REGULATORY IMPACT STATEMENT: COST RECOVERY FOR TRANCHE 1 OF THE JOINT BORDER MANAGEMENT SYSTEM

NEW ZEALAND CUSTOMS SERVICE
& MINISTRY FOR PRIMARY INDUSTRIES

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AGENCY DISCLOSURE STATEMENT

1 This Regulatory Impact Statement has been prepared jointly by the New Zealand Customs Service (Customs) and the Ministry for Primary Industries (MPI).

2 In November 2009 Cabinet agreed to the Joint Border Management System (JBMS) being completed in two tranches as set out in the JBMS Stage 2 Business Case [CAB Min (09) 39/22]. In March 2010, Cabinet agreed in principle to some of the costs of Tranche 1 being recovered from third parties via existing transaction fees [EGI Min (10) 5/7]. Budget 2010 provided the capital funding, and increased baseline funding for Customs and MPI for implementing Tranche 1 of JBMS [CAB Min (10) 13/4 (13)].

3 This Statement provides an analysis of options to recover industry's share of the costs of Tranche 1 through a "top-up" to existing transaction fees made under the Customs and Excise Regulations 1996 and to the biosecurity levy made under the Biosecurity (System Entry Levy) Order 2010. The analysis included:

- a review of the current border-related cost recovery mechanisms within Customs and MPI
- updating the related cost recovery budgets of Customs and MPI and the budgets and cost allocations for Tranche 1
- identifying suitable options to "top-up" the transaction fees and biosecurity levy, and considering the cost recovery time period and the underpinning transaction volumes associated with each fee/levy
- Feedback received from public consultation on the proposals, assumptions and options to amend the proposal.

4 Transaction volumes are dependent on the state of the economy and international trade. Assumptions were made and different scenarios were developed for transaction volume changes over the initial cost recovery period of 2 April 2013 to 30 June 2016.

5 While a top-up of existing fees was acceptable for Tranche 1 costs, a more comprehensive review of Customs and of MPI cost recovery is anticipated by stakeholders over the next few years. This will need to incorporate recovery of other JBMS costs associated with implementation of Tranche 2, if approved.

6 In order to implement the cost recovery increases, amendments to the Customs and Excise Regulations 1996 and to the Biosecurity (System Entry Levy) Order 2010 will be needed no later than February 2013 in order to meet the 28-Day Rule for regulations.

7 Tranche 1 will increase costs by around $14.3 million a year for importers, exporters and cargo carriers required to lodge information on cargo imports and exports to Customs and MPI.

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24 September 2012

STATUS QUO AND PROBLEM DEFINITION

Current fees for customs and biosecurity interventions at the border[1]

8 Cargo processing services by Customs and MPI are largely cost-recovered from cargo importers and exporters and/or their associated carriers and agents. Passenger clearance services are Crown-funded.

9 Customs' cost recovery is largely based on transaction fees for the lodgement of cargo information. Import and export entry fees are charged for individual consignments of goods, while inward and outward cargo report fees are charged for manifest-type information. Each fee is derived from an allocated budget divided into the estimated number of transactions. The total amount collected from current transaction fees is $37.7 million per year ($29.3 million for imports and $8.4 million for exports).

10 The biosecurity cost recovery framework is based on two types of charges. All import consignments pay a biosecurity system entry levy, which recovers fixed costs for border services. Those imports deemed to be of biosecurity risk have additional variable fees and charges to recover the costs of specific interventions. Biosecurity cost recovery amounts to $23.5 million per year ($13.5 million for the biosecurity levy and $10.0 million for variable fees and charges).

