remains flexible to evolving security threats.
94. These will also align and integrate with other agencies' frameworks and regimes including biosecurity transitional facilities and maritime port security.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

95. Yes.

Issue 3 – Customs has limited legislative tools to effectively manage CCA compliance

What criteria will be used to compare options to the status quo?

96. The criteria to compare options to the status quo includes: accountable – CCAs and those in key positions of responsibility are accountable for the security of their CCA graduated – approach to dealing with non-compliance proportionate – to the level of harm or risk. The accountability criterion is weighted more than the other criteria as it directly links to the objective.

What options are being considered?

98. An option of funding additional Customs' resource to increase the amount of audits Customs can undertake every year was considered. However, this was ruled out as being too cost-prohibitive and therefore unfeasible.

Option One – status quo

99. This option would retain the current audit and enforcement mechanisms.
100. Customs current audit programme was established in July 2023. Across all types of CCAs, Trade Assurance audited 454 CCAs in 2024. Trade Assurance audits all non-excise CCAs on a two-yearly cycle. These audits look at compliance in relation to the security of the CCA, receipt of goods, responsibility of cargo, and changes to the CCA.
101. Customs can currently issue warnings or impose lower-level fines for CCA non-compliance (eg section 68, 69 and 71 of the CEA). Customs can also suspend or revoke a licence, however, this is rarely used. The test is high given the consequences to the licence holder and impacts on trade and travel are significant.

Option Two – package of measures to enable effective management of the CCA regime (preferred)

102. This option would implement a series of measures to strengthen Customs' management of CCAs through graduated and proportionate enforcement mechanisms and providing for a range of audits through a risk-based approach.
103. In addition to Customs existing audit programme, this option would give Customs the ability to require a CCA to:
- 103.1. undertake a self-audit to assess compliance against the security management plan (paragraph 83). The CCA would review their own measures, systems, and processes to identify risks and areas for improvement. The CCA would then provide a detailed report to Customs. Customs would audit a percentage of the self-audits to ensure honest compliance.
 - 103.2. have an external auditor (framework and auditor approved by Customs) to undertake an independent and robust audit to assess compliance against the security management plan. The external auditor would provide a detailed report to Customs.

104. The intention is these proposals will (where applicable) leverage off and aligns with the approach taken in other similar regimes including biosecurity, maritime security, and aviation security. As with the security management plans, the new audit options will be required through a targeted and risk-based assessment by Customs (therefore, the periodic nature of the audits will reflect this).
105. This option would also enable Customs to:
- 105.1. issue an improvement notice to a CCA licence holder where a lower-level or moderate security concern has been identified and needs to be addressed in relation to a CCA. This includes situations that have breached or are likely to breach Customs security requirements
 - 105.2. accept a request for an enforceable undertaking from a non-compliant CCA. An enforceable undertaking would be a voluntary agreement between Customs and a CCA licence holder following a situation of serious non-compliance being identified. It can be considered as an alternative to prosecution, if appropriate.
106. The improvement notice and enforceable undertaking will set out recommendations or a series of actions within a set timeframe that the CCA licence holder must undertake to respond to the contravention.
107. Lastly, this option would introduce a graduated set of offences and financial penalties to directly address serious non-compliance in the CCA context.
108. This includes a new offence for:
- 108.1. a CCA licence holder's non-compliance with the security management plan (preferred option under Section 3). This penalty would be a fine not exceeding \$10,000 for an individual and \$50,000 for a body corporate.¹³
 - 108.2. a CCA licence holder and accountable persons in the licence (ie Operational Manager, Security Manager, Director) for failing to investigate or report suspicious activity or non-compliance. This penalty will be a fine not exceeding \$20,000 for an individual and \$100,000 for a body corporate.
 - 108.3. a CCA licence holder and accountable persons in the licence if they know or are reckless as to whether the CCA is compliant with its terms, conditions, and restrictions of the licence, or the security management plan. The penalty will be a fine not exceeding \$50,000 for an individual and \$250,000 for a body corporate.
109. The framing of "other accountable persons" reflects the approach taken in the Anti-Money Laundering regime (ie [section 92](#)) and Health and Safety at Work regime (ie [section 49](#)) where those in positions of responsibility and decision-making are directly held accountable.

¹³ This penalty will align with the existing penalty for non-compliance with the terms and conditions of a licence. Customs proposes increasing this penalty under another part of the Customs and Excise (Border Security) Amendment Bill, exempted from the Regulatory Impact Assessment requirements.

