SUMMARY & ANALYSIS OF SUBMISSIONS: COST RECOVERY FOR TRANCHE 1 OF THE JOINT BORDER MANAGEMENT SYSTEM

NEW ZEALAND CUSTOMS SERVICE
& MINISTRY FOR PRIMARY INDUSTRIES

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EXECUTIVE SUMMARY

From 13 June to 27 July 2012, the New Zealand Customs Service (Customs) and the Ministry for Primary Industries (MPI) consulted affected stakeholders on the proposal to recover the industry share of the costs for Tranche 1 of the Joint Border Management System.

A public discussion paper, *Discussion paper: Cost recovery for Tranche 1 of the Joint Border Management System*, was released online at website www.jbmsconsulation.govt.nz for this purpose, and public meetings were advertised in major newspapers, at the Customs and MPI websites and through contacting key stakeholders via email.

Eighteen submissions were received. In general the submissions broadly supported the cost recovery proposal, accepting that a top-up to the seven Customs transaction fees made under the Customs and Excise Regulations 1996 and the MPI biosecurity levy, made under the Biosecurity (System Entry Levy) Order 2010, was the most practical approach. A wider review of cost recovery was also expected before the next cost recovery period. A change was made to the proposal following submissions with respect to the estimated volumes of export entry transactions made under Customs Secure Export Scheme (SES).

The new fee and levy rates are based on:

- A start date 2 April 2013 (1 April 2013 is Easter Monday) when industry can start to adopt the new JBMS functions delivered in Tranche 1.
- No changes to the current annual cost recovery budgets for the Customs transaction fees and the MPI biosecurity levy, excluding JBMS Tranche 1 costs.
- Costs calculated over an initial cost-recovery period of 3.25 years (2 April 2013 to 30 June 2016). During this period only the costs allocated to industry for the period will be cost-recovered. From 1 July 2016 there will, however, be ongoing costs for industry for Tranche 1.
- JBMS costs allocated to industry in accordance with the new functionality created in Tranche 1, that is, Customs imports ($20.8[1] million), Customs exports ($5.9 million) and MPI biosecurity levy ($19.3 million) over 3.25 years (48.2% of Tranche 1 costs to 30 June 2016).
- Transaction volumes are also adjusted for changes since the fees were last reviewed in accordance with a modified "likely" scenario.

Table 1: New Customs transaction fees and MPI biosecurity levy rate including Tranche 1 costs from 2 April 2013

	Current fee	New fee	Net increase	New Fee (GST inclusive)
Import entry transaction fee (IETF)	$22.00	$25.44	$3.44	$29.26
Inward cargo transaction fee (air)	$26.67	$27.54	$0.87	$31.67
Inward cargo transaction fee (sea)	$312.89	$363.27	$50.32	$417.76
Export entry transaction fee (SES)	$8.89	$10.44	$1.55	$12.01
Export entry transaction fee (non-SES)	$12.67	$15.60	$2.93	$17.94
Outward cargo transaction fee (air)	$6.67	$10.01	$3.34	$11.51
Outward cargo transaction fee (sea)	$20.00	$25.07	$5.07	$28.83
MPI biosecurity levy	$11.11	$15.33	$4.22	$17.63

[1] All figures in this document are GST-exclusive unless otherwise stated.

INTRODUCTION

This document outlines the results of public consultation on the proposal to cost recover the industry share of the costs of Tranche 1 of the Joint Border Management System (JBMS).

JBMS is a joint initiative by the New Zealand Customs Service (Customs) and the Ministry for Primary Industries (MPI[2]) to modernise and integrate New Zealand's border clearance processes for people, goods and craft.

JBMS will enable the two agencies to share processes, data and technology. This will lead to more effective, efficient and consistent processing of people, goods and craft. The JBMS programme is being delivered in two tranches, with Tranche 1 of JBMS on track to deliver Trade Single Window to industry in April 2013.

More information on JBMS can be found at www.customs.govt.nz (keyword: JBMS) or by contacting the JBMS programme JBMS@customs.govt.nz.

Because JBMS will provide benefits to industry (importers, exporters, carriers, express couriers, and freight forwarders) and well as to government, industry will be required to fund some of the costs of the new system.

In late 2009, Customs and MAF consulted with key stakeholders about the JBMS proposal, the costs and the possible cost recovery methods for JBMS. Appendix One outlines a summary of that cost recovery consultation, which was done in conjunction with a review of the MAF border biosecurity fees and charges.

On 4 June 2012, Cabinet approved public consultation on the cost recovery proposals for Tranche 1 of JBMS, noting that final proposal would come back to Cabinet for decision by late 2012 in readiness for the implementation of Tranche 1 in April 2013.

This paper:

- recaps the cost recovery proposal provided for consultation
- outlines the consultation process (in 2009 and in 2012)
- summarises the feedback received from submitters, and Customs and MPI's response to that feedback
- Outlines the amended cost recovery proposal following consultation.

The cost recovery proposal

On 13 June 2012, Customs and MPI released a public discussion paper, *Discussion paper: Cost Recovery for Tranche 1 of the Joint Border Management System.* The discussion paper presented options for recovering industry's share of the costs of Tranche 1 and asked for feedback on those options from importers, exporters, carriers, and other stakeholders and their representatives.

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[2] Following the amalgamation of the Ministry of Agriculture and Forestry (MAF) with the New Zealand Food Safety Authority (NZFSA) in 2010 and then with the Ministry of Fisheries in 2011, the new combined agency became the Ministry for Primary Industries on 30 April 2013.

JBMS will cost more than current border systems. The life-cycle operational costs of Tranche 1 are estimated to be $204.4 million over an 11-year period to 2020/21. Government has agreed in principle that around 50% of these costs will be met by industry through increasing existing Customs and MPI biosecurity transaction fees.

The discussion paper proposed four cost recovery fee options and identified the assumptions underlying the proposed increases to the transaction fees (the italicised numbers in brackets refer to pages in the discussion paper, available at www.jbmsconsultation.govt.nz).

The discussion document proposed increases to existing fees rather than creating new fees for JBMS costs (*pp 13, 16, 18-19*). The specific fees are:

- three import and four export transaction fees paid to Customs under the Customs and Excise Regulations 1996
    - the import entry transaction fee (IETF) generally paid by importers for consignments of goods on which GST and duty totalling $60 or more is payable
    - an export entry transaction fee paid on commercial export consignments. Different fee rates are charged depending on whether the exporter is a member of the Customs' Secure Export Scheme (SES)[3] or not
    - cargo transaction fees paid by carriers of goods lodging cargo reports with Customs. There are different fee rates depending on whether it is an inward (imported cargo) or outward (exported cargo) report and whether the goods are carried by air or sea
- a biosecurity levy paid charged on imported goods that are also subject to payment of the IETF made under the Biosecurity (System Entry Levy) Order 2010. Importers are invoiced for both the IETF and the biosecurity levy by Customs, with the levy component passed onto MPI.

The discussion paper proposed four cost recovery fee options and identified the assumptions underlying the proposed increases to the transaction fees.