Table 1: Current fees and budget for Customs transaction fees and MPI biosecurity levy and border fees

Cost recovery	Current fee $GST excl	Transactions per annum*	Budget $000
Customs transaction fees			
Import entry transaction fee (IETF) for each import consignment except where an exemption provided (e.g. where the consignment is valued at less than $400)	22.00	1,200,000	26,400
Inward cargo transaction fee (cargo carried by air)	26.67	54,000	1,440
Inward cargo transaction fee (cargo carried by ship)	312.69	4,600	1,439
Export entry transaction fee for partners in the Customs Secure Export Scheme (SES)	8.89	83,000	738
Export entry transaction fee for other parties (non-SES)	12.67	445,000	5,638
Outward cargo transaction fee (cargo carried by air)	6.67	162,000	1,080
Inward cargo transaction fee (cargo carried by ship)	20.00	48,000	960
Total Customs transaction fees			**37,695**
MPI biosecurity fees			
Biosecurity levy (invoiced in conjunction with the IETF)	11.11	1,200,000	13,500
Variable biosecurity fees (e.g. import permits and physical inspections for live animal imports)	Various		10,000
Total MPI biosecurity fees			**23,500**

* The current fees are based on these transaction volumes

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

OBJECTIVES

11 The policy objectives are to:

- Recover around 50% of the costs of operating Tranche 1 of JBMS from industry participants using the most appropriate legislative mechanisms available.
- Recover these costs in accordance with Government guidelines for cost recovery in the documents '*Guidelines for Setting Charges in the Public Sector*', The Treasury (Dec 2002) and '*Charging fees for public goods and services*', Controller and Auditor-General (June 2008).

Legislation

12 For Customs, fees for moving goods across New Zealand's border are set in the Customs and Excise Regulations 1996, made under the Customs and Excise Act 1996. The transaction fees made under the Customs and Excise Regulations 1996 are reviewed every three years in accordance with Government guidelines[2]. An amendment to the regulations is needed to increase the fees to recover a share of Tranche 1 costs from 2 April 2013.

13 For MPI, fees for biosecurity requirements for imports are set by the Biosecurity (Import Entry Levy) Order 2010 and the Biosecurity (Costs) Regulations 2010 made under the Biosecurity Act 1993. Levies made under the Biosecurity Act 1993 must be reviewed annually. Under the Biosecurity (Import Entry Levy) Order[3] the levy is adjusted to reflect the annual budget and estimated transaction volumes. The levy order will need to be amended to allow for the levy rate to include a share of Tranche 1 costs from 2 April 2013.

Cabinet decisions

14 Customs and MPI currently have separate computer systems (called CusMod and Quantum) to manage their responsibilities at New Zealand's border. Both systems are over 15 years old and have functional, informational and technological limitations. Customs and MPI have similar system needs at the border. They both require the collection and validation of similar prescribed information about cross border movements of persons, goods, and craft.

15 In August 2008, the Cabinet Committee on Government Expenditure and Administration (EXG):

- Approved funding for Customs to undertake a [full] stage 2 business case
- Noted that MPI and Customs use information about the same cargo supplied to each agency by the same shippers and traders to manage risk and that there is a high level of common functionality between agency needs in this area
- Agreed that, should Cabinet approve MPI's Stage 1 Business Case, subsequent reports will become joint [EXG Min (08) 6/2 refers].

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[2] In 2008 an exemption from payment of the import entry transaction fee (IETF) was amended and extended coverage to parties whose imported goods are valued between $400 and $1000 from July 2010.

[3] Public consultation on the biosecurity levy in 2010 signalled that Tranche 1 costs would recovered via the levy once Tranche 1 was implemented.

16 In November 2009, Cabinet Economic Growth and Infrastructure Committee (EGI):

- Noted that following Cabinet decisions and subsequent endorsement by Ministers in March 2009, Customs and MPI have developed a Stage 2 Business Case that proposed replacing Customs' CusMod system and MPI's Quantum system with a single shared system called the Joint Border Management System [EXG Min (08) 6/2, CBC Min (08) 25/12]
- Agreed in principle for Customs and MPI to replace the ageing computerised border clearance systems with the proposed single, shared Joint Border Management System, as set out in the Stage 2 Business Case Joint Border Management System, subject to funding
- Noted that the estimated capital cost of implementing Tranche 1 of the Joint Border Management System is $65.7 million ($83.8 million including contingency), with net operating costs over the 10 year life of the system of $183.7 million of which $93.1 million could potentially be recovered from industry via fees
- Directed officials to consult key industry stakeholders on the overall project, costs, and possible cost recovery methods for the Joint Border Management System
- Directed officials to report to EGI on the results of the consultation with key stakeholders by February 2010, specifically reporting on the preferred method for recovering the operating costs of the Joint Border Management System [CAB Min (09) 39/22 refers].