110. This fits within Customs' existing range of mechanisms to support and reinforce compliance of CCAs by holding the right persons to account in a proportionate way. This includes written warnings, voluntary disclosure, strict liability offences and suspending or revoking a licence. The CEA provides other offences that deal with offending behaviour in CCAs such as removing goods from a CCA or unauthorised presence in CCAs.

How do the options compare to the status quo?

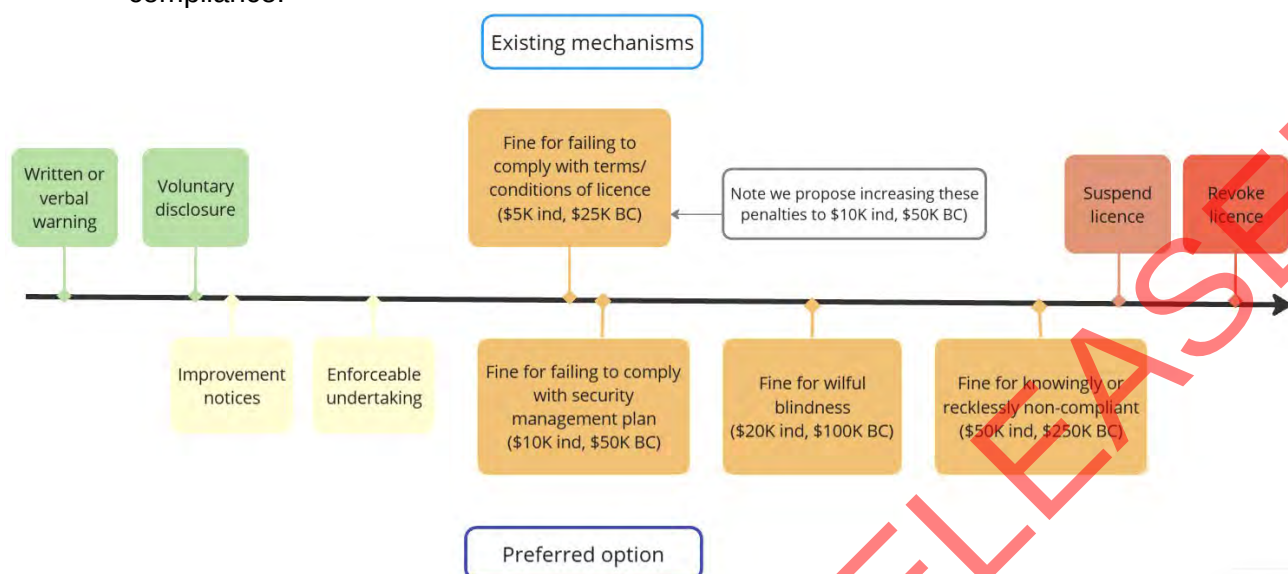
	Option One – status quo	Option Two – package of measures for effective CCA management
Accountable	0 CCA accountability would remain unchanged and only addressed existing enforcement mechanisms	++ This would improve CCA accountability through ownership and promoting self-reflection, resolving non-compliance, and reinforcing the accountability of those in positions of responsibility in a CCA
Graduated	0 There are a set of fines for specific non-compliance in the CCA context but these are all set at the same level	++ This would create a suite of options available to Customs to effectively deal with non-compliance
Proportionate	0 The status quo has limited measures to proportionately respond to different or increasingly serious non-compliance	+ This provides additional means of ongoing monitoring and improvement, and provides a better range of punitive and non-punitive measures to proportionately respond to non-compliance
Overall assessment	0 The status quo retains gaps in Customs' enforcement toolkit and limits Custom's ability to effectively and proportionately monitor and enforce non-compliance	++ This option supports supply chain resilience through CCA accountability, and an outcome-focussed and proportionate approach to promote compliant and secure CCAs

Key:

++ much better than the status quo -- much worse than the status quo
 + better than the status quo - worse than the status quo
 0 about the same as the status quo

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

111. Option two would provide Customs with a robust set of tools to enable an effective, targeted, proportionate, flexible, and graduated approach to managing CCA compliance.