Fee options for cost recovery

Four fee options were outlined for recovering JBMS Tranche 1 costs (*pp 8, 22-23*):

- **Option 1**: top-up the import entry transaction fee (IETF) and the biosecurity levy only
- **Option 2**: top-up all seven Customs transaction fees and the biosecurity levy by way of a flat fee increase for JBMS
- **Option 3**: top-up all seven Customs transaction fees and the biosecurity levy by way of a percentage increase for JBMS
- **Option 4**: top-up as per Option 2 and also increase some fees for "food-related" border activities (that is, border functions associated with import and export that were previously carried out by the New Zealand Food Safety Authority (NZFSA), which has now amalgamated into MPI.

Customs and MPI expressed a preference in the discussion document for Option 2, a flat fee increase to all seven Customs transaction fees and to the biosecurity levy. The two agencies considered that all parties, including exporters, receive some new functions in Tranche 1. It was therefore not equitable to

[3] The SES is a voluntary agreement between Customs and exporters to protect exports from interference so to minimise Customs delays and give priority in trade recovery situations.

increase fees for only importers (Option 1), nor was it justifiable to charge a higher share of Tranche 1 costs to those parties who pay higher current fees (Option 3).

Assumptions underlying the proposed increases to transaction fees

The Customs transaction fee and MPI biosecurity levy increases proposed (see Table 1) are based on the following assumptions:

1. A start date for cost recovery and fee increases of 1 April 2013 – applying to all transactions covered by the fees, not just those that use the new electronic cargo reports and declaration messages. This is the date when industry can start to adopt the new JBMS functions delivered in Tranche 1 (*pp 13, 20*).
2. No changes to the current annual cost recovery budgets for the Customs transaction fees and the MPI biosecurity levy, excluding JBMS Tranche 1 costs – that is, Customs imports ($29.3 million), Customs exports ($8.4 million), and MPI biosecurity levy ($13.5 million). Customs and MPI will therefore absorb any other non-JBMS cost increases for providing these fees since the budgets were last set in 2007/08 (Customs) and 2009/10 (MPI) *(pp 15, Appendix 3)*.
3. Costs calculated over an initial cost-recovery period of 3.25 years (to 30 June 2016). During this period only the costs allocated to industry for the period will be cost-recovered. From 1 July 2016 there will, however, be ongoing costs for industry for Tranche 1 (*p20, Appendix 3*).
4. JBMS costs allocated to industry in accordance with the new functionality created in Tranche 1 - that is, Customs imports ($20.8 million), Customs exports ($5.9 million) and MPI biosecurity levy ($19.3 million) over 3.25 years (48.2% of the Tranche 1 costs up to 30 June 2016).
5. The range of proposed fees for each of the transaction fees and the biosecurity levy was suggested reflecting scenarios for transaction volumes ("prudent", "likely", and "optimistic") for 1 April 2013 to 30 June 2016. The number of transactions for the biosecurity levy is the same as that used for the IETF. This means some fees will decrease while other fees would increase before the Tranche 1 costs are added (*p 21, Appendix 5*). The column "Adjusted for volumes" in Table 2 indicates the impact on fee rates from adjusting the current fees by the likely scenario for transaction volumes. The fee increases for Tranche 1 costs, based on Options 1, 2 and 3, were then added.

Table 2: Proposed fees in the discussion document for Options 1, 2 and 3 using a likely scenario for transaction volumes and showing the indicative fees provided to stakeholders during consultation on JBMS in 2009

Fee	Current fee	Adjusted for volumes	Option 1	Option 2	Option 3	*2009 estimate*
Import entry transaction fee (IETF)	22.00	20.67	27.10	25.44	25.19	*25.90*
Inward cargo transaction fee (air)	26.67	22.77	22.77	27.54	27.75	*30.57*
Inward cargo transaction fee (sea)	312.89	358.50	358.50	363.27	436.98	*316.79*
Export entry transaction fee (SES)	8.89	8.58	8.58	11.14	10.42	*11.49*
Export entry transaction fee (non-SES)	12.67	13.07	13.07	15.63	15.87	*15.27*
Outward cargo transaction fee (air)	6.67	7.48	7.48	10.04	9.08	*9.27*
Outward cargo transaction fee (sea)	20.00	22.53	22.53	25.09	27.35	*22.60*
MPI biosecurity levy	11.11	10.57	15.33	15.33	15.33	*15.41*
Combined cost of import entries (IETF + biosecurity levy)	**33.11**	**31.24**	**42.43**	**40.77**	**40.52**	***41.31***

THE CONSULTATION PROCESS

Customs and MPI focused on a more interactive online approach for the public consultation than either agency had previously undertaken for cost recovery. A joint website was created for this purpose (www.jbmsconsultation.govt.nz). The website link was included in communications on the proposal created on the Customs and MPI websites, and provided in email communications to stakeholders.

The document, *Discussion Paper: Cost Recovery for Tranche 1 of the Joint Border Management System*, and other interactive information, was released online on 13 June 2012. Only an online document was produced, although printed copies were also made available at public meetings and on request.

The Customs external online newsletter, *Customs Release*, advised subscribers of the cost recovery proposal and gave updates on public meetings, updated information placed onto the site (such as responses to questions raised) and the closing dates for submissions.

Visitors to Customs service counters were provided with a small handout advising that the two agencies were consulting on JBMS cost recovery and providing a link to the consultation website.

Public notices were published in the major daily newspapers over the period 14 to 30 June and provided information on the consultation and on the industry meetings. The *NZ Shipping Gazette* and the *Dominion Post/Infotech* were proactively advised that the consultation had been released (both these publications had written about JBMS in the past) and both published articles on this consultation[4].

Stakeholders affected by the cost recovery proposal

The Customs and Excise Act (sections 34A, 40A and 50A) requires the Minister of Customs to be satisfied that:

the persons that the Minister considers are representative of interests likely to be substantially affected by the proposed regulations have been consulted about the proposed regulations to the extent that is reasonably practicable having regard to the circumstances of the case.

The Biosecurity Act (section 165(2)) likewise states that:

the responsible Minister must consult to the extent that is reasonably practicable, having regard to the circumstances of the particular case, such persons as the responsible Minister has reason to believe are representative of interests likely to be substantially affected by the regulations.

On page 10 of the discussion paper stakeholders were advised that the analysis in the document incorporated the annual review of the biosecurity levy. The Director-General of MPI must review the levy annually

consulting persons he or she considers to be representatives of importers likely to be substantially affected by the levy.

[4] Dominion Post, 27/06/12 *Hike in import and export fees*; Shipping Gazette, 23/06/12 *Fees for discussion*

The stakeholders affected by the proposal primarily include those parties who are responsible for payment of any of the seven Customs transaction fees and the MPI biosecurity levy.

- Importers of goods who make import entries to Customs who pay both the Customs import entry transaction fee and the MPI biosecurity levy. This includes both commercial goods and goods for private consumption. A number of importers are exempt from payment of these fees and are therefore not affected by the proposal
- Exporters of commercial goods, who make export entries to Customs
- Carriers of goods who are required to lodge inward cargo reports (for imported goods) or outward cargo reports (for exports)
- Agents operating on behalf of these parties and including those who may initially be invoiced for or pay the fee and pass it onto their clients. Agents include Customs brokers, freight forwarders and express freight operators
- Representatives of any of these parties.