17 In March 2010, EGI agreed that, if JBMS was given funding approval to proceed in Budget 2010, proposals should be developed to recover cargo processing costs through increases in transaction processing fees in accordance with existing cost recovery policies. Likely timing for consultation was expected to be late 2011 or early 2012 [EGI Min (10) 5/7 refers].

18 Budget 2010 confirmed the capital funding for delivering Tranche 1 of JBMS, and a mix of Crown funding and third party funding from 2010/11 onwards for operating the system [CAB Min (10) 13/4 (13) refers].

19 In 30 May 2012, EGI noted that Customs and MPI had prepared a discussion paper on the proposed ranges for fee increases to commence on a go live date of the JBMS by 1 April 2013 and invited the Minister for Primary Industries and the Minister of Customs to report back to EGI by October 2012 with policy recommendations for revised fees under the Customs and Excise Regulations 1996 and the Biosecurity (System Entry Levy) Order 2010 [EGI Min (12) 10/4 refers].

Problem definition: why we need JBMS

20 In the year ended July 2012 New Zealand imported $47.8 billion of goods and exported $47.0 billion of goods. Over 4.87 million passengers arrived in New Zealand, and 4.87 million passengers departed from New Zealand. Over $10 billion of Government revenue is also collected at the border.

21 The number of people, goods and craft that are coming to New Zealand every year is increasing, and those involved in international trade and travel are increasingly looking for seamless border systems that promote an efficient and predictable supply chain.

22 Currently, the movement of people, goods and craft relies on Customs' and MPI's computer systems (Quantum and CusMod). These systems are over 15 years old and lack the flexibility to respond to increasing needs. Additionally, they are not integrated, which slows down the supply chain and causes higher compliance costs for industry.

23 Non-replacement of either system poses serious risks. These include the loss of revenue, the possibility of security breaches, increased costs and compliance for traders, and delays in passenger and goods clearance. Additionally, the MPI system does not allow MPI to identify people, goods or craft that are likely to pose a risk to biosecurity before they arrive in New Zealand. For MPI to move to a complete risk assessment process, and to implement their Border Change Programme, there is a need for high quality, integrated information about all people, goods, and craft, and an ability to screen for risk before arrival.

24 Internationally, there is a move towards paperless trade, and electronic data management. Both the United Nations and the World Customs Organisation (WCO) expect consistent communication protocols across border, and higher levels of assurance – and CusMod is no longer fully compatible with WCO data standards.

Key features and benefits of the JBMS

25 JBMS will replace Customs' and MPI's existing systems with a single, modern integrated information system. Not replacing the existing systems would pose serious risks over time, including delays in clearing passengers and goods; increased compliance costs for traders; and the loss of Government revenue (GST and duties) collected at the border.

26 JBMS is an example of Customs' and MPI's commitment to continuously improving their operations and services to ensure that they can deliver on the Government's priorities. The Government expects the state sector to continue to make its operations more efficient, to reduce the compliance burden on businesses, and to achieve savings through more collaboration between agencies.

Two-stage implementation of JBMS

27 The JBMS programme is being designed and built in two stages (called "Tranche 1" and "Tranche 2"). This two-stage approach will allow Customs and MPI to effectively manage the risks involved in implementing the new systems. In 2010, Government approved capital funding of $75.9 million for Tranche 1 of JBMS.

Tranche 1

28 The two key components of Tranche 1 are:

- Setting up the Trade Single Window (TSW) – a single channel for the cargo industry (importers, exporters, freight forwarders, express couriers, customs brokers and carriers) to submit information to and receive responses from New Zealand's border agencies, using electronic messages shared by the agencies. The TSW will support border agencies to use shared information to work collaboratively in analysing craft and cargo data, starting with Customs, MPI, Maritime NZ and the Ministry of Health (through Port Health Officers). This involves replacing the current cargo reports and entries submitted by industry, with the latest international standard versions. The new versions will enable industry to provide more information to support more accurate risk targeting.

- Introducing sophisticated new risk assessment and targeting tools – these will enable border agencies to continuously improve understanding of risks, so they can make better informed decisions on what to take a closer look at, and minimise interruption to low risk travel and trade.