112. The preferred option builds on Customs' existing enforcement mechanisms to encourage and reinforce compliance. This package of changes is required to create a robust and proportionate compliance model that is effective in dealing with the many forms of non-compliance. This option encourages both voluntary and assisted compliance but also provides proportionate enforcement action where necessary and justified.
113. This will enable Customs to proportionately address the different types of non-compliance through targeted and graduated measures reflecting the objectives and outcomes sought under the CCA regime, and ensure penalty levels will provide sufficient deterrence. CCAs need to be secure as well as compliant and accountable for their operations and actions.
114. The border security system would benefit from Customs having additional best practice regulatory tools found in other equivalent regimes. These tools will support Customs to be a best practice risk-based regulator, and ensure the CEA and CCA regime aligns with relevant regulatory regimes (including civil aviation, maritime, and biosecurity).

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

115. Yes.

Issue 4 – Customs' legislative framework is not fit for purpose in the current border security context

What criteria will be used to compare options to the status quo?

116. The criteria to compare options to the status quo includes: fit for purpose – the legislation is effective, efficient, and future-focused clarity – provides legislative clarity accountable – supports increased accountability. All the criteria are weighted and prioritised the same.

What options are being considered?

Option One – status quo

118. This option would keep the legislative provisions as is. This includes:

- 118.1. the CASEs regime (where goods stored until export or transport to export) would remain outside the CCA regime (ie section 276-283 of the CEA)
- 118.2. the fit and proper person requirements for the CCA regime would retain the implicit assumption licence holders must remain fit and proper, and leave the fit and proper person requirements at the licence holder and board of director level
- 118.3. no clear power for Customs to enter areas previously licenced as a CCA if there is reasonable cause to suspect relevant offending has occurred
- 118.4. relying on the Legislation Act 2019 to interpret Customs' ability to revoke a permit issued under section 85 of the CEA
- 118.5. missing an opportunity to consider the "permit for unloading goods" (in section 78 of the CEA) within the CCA and wider border security context.

Option Two – a package of measures to ensure the CEA remains fit for purpose in the border security context (preferred)

119. The option would ensure the CEA is effective, efficient, and future-focused given the current border security environment. This option contains a series of measures that seek to achieve this, including:

- 119.1. incorporating the CASEs¹⁴ regime as a type of area that must be licenced as a CCA (with any CASE licence revoked and reissued as a CCA licence). CASES are licensed areas for storing goods under the control of Customs until they are transported to the place of shipment or shipped for export from New Zealand. Customs has granted fewer than five CASE licences in 20 years. The only reason a CASE licence is granted instead of a CCA licence is because the purpose of CASEs is not included as a purpose under the CCA regime. There does not need to be a separate regime solely for one purpose.
- 119.2. expanding the fit and proper person requirements for all CCA types. Given the nature and scope of border security and revenue risks, this will ensure those who are in positions of responsibility relating to the operation and security of a CCA demonstrate the necessary character and integrity to fulfil their duties.

¹⁴ The CASEs provisions were added to the Customs and Excise Act 1996 to anticipate the needs of the Secure Exports Scheme when it was established in 2004, with the intention to maintain confidence in the security of global supply chains following the September 11 terror attacks.

These will mirror changes made to border legislation in Australia in 2024 and the Civil Aviation Act 2023. These changes seek to:

- clarify persons must continue to satisfy the fit and proper person requirements
- add any conviction of the person under the Maritime Security Act 2004 as an element the chief executive may consider in determining if a person is fit and proper
- extend the fit and proper person requirements in section 60 of the CEA based on risk – for example, those in positions responsible for CCA operations and security, as well as managers of external companies who provide services within a CCA (eg stevedores).

119.3. clarifying Customs ability to enter areas previously licensed as a CCA when there is reasonable cause to suspect Customs offending has occurred (eg section 222). Once a CCA licence has been revoked, there is no longer a clear power to enter and to examine goods in that location if Customs suspect offending has occurred. This is especially challenging where the CCA licence is revoked without notice.

119.4. clarifying Customs' ability to revoke a permit under section 85 of the CEA. Goods subject to Customs control must not be removed from a CCA unless permitted by section 85. This includes under a permit or other authorisation, which may be subject to any conditions. Section 85(4) allows conditions to be varied or revoked but does not allow for permits to be revoked. This was provided for in the previous Act (section 47(2) of the Customs and Excise Act 1996) but was not transferred to the CEA. Arguably section 48(1)(a) of the Legislation Act 2019 can be relied on to revoke, but it would be clearer if the revocation power was contained in section 85.