Secondary stakeholders include those who are not substantially affected by the cost recovery proposal but nevertheless have an interest in or are affected by JBMS. This group includes transport operators, ports and air port companies, and some primary industry stakeholders. These primary industry stakeholders represent farmers and/or processors, and have an interest in ensuring that New Zealand's border biosecurity systems are robust and/ or have an interest in further JBMS enhancements for food-related exports.

Customs and MPI consider that the consultation requirements were substantially met to the extent practical. It would not have been efficient to contact all the individuals who have previously made occasional purchases from overseas internet sites, however most of these parties do not make multiple purchases and are therefore not substantially affected. Instead the public notices, service counter handouts and web links were used.

While some MPI stakeholders, such as farmer representatives, were not specifically contacted about the initial JBMS proposal in 2009, they are not directly affected by the cost recovery proposal although they do have an interest in border biosecurity.

Specific feedback sought from submitters

The discussion document posed the following key questions to stakeholders:

1. Do you agree that increases to Customs transaction fees and the MPI biosecurity levy are the most practical way to cover industry's share of Tranche 1 of JBMS, rather than through creating new fees?
2. This discussion documents uses a "likely" scenario for the transaction volumes to set the revised fees. The likely scenario assumes that the number of import entries will slowly increase by around 0.2% per year but most other information lodgements to Customs (cargo and export entries) will remain relatively flat based on their 2011/12 volumes.
3. What is your preferred fee option for recovering Tranche 1 costs? Why?
    a) Is the likely scenario a reasonable assumption to make?
    b) Are there any other factors relating to setting of fees that should be considered?
4. Do you have any further comments on the proposed fee increases?

Consultation

Seven public consultation meetings, attended by 118 stakeholders were held from 21 June to 3 July 2012 in the following key trade and stakeholder locations:

Location	Date
Ports of Napier Boardroom, Napier	21 June
Pastoral House Room 3.3, Wellington	25 June
Port of Tauranga cafeteria, Mt Maunganui	27 June
Ports of Auckland Tamaki meeting room, Auckland	28 June
Bellavista Hotel, Auckland airport	29 June
MPI Christchurch office, Christchurch	2 July
Port Chalmers meeting room, Port of Otago	3 July

Three additional meetings were held with specific organisations (Fonterra, BusinessNZ and MPI biosecurity stakeholders). Meeting attendees were added to the JBMS contact database to provide ongoing updates on JBMS and the cost recovery proposal. Offers for further direct meetings with organisations were not taken up.

A standard presentation at meetings was followed by time for questions and responses. An overview was provided of the drivers for JBMS, what features stakeholders had asked for, and what Tranche 1 would deliver. The cost recovery proposal was outlined, along with the four fee options and how to make a submission. A public version of the presentation was provided online on 9 July 2012 and sent to meeting attendees to assist with their internal discussions.

A number of questions on the cost recovery proposal were raised by stakeholders at the meetings and responses were also provided online and notified to attendees on 12 July 2012.

The closing date for submissions of 16 July was extended until 27 July 2012 following the decision to hold the additional meeting with MPI stakeholders on 19 July.

An interim summary of submissions was approved by the Ministers of Customs and Primary Industries and was added to the JBMS consultation website on 4 October 2012.

STAKEHOLDER / INDUSTRY RESPONSE

Matters raised in public meetings

There were relatively few questions raised about the cost recovery model and its core assumptions at meetings. People asked for clarification around what costs were included in the 3.25-year cost recovery period. They asked how the transaction volumes had been calculated as changes in transaction volumes comprised a significant component of some of the fee increases. They sought assurances that they did not contribute to the upfront costs borne by government in building Tranche 1 prior to the 'go-live' date of 1 April 2013. They wanted to know how any over-recovery of fees would be treated if this occurred.

Some participants were particularly interested in the allocation of the JBMS costs to the various parties. A small number of exporters expressed their concern about the allocation of any costs to the export sector in the current economic climate. Some exporters saw no benefits from JBMS Tranche 1 to justify increased export fees. One participant questioned the allocation of any JBMS costs to carriers and considered that the Crown should pay a share of the Trade Single Window functionality as a beneficiary in addition to the other functionality that the Crown will fund or part-fund in Tranche 1.

A number of participants had a perception that the Customs and MPI charges are much higher than is the actual case. Importers and exporters are invoiced charges attributed as customs and biosecurity costs, which are not just government fees but include other administrative costs from their agent or carrier. A few exporters also thought that they paid the biosecurity levy although this is only charged to importers. There is also no transfer of any of the Customs transaction fees to MPI, although some parties thought a portion of the inward cargo report fees collected was passed onto MPI for biosecurity screening.

Savings arising from removal of the current commercial monopoly on the provision of electronic information to Customs was supported. A couple of participants indicated that savings from removing these charges could be greater than the proposed fee increases for their business if they used the new direct connect option for lodging information and receiving updates directly from the border agencies.

Much of the discussion focussed on the proposed wider review of cost recovery signalled during the meeting, which could incorporate any further JBMS costs as well as take a more fundamental look at the existing cost recovery frameworks for border costs. Customs and MPI emphasised that the proposed top-up options for Tranche 1 would meet the April 2013 start-date for cost recovery. A more substantive view of the current cost recovery regimes (including recovery of further JBMS costs) would, however, take longer than the current timeline allows. Issues would need to be addressed in the medium to long term. It would be logical to undertake a wider review of cost recovery work prior to the end of the proposed cost recovery period to 30 June 2016 when the new fees would need to be reviewed.

Options for consideration in such a review suggested by participants were:

- Creation of a single fee for cargo processing costs (see also page 21)
- Impose cost recovery on passenger clearance (not current Government policy)
- Target importers and exporters, not carriers (see also page 21)
- Target non-compliance and/or incentivise compliance.

Customs noted that the new processes JBMS would support would enable better targeting of known or unknown risk and non-compliance. JBMS will provide incentives such as a lower level of intervention for those stakeholders who provided timely and accurate information in support of border clearances. Those who present unmanaged or unknown risks would face higher interventions and costs.

Matters raised in written submissions

A total of 22 responses, including 18 formal submissions, were received by the closing date for submissions. Four organisations did not make submissions, but provided informal comments on the proposal.

Profile of Submitters

Of the 18 formal submissions these came from:

Submitter profile	Number of Submissions
Importers	1
Exporters (one of these was also an importer)	5
Shipping companies	2
Airline cargo representatives	2
Customs brokers and freight forwarders/ representatives	6
Express freight representatives	1
Primary product industry representatives	3

There was some correlation between the responses to the questions received and to the cost recovery proposal and the type of submitter:

- Carriers, whether by air or sea, expressed similar views around their preferences for not allocating a share of border processing costs (new JBMS costs or any costs in the future) to carriers for lodging of cargo reports with Customs.
- Some exporters considered the majority of benefits would be for importers, although some accepted that Tranche 1 should be paid by exporters and importers.
- MPI stakeholders (primary product industry associations) want more involvement in consultation on JBMS in the future.

A list of the submitters can be found in Appendix Two.

Informal comments received

Four information comments were received that were not treated as formal submissions.