Tranche 2

29 In Tranche 2, it is intended that JBMS will fully replace existing systems, add further enhancements and the remaining business functions to Trade Single Window, and introduce improvements to enforcement capability, new performance and feedback processes, and new resource-management tools. The second tranche is subject to further Government funding approval and does not form part of this regulatory impact statement.

Benefits of JBMS

30 Industry will be able to reduce compliance costs and leverage opportunities for sharing information to improve supply chain efficiency and competitiveness:

- TSW will cut out costly connection and data submission duplication, and enable agencies to coordinate any intervention activity to minimise disruption
- Options for connecting to the TSW (direct connect, messaging gateway provider competition, and an online submission facility operated by Customs and MPI) will provide the opportunity to reduce transaction costs
- Customs and MPI will co-register the organisations, people and premises they deal with; industry members will be able to apply for the likes of declarant, importer and supplier codes online, and maintain their own system user details. This will reduce the time clients spend on providing this information and waiting for responses
- The ability for industry to submit more detailed information in advance of the arrival of goods and craft means agencies can provide earlier confirmation of the clearance status to inform subsequent actions
- More information will be able to be shared electronically with industry parties such as ports and transporters to help with logistics planning
- Greatly enhanced risk targeting will mean that industry members who comply with border requirements and present low risk will face less intervention
- The TSW sets up the foundations for better facilitation of New Zealand trade through country-to-country data sharing enabled by the international "single window" concept and the new international standards for cargo and craft messages.

31 For Government, the JBMS will provide a new capability to secure existing services and manage the border more effectively over time.

32 The advanced risk management tools will support Customs and MPI to protect New Zealand, its trade and biosecurity, benefiting the economy and all border stakeholders.

33 JBMS will provide better value for money through multi-agency use of capital assets; more effective and efficient agency processes; and the ability for Customs and MPI to process increasing numbers of people, goods and craft without having to increase the number of frontline processing staff at the same rate.

34 JBMS will enhance New Zealand's international reputation as a highly desirable trading partner and tourist destination, supporting our trade policy objectives in particular.

35 A full cost-benefit analysis was provided as part of completing the Stage 2 Business Case in 2009. This indicated the following benefits for JBMS.

Table 2: Benefits stated in JBMS Stage 2 Business Case

Benefit	Detailed benefits	Value per annum by year 10
Safeguard border systems services including revenue assessment	Decreased risk of CusMod failure (estimated cost of 48-hour outage of $15 million) Secure Govt revenue base of $9.2 billion per annum)	$13.3 million
Advanced management of border risk including trade and travel assurance	Biosecurity harm avoided through reduced incursions	$39.0 million
	Drug harm avoidance Facilitating passenger experience	$8.3 million
Highly efficient and competitive industry supply chain	Increased supply chain efficiencies for imports and exports	$40 million
Improved agency efficiency and value for money from border systems	FTE savings and future cost avoidance	$9.1 million

REGULATORY IMPACT ANALYSIS

Cost of the new border system

36 JBMS will cost more than current border systems. In November 2009, Cabinet noted that the estimated capital cost of implementing Tranche 1 of the Joint Border Management System would be $65.7 million, with an additional $19.2 million contingency. Net operating costs over the 10-year life of the system were estimated to be $183.7 million of which $93.1 million (or 50%) could potentially be recovered from industry via fees.

37 Cabinet, in Budget 2010, approved an additional $75.9 million in capital and $204.4 million in operating expenditure between 2009/10 to 2020/21 for Tranche 1. Costs over the life of the system (see Table 3) are:

- Capital charge (at 8%) and depreciation of the asset (over four years for hardware and 10 years for software) - $121 million
- Operating costs - $101 million
- Less Customs and MPI operational savings - $17.6 million.