119.5. incorporating the permit for unloading cargo into the CCA regime. Section 78 of the CEA requires those unloading goods subject to Customs control to do so in accordance with the relevant permit. These are generally issued to third-party operators, like stevedores. To reinforce accountability and compliance, there is an opportunity to:

- incorporate or clarify the intent of section 78 within the CCA regime context
- set more detailed requirements in the permit through secondary legislation
- link the permit to the security management plan of the relevant CCA
- provide proportionate mechanisms to address non-compliance

Key:
 ++ much better than the status quo -- much worse than the status quo
 + better than the status quo - worse than the status quo
 0 about the same as the status quo

How do the options compare to the status quo?

	Option One – status quo	Option Two – package of measures for fit-for-purpose legislation
Fit for purpose	0	++

	The status quo would leave minor (but not inconsequential) aspects of the CEA unchanged and less effective in achieving the desired outcome	This will remove unnecessary legislative and operational duplication, and ensure legislative intent is met
Clarity	0 Some parts of the CEA would remain unclear hindering Customs ability to undertake its functions effectively	++ This will provide clarity to align with the policy intent, and a clear and consistent framework for similar functions
Accountable	0 This relies on operational measures to increase and support accountability of key persons or operators within CCAs	++ It will ensure there are sufficient accountabilities within the CCA regime for third-party operators and ensuring persons in positions of responsibility have the required integrity given the nature of border risks
Overall assessment	0 The status quo would underutilise the opportunity to clarify and streamline the CEA to ensure it is fit for purpose, reflects policy intent, and accounts for the border security environment	++ This option will ensure Customs is well-positioned to fulfil its role in border and supply chain security through legislation that is clear, sensible, and reinforces accountability

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

120. Option two will ensure the CEA is a modernised legislative framework that is clear, fit-for-purpose, and reinforces accountability.
121. Even though these changes are more minor and technical in nature (compared to the other proposed changes in this RIS), it will ensure the CEA is effective, efficient, future-proofed, and aligned with best regulatory practice.
122. As well as establishing new mechanisms, Customs' needs to maximise its existing mechanisms to effectively combat TSOC threats at the border.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

123. Yes.

Section 3: Cost benefit analysis

What are the marginal costs and benefits of the preferred options in the Cabinet paper?

124. These proposals form part of a wider strategic Government response to TSOC, including other legislative reforms and investment to increase capacity to combat TSOC. This means it will be difficult to attribute the benefits and impacts solely to the preferred options.

The preferred options are expected to have notable benefits to New Zealand

125. Customs expects the preferred options (strengthening Customs' management of the CCA regime and reinforcing the responsibility of CCAs as critical contributors to supply chain security) will bring notable benefits to New Zealand with moderate certainty.

126. Successfully disrupting the activities of TSOC groups provides indirect benefits reflected across a range of indicators including health, confidence in institutions, and the state of civil society. These benefits are largely qualitative and will come from:

126.1. preventing social harm through increased detection and disruption of the supply of illicit drugs in New Zealand

126.2. protecting New Zealand's reputation and trusted trader status by tightening supply chain security through identifying and prosecuting trusted insider threats, and identifying, mitigating and managing border security risks.

127. The principal measure of the impact of the preferred options on TSOC is the potential social harm avoided through the seizure of illicit drugs. There will be other benefits unable to be quantified such as reducing TSOC groups' ability to infiltrate and corrupt supply chains, or building intelligence to support and reinforce compliance.

128. The harm caused by methamphetamine, cocaine and MDMA crossing the border on individuals and communities is estimated to be \$1.6 billion.¹⁵

129. Considering the social harm costs for the three most prevalent illicit drug-types in New Zealand and a conservative impact of the proposals, Customs expects to prevent an estimated \$160 million to \$410 million in social harm costs.¹⁶

130. This figure does not include other key drug types or illicit goods that Customs regularly seizes at the border as there is no corresponding harm figure. But between 1 July 2023 and 30 June 2024, Customs seized over 1 tonne of ephedrine, pseudoephedrine, and GBL, intercepted over 10,000 kg of tobacco, identified \$10.9 million in undeclared cash, and intercepted 229 restricted firearms.

¹⁵ National Drug Intelligence Bureau (2024) The New Zealand Illicit Drug Harm Index 2023: Research report. Note: The 2024 figure is yet to be released.

¹⁶ The three most prevalent drug types are methamphetamine, cocaine, and MDMA.