- One organisation noted they "have no problems with what is proposed and support the recommended option" [Option 2]. They further noted that their organisation "supports in principle the joint border management system as proposed and requests that it is included in part of any subsequent consultation."
- One organisation noted that it had "a generic interest in supporting both good conditions for export sector and efforts to improve biosecurity outcomes' and the "cumulative impact of various cost recovery proposals underway … [and] a desire to see a considered approach to partnering and cost recovery from industry… it would be useful for …regulatory impact analysis to provide some thought to the extent to which various unconnected cost recovery proposals result in increasing costs to the export sector and the cumulative impact on its competitiveness."

- A personal comment in response to the initial email notification to stakeholders about the upcoming public consultation on cost recovery stating that, "because the fees are not harsh I am not seeing any disagreement with them so far, and we are definitely looking forward to seeing what the programme brings..."
- Another organisation noted that, "it seems from what you say the cost change for exporters is pretty minor – so on that basis we will not need to submit in that it should not be a material concern. In addition if the system changes result in increased efficiency and better use of technology it would be a good thing."

FEEDBACK ON OPTIONS

Top-up current fees or introduce new fees?

Customs and MPI proposed that the current Customs transaction fees and the MPI biosecurity levy were the most practical way to cover industry's share of Tranche 1 costs, rather than creating new JBMS-specific fees.

Thirteen of the 14 respondents to this question agreed, while four other submitters made no specific comment. The approach was seen as cost effective and practical given the time available to April 2012.

- seven submitters considered the approach was practical (5), pragmatic (1) or cost effective (2).
- two submitters agreed to the top-up approach given the relatively short time until the operational implementation of the new system.
- Two submitters agreed on the assumption that benefits accrued to those paying the current fees.
- One submitter agreed but also supported a fundamental fee review in respect of Tranche 2.
- Two submitters who supported a top-up approach also supported Option 1 (see page 18) and made their support conditional on the basis that the top-up only applied to some fees.

One submitter did not support a top-up approach. Rather than a new fees regime, however, they proposed that the JBMS costs should be separated out in invoices so that the JBMS costs were transparent. Two other submitters (who supported a top-up approach) also liked the option of separating the JBMS costs in invoices. All three submitters assumed that JBMS costs would cease once JBMS has been paid for.

While a top-up in current fees is a practical approach to achieve cost recovery by April 2013, a more fundamental review of cost recovery is expected by submitters before 30 June 2016.

Customs and MPI response

It would be administratively costly to introduce new fees for Tranche 1 costs, especially given that further changes to cost recovery are likely as a result of other JBMS costs and the need to align different MPI cost recovery frameworks following the amalgamations of MAF with the NZFSA in 2010 and the Ministry of Fisheries in 2011. An advantage of topping up current fees is that all the parties can directly see the impact of the new JBMS costs on their business.

Customs and MPI consider that the costs of maintaining separate accounting for the JBMS and current costs would outweigh the transparency benefits of such an approach. This is because some JBMS operational costs, such as personnel costs, are integrated with other border costs. JBMS costs will also not cease once the JBMS system has been paid for. Funding received for depreciation will instead be used for the ongoing maintenance and replacement of the system into the future in accordance with international accounting standards.

Customs and MPI note that new lodgments required in Tranche 1, such as for advanced notices of arrival and departure of craft, and requests for transshipping uncleared goods between Customs controlled areas, will not be charged for under a top-up of existing fees approach. Any charges for these new lodgments will also need to be considered as part of a wider review of cost recovery.

Amending transaction volumes

In the cost recovery proposal, Customs and MPI noted that the transaction volumes for each fee have changed since the fees were last reviewed in 2007/08. In order for the current cost recovery for each fee to continue to meet the current budgeted costs, the fees needed to be adjusted to reflect those new volumes before fee options for JBMS costs were considered.

The current cost recovery budget for each fee divided by the estimated transaction volume determines the transaction fee rate. For example, the import entry transaction fee of $22.00 is based on a budget of $26.4 million and is collected from 1.2 million transactions. While the inward cargo transaction fees for air and sea have similar cost recovery budgets of $1.44 million, the different annual transaction volumes used to set the fees in 2007/08 (54,000 and 4,600) means the current Customs fee rate per transaction is $312.89 and $26.67 respectively.

Where transaction volumes have fallen since the fees were last reviewed, the fee rates need to increase to obtain the same level of cost recovery; where transaction volumes have increased, the fee rates can be reduced. The cost recovery proposal suggested that a "likely" scenario of transaction volumes estimates should be used in calculating the fees before JBMS costs are added.

Based on historic trends, the import entry, inward cargo (air), export entry (SES) and biosecurity levy transaction volumes have increased, while other volumes have decreased. The "likely" scenario assumes that most transaction volumes will remain fairly static, while the import entry transaction volumes, which set the import entry transaction fee and the biosecurity levy, will continue to increase.

All nine submitters who commented on transaction volumes supported Customs and MPI's "likely" volume scenario for calculating the revised fee rates. Comments were:

- "The 'likely' scenario assumptions appear logical [and the submitter] would expect tracking in support of these assumptions and that actual changes in transaction volumes be reflected in an appropriate adjustment to the charging methodology applied."
- "Accessing the accuracy of the 'likely' or any other scenario is outside [the submitter's] expertise…nevertheless [the submitter] agrees that the fees should be based on forecast transaction volumes that are likely."
- "it seems reasonable, although we would hope to see an increase in the export entries as well. Be that as it may, with a memorandum account, regular monitoring and the ability to adjust charges if transaction volumes get out of line with the forecast, this should not be a problem." (Two submissions).

Customs and MPI response

The monthly actual volumes of transactions for each of the seven transaction fees has been monitored and confirms that the assumptions made are largely consistent with the estimates of a likely scenario. The number of export entries made under the secure export scheme has increased more than anticipated. This is because the number of transaction made by some individual SES partners has increased and the scheme has also expanded to include new partner companies. The number of export entries (non-SES) has, however, continued to decrease slightly.

Customs and MPI therefore agree that the export transaction volumes for SES export entries should be increased in the fee calculations. This will result in a decrease in the export transaction fee (SES) from $8.89 to $7.91 before JBMS costs are added (the discussion document proposed a reduction to $8.58 under the likely scenario). All the export transaction fees can also reduce slightly because there are now more transactions to spread the same JBMS costs across.

Other factors relating to setting fees

While submitters had other comments to make on the cost recovery proposal (see also "Other comments made by submitters" on page 21), many submitters did not expressly state other factors that needed to be taken into account in the setting of fees in response to this question.