38 Changes to the budgets arising since the 2009 JBMS business case are mainly a result of the timing of when Tranche 1 began and an increase in the level of approved capital and operating funding. The original budget in the 2009 business case was based on a 1 July 2012 start date, with cost recovery also starting on that date. The costs associated with depreciation of the asset, support and maintenance and changes to business processes also start on implementation and can now be deferred to the new start date of 2 April 2013. Unspent Crown funding has been carried forward from 2011/12 to 2012/13 to meet pre-implementation costs. Cost recovery will also start on 2 April 2013 in accordance with the principle that costs for industry are not applied until industry starts to receive the benefits of JBMS Tranche 1 (including implementation of Trade Single Window).

39 The approved capital costs are higher than those stated in the business case ($75.9 million rather than $65.7 million). This was because of the decision to provide improved functionality and reduced risk coming out of the quantitative risk assessment of costs and benefits. This increase in capital expenditure leads to corresponding increases in the depreciation (hardware over four years and software over 11 years) and capital charge (at 8%) to maintain the JBMS asset.

40 System support and maintenance over the period 2012/13 to 2015/16 is also higher from the increased capital investment. These services are initially provided by the JBMS prime vendor and planned to be transitioned in-house from 2016/17.

41 Table 3 outlines the Tranche 1 budget, revised to reflect the re-phasing of the start date for implementation and the revised capital and systems support costs. The figures are compared with those in the business case, which was based on a life cycle to 2019/20 (the re-phasing extends the life-cycle by a further year).

Table 3: Tranche 1 Budget 2008/10 to 2020/21

$ (GST excl)	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Total
CAPITAL													
Shared	-	201	54,972	14,031	-	-	-	-	-	-	-	-	69,204
MPI	-	-	4,643	2,024	-	-	-	-	-	-	-	-	6,667
Total capital	**-**	**201**	**59,615**	**16,055**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**75,871**
OPERATING													
JBMS Operations	2,136	4,561	3,507	2,848	13,120	14,970	12,621	9,780	9,578	9,208	9.217	9,200	100,746
Capital Costs	-	-	2,719	3,447	14,397	14,397	14,397	14,397	14,397	14,397	14,397	14,397	121,340
Less agency savings	-	-	-	(419)	(2,155)	(2,155)	(2,155)	(2,155)	(2,155)	(2,155)	(2,155)	(2,155)	(17,659)
New funding required	**2,136**	**4,561**	**6,226**	**5,876**	**25,362**	**27,212**	**24,863**	**22,022**	**21,820**	**21,450**	**21,459**	**21,441**	**204,427**
Crown funding	2,136	4,561	6,226	2,704	11,184	12,079	10,946	9,571	9,470	9,291	9,296	9,288	**96,752**
3rd Party funding	-	-	-	3,172	14,178	15,133	13,917	12,451	12,349	12,158	12,163	12,154	**107,675**
Compare Business Case													
Capital	*-*	*32,436*	*32,666*	*100*	*500*	*-*	*-*	*-*	*-*	*-*	*-*		***65,702***
New funding required	***2,136***	***3,929***	***15,091***	***20,230***	***19,854***	***20,514***	***20,821***	***20,714***	***20,145***	***20,125***	***20,125***		***183,684***
Crown funding	*2,136*	*3,929*	*15,091*	*8,859*	*8,429*	*8,745*	*8,897*	*8,844*	*8,568*	*8,568*	*8,568*		***90,634***
3rd Party funding	*-*	*-*	*-*	*11,371*	*11,425*	*11,769*	*11,924*	*11,870*	*11,577*	*11,557*	*11,557*		***93,050***

Criteria for assessment of impacts

42 In assessing the preferred cost recovery option, the approach taken was to divide the analysis into three separate stages:

- **Stage 1** – a review of existing cost recovery mechanisms that could be used to recover costs. In this stage the main criteria considered were the Treasury cost recovery principles of authority, efficiency and accountability. A key question to answer in this stage was whether existing fees could be increased to include the Tranche 1 costs, or whether new fee mechanisms should be created.
- **Stage 2** – a review of a range of parameters affecting the cost recovery proposal. These included:
  - The start date for the new cost recovery charges
  - A review of other border costs outside of Tranche 1 cost increases
  - The period over which the new fees should be calculated
  - The estimation of transaction volumes underpinning the fee increases.
- **Stage 3** – various options for increasing fees were then considered. The impact on the different parties of three of these options was then compared in detail.