131. For this reason, Customs expects the actual value of prevented social harm will be higher with the implementation of these proposals. However, Customs' seizures of illicit drugs have been increasing year-on-year and it will be difficult to attribute further increases to these preferred options rather than from existing capability.

Table One: Drug types against social harm costs, amount seized and domestic consumption

Drug type	Social harm per kilogram of drug type ¹⁷ (\$)	Amount of drug type seized in 2024 ¹⁸ (kg)	Minimum domestic consumption in 2024 ¹⁹ (kg)
Methamphetamine	\$1,048,211.06	2,794.48	1,434
Cocaine	\$373,581.44	451.67	215
MDMA	\$209,424.92	618.02	367
Total	\$1,631,217.42	3,864.17 kg	2,016 kg

Table Two: Drug types and the expected cost savings from implementing the preferred option

Drug type	Estimate of annual social harm costs prevented based on expected impact of the preferred options			
	Low (10%)	Moderate (25% - 50%)		High (75%)
Methamphetamine	\$150.3 million	\$375.8 million	\$751.5 million	\$1,127 million
Cocaine	\$8 million	\$20 million	\$40.1 million	\$60.2 million
MDMA	\$7.7 million	\$19.2 million	\$38.4 million	\$57.6 million
Total	\$166 million	\$415 million	\$830 million	\$1,244 million

The primary cost for Customs will be resourcing the implementation of the preferred options

132. The monetised costs for Customs are estimated to be small with a high level of certainty. This will include the:

- 132.1. one-off costs of making legislation and creating operational policies or guidance
- 132.2. ongoing costs of establishing the security management framework and monitoring security management plans, processing and monitoring audit outcomes, and expanding the fit and proper person requirements through Customs' Trade Revenue and Compliance function
- 132.3. ongoing cost to use the enforcement mechanisms through Customs' Legal, Investigations, and Trade Revenue and Compliance teams.

133. The Trade Revenue and Compliance functions will require additional resource to support the functions above as current resourcing is absorbed by existing work.

¹⁷ The New Zealand Illicit Drug Harm Index 2023 (July 2024)

<https://www.health.govt.nz/system/files/2024-07/2023-illicit-drug-harm-index.pdf>

¹⁸ Customs (April 2025), Joint Border Analysis drug seizure dashboard.

¹⁹ Police (2024), National Drug Intelligence Bureau.

134. Customs expects there may be an increase in prosecution costs for Customs' Legal but this is difficult to precisely quantify. Departmental prosecutions for the additional work which will be undertaken by Crown Solicitors is anticipated to be from \$100,000. The new "wilful blindness" and "intentionally reckless" offences may be pursued less frequently but may have a higher cost especially for early test cases. The new "security management plan" offence may be used more frequently but have a lower cost as the non-compliance is easier to determine as it is strict liability.
135. Further work is required to quantify the exact resourcing requirements and other business needs or opportunities to support and maintain the effective implementation of the preferred options. This will be informed by significant preparation for implementation as the legislation is progressed.
136. Budget 2025 has confirmed \$35 million will be redirected to boost Customs' capacity to combat TSOC. This will include funds to support and sustain the implementation of the preferred options set out in this RIS through increasing the capacity of certain teams.

There will be additional but reasonable costs on CCAs which will differ depending on various factors

137. Since the preferred options are establishing an empowering framework, the exact monetised costs for CCA licence holders are unable to be determined.
138. The costs on a CCA to implement a security management plan or undertake a self or external audit will vary depending on the type of CCA, size of the CCA, and their existing measures and systems. The costs will be determined through implementation as Customs works with each relevant CCA. Customs acknowledges this will not be insignificant but consider this is reasonable in relation to their turnover and what is necessary to effectively mitigate and manage border security risks.
139. There are CCAs who are already adopting best practices and innovative approaches or systems to combat these threats. Other CCAs would need to invest in measures or systems to bring them up to the required compliance standard, and if required to develop a security management plan. For this reason, the preferred option intentionally limits this to reasonable costs required to effectively mitigate and manage border security threats in their CCA context.
140. The risks posed by TSOC in the CCA context are largely the same across non-excise CCAs, such as trusted insiders and exploiting legitimate trade in the supply chain. There tends to be a nexus of factors that are exploited including the functions of the CCA, the scale and nature of the operations, and the prevalence of vulnerabilities. For example:
- 140.1. the Port of Auckland and Port of Tauranga processed 78% of the container imports to New Zealand from 1 July 2023 to 30 June 2024. These are also key transshipment routes from Asia, the Pacific or the Americas. Not only is the scale of their operations larger, compared to PrimePort Timaru for example, but they are a key international shipping corridor actively targeted by TSOC networks.