- Six submitters stated that the share of JBMS costs should be based on the share of benefits received, while three submitters stated that the share of costs should be based on the risks that the parties created. These views were also reflected in the preferences for fee options. Some MPI stakeholders asked for further information on quantification of the benefits discussed with industry in 2009 and this was provided to them on 27 July 2012.
- Two submitters considered that the allocation of costs between industry and the Crown should be revisited, and indicated that the Crown should meet 50% of the cargo-related JBMS costs, including a share of Trade Single Window costs, in addition to meeting all passenger-related costs. Another submitter noted that the border agencies and the public received benefits from Trade Single Window, but industry was expected to fully fund the cost of these benefits.
- Four submitters (all carriers or carrier representatives) suggested that carriers should not pay for JBMS fee increases because carriers are acting as agents for importers and exporters, and therefore did not create specific risks to be managed by border agencies (see also "Other options proposed by submitters" on page 21).
- Two exporters indicated that Tranche 1 would have more benefits for importers, although exporters acknowledged some benefit from Tranche 1.
- One exporter suggested that affordability for exporters should be taken into consideration given the current global financial crisis and the impact of the high exchange rate; that submitter also said government spending and fees should not increase higher than the rate of inflation.
- As an alternative, the same submitter suggested that fees should be compared with other Southern Hemisphere competitors, other than Australia. By comparison, another submitter thought that the proposed fees should be compared with Australia.

Customs and MPI response

In allocating the costs of Tranche 1 of JBMS across Crown and industry, Customs and MPI considered the cost recovery principles set out in the government guidelines[5]. The relative benefits (based on the functionality delivered) different parties would receive for Tranche 1 was explicit in the cost model.

Importers do receive more direct benefits from Tranche 1 deliverables, particularly around the consolidation of message lodgments to meet import requirements under Trade Single Window. Exporters will have to wait until early 2014 to receive the same consolidation of messages following alignment of JBMS with MPI's E-Cert processes. Nevertheless, Tranche 1 builds an enabling infrastructure for this alignment and for further system enhancements. It is therefore equitable and justifiable for both import and export parties to meet a share of Tranche 1 costs although importers are allocated 85% of the third party Tranche 1 cost recovery, during the first period of April 2013 to June 2016.

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[5] *Guidelines for setting charges in the public sector*, The Treasury, December 2002, *Charging fees for public sector goods and services*, Office of the Auditor-General, June 2008.

While it is correct that industry meets 100% of Trade Single Window costs in the cost model, this amounts to less than 18% of the total Tranche 1 costs. The Crown will meet 51.8% of the total funding required for Tranche 1 up to 30 June 2016, which is slightly more than the 50% proposed in 2009.

The cost recovery guidelines state that charges in general should be set at the full cost of providing the services, including overheads and capital costs. Customs and MPI do not, however, fully cost recover for Customs or biosecurity services at the border. Instead, the current policy is for any increases in the cost of cargo processing to be met from industry cost recovery. The allocation of JBMS cargo costs to industry is consistent with this approach. The Crown and industry funding contributions for cargo processing can be considered in a wider review of border cost recovery, but this review could not be completed before cost recovery starts in April 2013.

Affordability is not a criterion under the government's cost recovery guidelines. The provision of services must, however, be in a way that achieves value for money (i.e. efficient) and charges should not excessive in relation to the costs incurred. Customs and MPI were mindful of not unduly increasing fees. Although other non-JBMS costs for the border agencies have been increasing, the cost recovery budgets have been held to the levels when the current fees rates were last reviewed (2007/08 in the case of Customs and 2010/11 in the case of MPI). This has been made possible through operational savings, such as co-location of Customs and MPI border functions. Additional agency savings (personnel costs avoided) were factored into the Tranche 1 costs.

Customs export entry fees as a proportion the total value of exported goods was estimated to average around 0.05% in 2011, while for importers the combined IETF and biosecurity levy charges are less than 0.08% of value. This would indicate that the fees should not pose a significant component of total costs.

Inflation is also not a factor that is considered; budgets are instead based on projections of actual costs. The JBMS budget assumes projected costs are not increased during the cost recovery period, except for the known costs of outsourcing of system support and maintenance costs. The proposed fee increases for Customs imports under this proposal is, however, less than an inflation-adjusted fee increase for the period 1 July 2008 to 30 June 2016, while the Customs export fees and biosecurity levy are slightly more.

It is difficult to make useful comparisons between border charges for New Zealand and other countries because there is no standardized approach to cost recovery. Customs and MPI do not agree that the Australian border fee structure is simpler, although it has some similarities to New Zealand charges given the importance both countries place on managing biosecurity risks.

The New Zealand Productivity Commission[6] considered that "with few exceptions, the fees imposed on New Zealand exporters are lower than the comparable fees imposed on Australian exporters – sometimes considerably so." In addition, New Zealand exporters received other benefits, "particularly in relation to facilitating access to overseas markets."

A recent ExportNZ survey[7] indicates that some exporters considered the complexity of charging for imports to Australia posed a barrier to New Zealand exporters. Around 34.1% of the 169 survey respondents cited regulatory barriers to export from overseas countries, with some indicating Australian charges were an issue, compared with 13.3% citing domestic barriers.

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[6] Report on International Freight Services, NZ Productivity Commission, April 2012, www.productivity.govt.nz

[7] Export New Zealand 2012 Survey, released online 25 July 2012, www.exportnz.org.nz

New Zealand also compares favourably overall under international benchmark indicators, and is ranked 27 out of 183 countries in the World Bank trading across border indicators in the report *Doing Business 2012*. By comparison Australia is ranked at 30, Chile at 62 and South Africa at 144.[8]

Proposed Options

Four options were outlined in the discussion document on pages 22 to 24. In all of the options, an adjustment to each fee is made to account for changes in transaction volumes since the fees were last reviewed before JBMS costs are added. All of MPI costs are allocated to the biosecurity levy in the cost recovery proposal. The proposed levy rate of $15.33, an increase on the current rate of $11.11 of $4.22, is the same for Options 1, 2 and 3.

Ten of the eighteen submitters supported Option 2, while four supported Option 1, four supported Option 3, and no submitters supported Option 4.

Option 1: increase the import entry transaction fee (IETF) and biosecurity levy only

Under Option 1, all the JBMS cost increases would fall on importers with all Customs costs allocated to import entry transaction fees, and all MPI costs through the biosecurity levy. Importers would pay $9.32 more per transaction under this option while other parties would only meet adjustments to fees arising from changes in transaction volumes related to their particular fee.

The four submitters (two exporters and two carriers) who supported this option indicated this was because the JBMS cost increases would only be applied to importers and not to them.

Comments in support of Option 1 were:

- "Option [1] is the only viable alternative as outlined in the discussion paper. Make the importers pay 100% of the cost as that is where the costs rightly lie."
- "costs should lie [where] the risk is."
- "we believe that the change in system will have far more benefits for imports and therefore should be reflected in the increased fees."
- "It seems that the greater cost of policing would be on imports, so exports should not bear a greater cost."

However, other submitters expressly did not accept Option 1:

- three submitters accepted the arguments outlined in the discussion paper that to solely charge importers, when exporters also receive some benefit, would be a breach of the equity principle.
- in a similar vein, another submitter stated that "the cost of the development would be borne solely by importers and exporters would freeload. We cannot support such an option."

Option 2: flat-fee increases to the seven Customs transaction fees and biosecurity levy

Under Option 2, Customs import fees are increased by $4.77, while export fees are increased by $2.56 to meet Tranche 1 costs.

[8] Doing business 2012 – doing business in a more transparent world: comparing regulation for domestic firsts in 183 economies, World Bank/International Finance Corporation, 2012, www.doingbusiness.org/reports

Overall support was expressed for Option 2 on the basis that all parties to some extent benefit from the development of Tranche 1 and so it was fair and equitable that all parties should therefore share in the costs of Tranche 1.