For stages 2 and 3, the key criteria considered were the principles of equity, efficiency, justifiability and transparency.

Stage 1: cost recovery mechanisms for Tranche 1

43 Cabinet agreed in principle to a top-up of Customs and the then-Ministry of Agriculture and Forestry (MAF) biosecurity transaction fees in 2009. Since then the potential scope of JBMS was effectively broadened by the amalgamation of MAF with the functions of the New Zealand Food Safety Authority (NZFSA) in 2010 and the Ministry of Fisheries in 2011.

44 Border-related functions for the new Ministry for Primary Industries are broader than for MAF, and now include the import and export of food and related products, and agricultural compounds and veterinary. An assessment of Ministry of Fisheries' legislation indicated very few equivalent functions since fisheries-related imports and exports already come under ex-NZFSA legislation (e.g. Animal Products Act 1999 for fish exports).

45 A review of the legislation for Customs and MPI border-related functions was undertaken. This concluded that, overall, the seven Customs transaction fees and the MPI biosecurity levy remained the most appropriate cost recovery mechanisms to use based on the cost recovery principles of:

- **Authority** – the legal authority to charge a fee for the services that a public entity is legally obliged to provide to third parties
- **Efficiency** – providing the service to a reasonable levy of quality from a given quantity of resource and thereby achieving value for money
- **Accountability** – ensuring the processes for identifying costs and fees are transparent.

46 The review concluded that, for Customs, the authority to charge for border services is given in the Customs and Excise Act 1996. The seven transaction fees, under the Customs and Excise Regulations 1996, are made to support the border processing functions. The fees are suitable fee mechanisms to use for fixed and variable costs associated with each transaction.

47 The import entry transaction fee (IETF) is generally paid for import entries made for consignments of goods valued at $400 or more, for which GST is payable. An export entry transaction fee is paid on commercial export goods, with different fee rates depending on whether the exporter is a member of the Customs Secure Export Scheme (SES) or not. Carriers of goods also pay fees for the lodgement of 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 sent by air or sea.

48 Other current cost recovery mechanisms in the Customs and Excise Regulations were less suitable for applying Tranche 1 costs, since hourly rates are only charged for time worked outside normal working hours (which can be 24/7 for some airports) and licence fees only relate to Customs-controlled areas.

49 The Biosecurity Act 1993 provides the authority to set fees, charges and levies for the provision of biosecurity services at the border. The Biosecurity (System Entry Levy) Order 2010 was made to cover the fixed costs of primary and some secondary screening; from April 2013 these services will be provided by a mix of the existing border system and JBMS Tranche 1.

50 The biosecurity levy is charged on imported goods that are also subject to payment of the IETF. Importers are invoiced for both the fee and levy by Customs, with the levy component passed onto MPI. In 2009, MPI signalled to stakeholders that the biosecurity levy would be increased to recover Tranche 1 and Tranche 2 costs as these tranches were implemented.

51 Since Tranche 1 costs are primarily fixed costs, the levy is more appropriate to apply the fixed costs of JBMS infrastructure across all users of the system. The alternative of using other transaction fees, as set out in the Biosecurity (Costs) Regulations 2010, would only target costs to those with risk goods who require further interventions, such as physical inspections. It would not meet the criteria of accountability to impose all these costs only on those who import known risk goods, when all goods are screened for risk.

Other cost recovery mechanisms for food-related functions

52 Other cost recovery mechanisms enabled from ex-NZFSA administered legislation were reviewed. The review concluded that, while the Wine Act 2003, the Animal Products Act 1999, the Agriculture and Veterinary Medicines Act 1997, and the Food Act 1981 could provide legislative authority for recovering some costs from food-related stakeholders, new cost recovery mechanisms would most likely be needed. This would require a comprehensive review of multiple Acts, along with consultation, which would be impractical within the time frames available before Tranche 1 is delivered in April 2013. It would not be efficient since new cost recovery mechanisms may be needed (with associated costs of collection) and it would be difficult to transparently account for costs at the level of differentiation provided for in the regulations.

53 Furthermore, since food importers pay the IETF and the MPI biosecurity levy, and food exporters pay Customs export entry transaction fees, they would either pay twice for JBMS functions, or a differentiated fee system would be needed. Fee Option 4 also tested whether submitters were interested in including JBMS in food-related fees (see section 84) and there was no support for this option.