- 140.2. Auckland International Airport processed 6.2 million international passengers for the period of 1 July 2023 to 30 June 2024. This is over 86% of the total number of international passengers processed across New Zealand's international airports. This reflects Auckland International Airport's connections to several countries and continents compared to other international airport which mainly connect to Australia.
141. For this reason, the impact of the preferred options across different CCAs are expected to be similar but will vary in proportion to the risks faced, and the scale and nature of their operations.
142. The legislation will enable Customs to require a CCA to develop and implement a security management plan, or a type of audit to be undertaken. Although not all CCAs will be required to implement a plan (eg CCAs that manufacture excisable goods), Customs intends on requiring the plans for CCAs recognised as having supply chain security risks and have functions involving the import or export of goods or processing passengers. Customs can determine whether a security management plan or which type of audit is appropriate and proportionate by considering previous compliance, known risks, and leveraging existing obligations. For this reason, the impact on business competition is expected to be minimal.

There will be significant flow-on impacts resulting from the preferred options:

143. The preferred options are expected to have the following flow-on impacts as this legislative framework is operationalised:
- 143.1. reducing TSOC groups' ability to infiltrate and corrupt supply chains
 - 143.2. increasing the chance of detecting and deterring TSOC activity and security threats
 - 143.3. building a better intelligence picture around compliance, risks, and trends enabling greater targeting
 - 143.4. creates visibility of gaps or vulnerabilities that can be responded to promptly
 - 143.5. ensuring a safer workplace at CCAs and protecting employees from threats
 - 143.6. maintains New Zealand's reputation as a trusted trading partner (creating greater opportunities to lower barriers and costs, and faster border clearance times for New Zealand trade at overseas borders)
 - 143.7. reducing costs imposed on the health system as a result of less accessible illicit drugs (including methamphetamine).
144. The preferred options will also impact, strengthen, and reinforce the relationship between Customs and CCAs and third parties, and between CCAs and third parties. Explicit expectations and accountabilities, and direct risk management and compliance will not only address vulnerabilities but enhance the resilience of supply chain security.

Section 4: Delivering an option

How will the proposal be implemented?

145. Changes to the CEA and relevant regulations are required for implementation. The legislative amendment resulting from the preferred options will come into effect following Royal Assent of the Bill, expected by late-2026.
146. The implementation of security management plans will include various elements:
- 146.1. secondary legislation will set out the detailed elements of the framework
 - 146.2. Customs will establish a reference group comprised of industry and Customs representatives to design elements of the changes (eg security management plans) – this enables direct input from industry into the specific elements and considerations, continuing this collaborative approach
 - 146.3. Customs will support industry to develop industry guidance (eg a code of practice – this could consolidate relevant cross-government security requirements for CCAs)
 - 146.4. considering the overlay of the World Customs Organization's model Security Assessments currently being developed.²⁰
147. The new enforcement mechanisms will form part of the current business-as-usual work for Customs' Legal team, the Intelligence, Investigations and Enforcement group, and the Trade, Revenue and Compliance group. The new audit mechanisms and security management plan will be the responsibility of the Trade, Revenue and Compliance group within Customs.
148. Guidance for Customs staff will ensure they are aware of and know how to use these new mechanisms. Customs will also continue to engage with relevant government agencies to ensure complementary and cohesive legislative frameworks, requirements, and processes are developed and implemented.

How will the proposal be monitored, evaluated, and reviewed?

149. Through the reference group (referenced in paragraph 144.2), there will be opportunities for CCA licence holders to raise concerns and provide feedback on the newly implemented arrangements including the security management plan and revised auditing requirements.
150. Customs' Trade, Revenue and Compliance group will have day-to-day oversight and monitoring of the security management plans and audits. Through this role they will be able to ensure and provide feedback as to whether the amendments are working as intended.

²⁰ The self-security assessments will formalise the process on gathering current, credible data on how goods move through the supply chain, and deepen understanding of current and emerging risks.

151. Customs' Trade, Revenue and Compliance group will share key themes and outcomes of audits with CCAs quarterly to increase awareness and encourage a proactive approach to compliance.
152. The CEA is subject to Customs' ongoing regulatory stewardship function as the agency responsible for administration of the CEA.

PROACTIVELY RELEASED