Comments in support of Option 2 were:

- "…consider that allocating the costs on the basis of where those costs are incurred by JBMS is the most equitable option, and so … agrees to the preferred option of MPI/Customs (Option 2)" (two submitters).
- "…supports the principle of sharing cost recovery amongst all related parties."
- "…consider Option 2 fair and equitable…"
- "[As] both exporters and importers would pay their share of JBMS costs" … it was a fairer way to share the load."
- "…on the basis that the benefits of a Trade Single Window are not related to the amount of information to be processed… agrees that Option 2 is the preferred fee option."
- "…calculated on the project costs per activity …such an approach is inherently equitable and for that reason Option 2 is supported."

Those that did not support Option 2 made the following comments:

- "…rejects this option as it does not provide transparency of fees being reflective of the costs involved in each portion of the border agency activities."
- "…the flat charge increase in Option 2 has no regard to the activity differentiation … the flat fee top-up approach takes no account of the fact that the current fees have been set to cover estimated costs and benefits for Customs activities associated with that item [and]… it imposes a charge on carriers when it is clear from the discussion document and our own knowledge that any benefits that carriers may gain from the new system are relatively minor. Carriers are in many ways the agents of the border agencies in facilitating the working of the system and should not be charged for it."

Option 3: percentage increases to the seven Customs transaction fees and biosecurity levy

While the Tranche 1 costs allocated to Customs imports and exports are the same for Option 2, the distribution across the individual fees places more costs onto fees with higher current rates.

Option 3 was favoured by four submitters, although for two of those submitters it was conditional on the basis if fees were be to applied across all parties including carriers despite their view that carriers should not be charged for JBMS. One other submitter also noted that the discussion document did not provide any information as to the basis of setting existing transaction fees.

Comments in support of Option 3:

- "…there is a clear justification for favouring Option 3 over Option 2. The percentage increment approach accepts that the current differentiation between charges reflects the value of costs and benefits of the Customs activities being delivered." (two submitters)
- "…it appears to be the fairest way to apply the costs."
- "…the percentage increase reflects a more equitable proportional alignment between the current fee structures, which is reflective of the extent of border agency activity."

Option 4: as for Option 2, plus increases to some "food-related' fees

The agencies noted in the discussion document that Option 4 was premature as there are no significant food-specific functions introduced in the first roll-out of Tranche 1. There were also risks of double-charging under the existing fee structures since food importers and exporters also pay Customs fees and, when importing, the MPI biosecurity levy. This option was therefore not analyzed further in the discussion document.

Submitters agreed with Customs and MPI's view and there was no support for Option 4 in the submissions received although food-related fees should be considered in the next fees review.

Comments received on Option 4 were:

- Three submitters accepted the reasons provided in the discussion document for not introducing charges on food at this time, but the matter of food changes should be included in the next fee review.
- Two submitters stated, "…as 'food-related' functions are not specifically covered in Tranche 1, Customs and MPI believes that this option is neither equitable nor justifiable. We support this view."

Customs and MPI response

The majority of the Tranche 1 costs are in building an infrastructure that enables all parties to streamline and rationalize the lodgement of information to Customs and MPI, while the risk and intelligence functions target interventions and reduce compliance for industry. While Tranche 1 supports the border functions of Customs and MPI biosecurity, it also enables other border functions (MPI food-related functions, Maritime NZ and Ministry of Health).

Customs and MPI therefore consider it is appropriate that all parties (importers, exporters and carriers) pay for a share of the costs associated with the processing of goods and craft. Under Option 1 the full costs of JBMS would fall on importers. The agencies consider this option would not be equitable as importers would pay the costs of building export-related functionality. Fourteen of the 18 submitters did not support Option 1. All four of the submitters who supported Option 1 indicated this was so they did not pay a share of JBMS Tranche 1 costs.

The majority of the industry costs relating to Tranche 1, however, still fall on importers. For Option 2 this amounts to $39.6 million (85%) of the new JBMS cost recovery over the cost recovery period. This cost is partially offset by the reduction in import entry charges, arising from increased transaction volumes for the IETF and biosecurity levy, of around $7 million. By comparison, carriers meet 2% and exporters meet 13% of JBMS Tranche 1 cost recovery under Option 2. Customs and MPI consider that this is the most equitable of the options as importers will still receive most of the deliverable benefits of Tranche 1.

It is equitable and justifiable to adjust fees for changes in transaction volumes as this ensures that the cost recovery collected for each particular activity continues to be fully met by the parties requiring the related services. For example, the parties paying for the inward cargo transaction fee sea (annual budget $1.44 million) should still meet these costs even though the transaction volume has decreased from around 4,600 to 4,100 per annum. They do so in the proposal by increasing the base fee, before JBMS costs are added, from $312.89 to $358.50. Without these adjustments, those transactions where volumes are increasing would effectively cross-subsidise those activities where transaction volumes are decreasing.

In Tranche 1, however, there is no distinct relationship between the current fee levels and the incremental cost of processing different types of lodgments. A proportional increase based on current fee rates, as proposed in Option 3, is therefore not justifiable or transparent. For the inward cargo reports by sea, the JBMS costs assigned in Option 3 would result in a $78.28 increase in the related transaction fee, which has already been adjusted upward for a drop in transaction volumes by $45.61. By comparison import entries would only pay around $4.52 under Option 3. It would be difficult to justify that the inward cargo carriers receive more than 17 times the benefit from Tranche 1 than importers, when each party is still making a single lodgement in JBMS.

Option 2 transparently applies a single cost increase across all import fees to recover the allocation of JBMS costs to imports and likewise for exports and the biosecurity levy. Once JBMS is implemented, however, Customs and MPI will have better information to identify the relative JBMS costs associated with each type of activity, including the costs for processing new messages.

Customs and MPI further agree with submitters on Option 4 that food-related border charges imposed by MPI should be reviewed as specific functions on these activities are supported by JBMS in the future. This includes some of the fees on animal products, plant (including wine) products, forestry products, imported food and agricultural compounds and veterinary medicines. Each of these types of products has its own cost recovery regime and a requirement for related regulations to be reviewed every three years. JBMS costs could be considered as a component of these individual reviews or in a wider context looking at all border cost recovery.

Other Options proposed by submitters

Submitters also proposed a number of options:

A. no increase in any fees (3 submissions)

B. have a single fee rate across all those paying fees (1 submission)

C. JBMS costs to go on import and export entry fees only (4 submissions).

Submissions proposing no increases in fees (Option A) were concerned about any increased costs for business (1 submitter) or increased costs for exporters (1 submitter). Two submitters requested a review of the Crown:industry funding split for Tranche 1, if a review of that split resulted in no increased fees for industry.

The submitter who suggested a single fee rate (Option B) thought this would be simpler to calculate and communicate to all parties. A single fee rate would amount to around $19.68.

The application of JBMS costs to import and export fees only (Option C) was submitted by two carrier and two carrier representative organisations, who considered that carriers should not be charged for JBMS cost increases. Two of these submitters expressed a preference for existing carrier fees to be removed in the future. Another submitter also noted that any increases in export cargo reporting fees were likely to be charged back to the exporter.

Customs and MPI response

It is not feasible or justifiable for the Crown to meet all the costs of JBMS as proposed in Option A, through a Crown appropriation and general taxation. The Crown funding would have to increase by around $14.3 million per annum. Some services already provided by Customs and MPI would have be significantly downgraded or ceased for the agencies to make commensurate savings at the border.

Current cargo activities have an element of cost recovery and this policy setting has been continued for Tranche 1 costs. Under the section 135 of the Biosecurity Act and sections 40A and 50A of the Customs and Excise Act, Customs and MPI have an obligation to recover costs from users of services, or those who require the services to be provided, where these are not covered by a Crown appropriation. The approach taken is consistent with the cost recovery guidelines since costs can be attributed to identifiable parties for providing these services.

With respect to Option B, only importers pay more than one fee in this proposal for the same transaction (for the IETF and biosecurity levy). The current fees for each type of transaction are based on the costs of providing the services associated with that transaction. While it might be easier to communicate a single fee, Customs and MPI consider that Option B is not transparent or justifiable. Parties associated with export would also pay a higher share of the JBMS costs than proposed in the current cost model, while MPI would over-recover its share of costs.

Option C, to charge only importers and exporters for entries, would increase the JBMS top-up for import entries (IETF) to $5.02 (compare $4.77 under Option 2), while export entries would increase to $3.47 (compare $2.56 under Option 2), although the biosecurity levy would not be affected. The high volume of import entries reduces some of the impact of Option C. Overall, however, carriers pay only 2% of JBMS cost increases under Option 2 or 2.6% under Option 3.

JBMS functionality has been built to process carrier-related lodgments of information related to craft and consolidated cargo. Since carriers can be identified and targeted to pay a share of the costs for the functionality created, it would be inconsistent with the cost recovery principles of equity and justifiability to not include JBMS cost increases for carrier fees. Customs and MPI would need to further consult with the industry around such an option and expect that other stakeholders affected by Option C would not support it.

Option C could be evaluated further as part of a wider review of border cost recovery. Such a review would also have to consider how new messaging requirements should also be cost-recovered, such as craft-related advance notices of arrival and departure, and requests by carriers for transshipment of uncleared goods. New charges for these messages have not been included in the cost recovery proposal as they would require establishing new fees.

Other Comments made by submitters

Submitters made a number of further comments on the proposed fee increases:

- one submitter suggested that any commercial cost of sending data to Customs was not a concern of the agencies.
- Five submitters made comments on the costs of Tranche 1, from expressing concern at the lack of operational savings stated (1) and the amount of investment required (2); the 8% capital charge rate (suggesting 6 or 7% instead) (2); or thinking that the statements in the discussion document inferred that no increases in the current cost recovery budgets meant that industry was funding all the costs of benefits (1).
- Four submitters expressed concern about the cost sharing formula and the use of JBMS and Trade Single Window terminology, considering Tranche 1 was primarily about the latter. Three of these submitters sought a review of the proposed costing methodology to more equitably reflect a 50:50 sharing of cargo costs, while one submitter suggested introducing a passenger fee.

- There was some confusion around the 3.25-year cost recovery proposal, with five submitters thinking this meant that the whole life-cycle costs would be recovered during this time, and two other submitters suggesting that the fees be based on the full life-cycle period of cost recovery (8.25 years from April 2013 to June 2021).
- Two submitters stated that the 18-month mandatory period "should not be used as a justification for introducing new charges on a participant by participant basis." One submitter disagreed stating "a differential [fee] would allow users to use a more efficient and cost effective service."
- There were further comments on benefits. Concerns expressed ranged from a view that government generally oversold benefits and misrepresented costs (1); whether the expected benefits would be delivered (2); or wanting more clarity on what Tranche 1 would deliver (1). One MPI stakeholder submitted they would have liked more involvement when the allocation of costs and benefits had been considered in 2009. Positive comments included support for JBMS, a desire for Tranche 1 to be delivered, and an expectation that exporters would have real benefits long term, mainly around single messaging.
- Five submitters raised questions around the existing charging regime and who pays what. One submitter asked for clarification as to whether cargo reports at the house bill level would continue to be charged Customs fees in JBMS. Responses to these questions were provided to submitters online at www.jbmsconsultation.govt.nz.
- Submissions around the consultation process for cost recovery also varied. Some MPI stakeholders were concerned about not being proactively engaged in JBMS consultation in general, although one commented that the "session [held] was extremely helpful" in reference to the meeting held on 19 July 2012. Another submitter stated that "the consultation meetings have been informative and well-received by industry."

Customs and MPI response

While transmission costs are a commercial matter between stakeholders and their data sharing service, the overall cost of information provision to border agencies is of interest to government. Savings through using direct connect will offset some of the fee increases in the cost recovery proposal. The costs of direct connect are included within the Tranche 1 costs.

The life-cycle costs of Tranche 1 include new costs of depreciation and capital charge, which have not previously been cost-recovered from industry, but are a valid way to apportion capital costs over the life of an asset in accordance with international accounting practice and government's cost recovery guidelines. The JBMS costs will not, however, cease in 2020/21. By making provision for depreciation the JBMS asset can be maintained and replaced on an ongoing basis into the future, but ongoing funding for Tranche 1 will be required for this purpose.

The savings identified in the Tranche 1 budget are the ongoing personnel costs avoided through efficiency gains as trade and passenger volumes increase. Other savings not directly attributable to JBMS are not included. By holding current cost recovery budgets, and absorbing cost increases, a share of these costs have not been passed on in additional cost recovery; only Tranche 1 costs have been applied. The 8% capital charge is set by and payable to the Treasury.

Only the costs of operating Tranche 1 incurred from April 2013 to June 2016 that are allocated to industry are included in the fees for the first period of cost recovery. From July 2016 a mix of Crown and industry funding of around $21.5 million per annum will be needed on an ongoing basis.

In 2009 Cabinet agreed in principle that around 50% of the costs of Tranche 1 should be met by industry; with passenger processing fully Crown-funded and part Crown-funding for functions including risk and intelligence and craft processing. This is consistent with current cost recovery policy for Customs and MPI.

Customs and MPI agree that there shouldn't be differential fees during the mandatory period because it would mean early adopters would be effectively cross-subsidising late adopters, and it could lead to a delay in uptake of JBMS to avoid new charges. Any delay in update will reduce the benefits of having good information on all goods within JBMS for assessing risk. Industry asked for an 18-month transition period to enable individual organisations to adopt JBMS at a time to suit their needs.

A summary of the industry benefits was set out in the discussion document (Appendix 2 and page 12), was included in the presentation to industry stakeholders at public meetings, and was shared with industry in 2009. A copy of the 2009 benefits information has been sent to MPI stakeholder submitters.

AMENDED COST RECOVERY PROPOSAL

The submissions received overall generally supported the cost recovery proposal set out in the discussion paper, *Discussion Paper: Cost Recovery for Tranche 1 of the Joint Border Management System*, and consulted with stakeholders from 13 June to 27 July 2012.

There was support (13/14 submissions) for a top-up in existing fees rather than introducing new fees as this was a practical option to meet the timelines for an April 2013 start to cost recovery. The proposed 3.25-year cost recovery period will be used for allocating the JBMS costs to industry for the period April 2013 to June 2106.

There was support for increasing the existing Customs transaction fees and the MPI biosecurity levy for this purpose. A number of submitters wanted the impact on the fees they paid reduced, or sought higher Crown funding for cargo processing. This would require a change in the current policy settings for cost recovering the provision of cargo services, or a wider review of the current cost recovery regime.

Option 2, a flat fee top-up to the seven Customs transaction fees and MPI biosecurity levy, was supported by 10/18 submitters. Overall it was the most equitable and justifiable of the options. Alternative options suggested by submitters were not as equitable, justifiable and/or transparent, although they could be considered as part of a wider review of cost recovery.

The "likely" transaction scenario was supported as reasonable by all nine submitters who commented on transaction volumes. Customs and MPI agree, however, that an increase in the export entry transactions (Secure Export Scheme) is valid based on ongoing monitoring of the transaction volumes. All the export transaction fees can be slightly reduced as a result of an adjustment to the volumes for this transaction.

The cost recovery proposal has therefore been amended following adjustments to export fees. As 1 April 2013 is an Easter Monday, the start date for the new fees is proposed from 2 April 2013. All parties would pay the new fee rates from this date.

Table 3: Summary of fee changes

$ (GST exclusive unless stated)	Current fee	Changes for transaction volumes	JBMS flat fee increase	New fee	Net increase	New Fee (GST inc)
Import entry transaction fee (IETF)	$22.00	$(1.33)	$4.77	$25.44	$3.44	$29.26
Inward cargo transaction fee (air)	$26.67	$(3.90)	$4.77	$27.54	$0.87	$31.67
Inward cargo transaction fee (sea)	$312.89	$45.61	$4.77	$363.27	$50.32	$417.76
Export entry transaction fee (SES)	$8.89	$(0.98)	$2.53	$10.44	$1.55	$12.01
Export entry transaction fee (non-SES)	$12.67	$0.40	$2.53	$15.60	$2.93	$17.94
Outward cargo transaction fee (air)	$6.67	$0.81	$2.53	$10.01	$3.34	$11.51
Outward cargo transaction fee (sea)	$20.00	$2.54	$2.53	$25.07	$5.07	$28.83
MPI biosecurity levy	$11.11	$(0.54)	$4.76	$15.33	$4.22	$17.63

Changes to regulations

In order to give effect to the changes in the fees some regulatory changes will be needed.

The Customs and Excise Regulations 1996 will have the seven transaction fees increased to the new GST-inclusive rates set out in Table 3 effective from 2 April 2013.

The Biosecurity (System Entry Levy) Order 2010 allows for a maximum levy rate to be set. On a GST rate of 15%, the maximum is $18.40 in accordance with Section 78 of the Goods and Services Tax Act 1985. As the new levy rate of $17.63 falls within this rate a regulatory change is not needed for this purpose. The levy order does, however, need to be amended so that the new levy rate can start on 2 April 2013, rather than 1 July 2013, and so that (as a transitional measure) this new rate can apply until 30 June 2014 before it must be reviewed. The annual review of the levy rate required under the Biosecurity Act will allow any changes to budgets and transaction volumes to be taken into account.

Further review of cost recovery

While other options than a top-up to existing fees is not possible within the timeframes needed for Tranche 1 cost recovery, the issues raised by submitters can be considered within a wider review of cost recovery signalled by Customs and MPI to take place before 30 June 2016, when the initial period of cost recovery is completed. Such a review can consider:

- the ongoing allocation of Tranche 1 costs
- any further JBMS costs arising from additional functionality, or savings arising from retiring CusMod and Quantum
- how food-specific functionality in JBMS can be recovered from appropriate food-related cost recovery mechanisms
- how other functionality created in Tranche 1 should be cost-recovered, including the new advanced notice of arrival and departure of craft, and the lodgement of international and domestic transhipment requests
- any further efficiency savings arising from JBMS or from the amalgamation of the three agencies to form MPI.

Any review will involve further consultation with industry stakeholders.

APPENDIX ONE: COST RECOVERY CONSULTATION IN 2009

Customs and MAF consulted with key stakeholders during the development of the JBMS proposal. In 2009 Cabinet directed officials to consult key stakeholders on the overall project, costs and possible cost recovery methods for JBMS. In December 2009 three workshops were held in Auckland, Wellington and Christchurch to discuss the Tranche 1 and Tranche 2 cost recovery proposals.

This consultation was done in conjunction with MAF's formal consultation on biosecurity cost recovery, which reviewed three biosecurity levies and the Biosecurity (Costs) Regulations 2006. The public discussion document, *Review of Biosecurity Border Clearance Charges 2009* (MAF Biosecurity New Zealand Discussion Paper No: 2009/03), set out the JBMS proposal and invited comments in submissions.

Around 245 stakeholders including representatives of ports, airlines, freight forwarders, Customs brokers, freight companies, importers, exporters, express freight couriers and biosecurity stakeholders were regularly updated by email on the progress of the biosecurity costs cost recovery project.

The proposal suggested that Tranche 1 and 2 costs would be met from Customs transaction fees and the newly proposed biosecurity system entry levy. Officials noted that Tranche 1 would increase existing fees by around 30%. The Customs import transaction fees would increase by around $3.90, the Customs export transaction fees by around $2.60 and the MAF biosecurity levy by around $4.30.

Six submitters to MAF's cost recovery proposal commented on JBMS and on the method for cost recovery of its operating costs. Of the submissions made:

- Five generally supported the proposed JBMS, provided that the system delivered expected benefits and drives efficiency for government agencies and industry.
- Four commented on costs, noting the increased cost recovery required (less efficient, increasing fees by 47%, or more information was needed) or that there should not be further costs or costs should be kept to a minimum.
- One considered the discussion paper was reasonable, through an increase in existing charges rather than introducing a new charge.
- One suggested introducing a monthly service fee based on the number of transactions rather than billing each consignment.

In response Customs and MAF noted the approach to any future cost recovery for cargo clearance through JBMS includes:

- recovery of fixed costs of Customs and biosecurity risk screening through fixed charges
- applying fixed charges to all consignments subject to risk screening as far as practicable
- simplification of administrative processes through joint billing and collection of fees.

APPENDIX TWO: SUBMITTERS

- Air Cargo Council (ACC)
- ANL Container Lines Pty Limited, ANL Singapore Pte Limited
- Board of Airline Representatives NZ (BARNZ)
- Beef + Lamb New Zealand
- Conference of Asia Pacific Express Carriers (CAPEC)
- Customs Brokers and Freight Forwarders Federation of NZ Inc. (CBAFF)
- CMA CGM S.A
- Customs Agents Wellington Limited (Est 1978)
- Deer Industry New Zealand (DINZ)
- Fonterra Co-operative Group Limited
- Hapag-Lloyd (New Zealand) Ltd
- Meat Industry Association (MIA)
- New Zealand Seafood Industry Council Ltd (SeaFIC)
- Southern Fresh Fruit Exports Limited
- Swire Shipping
- Zespri
- Anonymous (2)