Top-up existing fees rather than introduce new fees?

54 A top-up approach for existing fees is preferred over introducing new fees because:

- it is consistent with the initial consultation with industry in 2009 on JBMS costs
- the costs of collection of the additional cost recovery is minimal as the same parties will pay the same fees, but at higher rates
- those paying the fees now can easily assess (and pass on as appropriate) the impact of the fee increases
- the Customs transaction fees and MPI biosecurity levy are fit for purpose for including JBMS costs. These fees cover the largely fixed costs of delivering customs and biosecurity services. Information on all cargo transactions, whether of customs and/or biosecurity interest or not, must be lodged with the agencies and assessed to determine whether further intervention is needed before clearance. These are all functions that are supported by Tranche 1
- further changes to the cost recovery mechanisms of MPI in particular are likely within a few years.

55 Introducing new fees for the new Tranche 1 functionality that is created was considered. These could include fees for parties to register on JBMS and for the lodgement of new messages for advanced notices of arrival and departure of craft, and for the processing of transhipment requests (permitting movement of uncleared cargo). Such fees would, however, encourage people to delay adopting the new JBMS functions. There is also no reliable basis for estimating the volume and costs of these new lodgements to consider appropriate new charges as yet. The use of such types of charging is a matter more appropriately considered once the system is implemented.

56 During public consultation, Customs and MPI tested the question as to whether a top-up to the existing fees was preferred over introducing new fees. Thirteen of the 14 submitters who responded to this question considered a top-up was reasonable and pragmatic. The submitter who didn't support this option, wanted the JBMS costs and the current costs separately itemised out within the invoice for each transaction.

Stage 2: cost recovery parameters

57 The analysis then considered a number of parameters for the calculating of JBMS Tranche 1 costs against the Customs transaction fees and the MPI biosecurity levy. These parameters influence the amount of costs to be recovered and therefore the rates that need to be set irrespective of the fee option chosen.

No increases to current cost recovery, except for JBMS increases

58 Other than JBMS costs, no other changes are proposed to the current annual cost recovery revenue budgets for the transaction fees and the biosecurity levy. The Chief Finance Officers of Customs and MPI agree that the current budgets, excluding the new JBMS costs, are adequate. Other cost increases since the Customs transaction fee budgets were set in 2007/08 and the MPI biosecurity levy budget was set in 2009/10 have been absorbed. This reduces the overall impact of cost recovery. A further benefit is that the JBMS cost increases will be transparent. This parameter was not quantified further in the analysis.

Allocation of JBMS costs based on functionality in Tranche 1

59 The cost recovery proposal allocates Tranche 1 costs in accordance with the new functionality created in Tranche 1. This is based on an assessment of the costs to build specific functionality, the allocation of that functionality between Customs and MPI based on system usage, and the allocation of these shares of costs to industry and the Crown under existing cost recovery policy settings.

60 In addition to the shared costs of JBMS, MPI needs to make a further investment of $6.67 million in capital (see Table 3) and $12.04 million in operating costs for additional risk and intelligence functions. This is an MPI-only cost and is allocated at 50% to industry for craft and cargo functions and 50% to the Crown for passenger functions.

61 Customs and MPI consider that the cost allocation is fair and consistent with the Treasury and Auditor-General guidelines for cost recovery. The costs of the functionality created in Tranche 1 are allocated to those that receive benefit or require the provision of these services. Current cargo and craft services provided by Customs and MPI are largely cost-recovered under existing policy settings and the JBMS costs for cargo and craft functions should be cost-recovered in the same way.

62 Customs allocates 78% of its recoverable costs to import functions and 22% to export functions. Customs reviewed whether this allocation was also appropriate for allocating Tranche 1 costs. During the cost recovery consultation process some parties considered that the allocation to imports should be higher because all importers achieve full Trade Single Window functionality in Tranche 1 and food exporters do not. This is because modifications must first be made to align JBMS with MPI's animal product electronic certification system (AP-ECert). Full Trade Single Window for food exporters is scheduled for delivery in early 2014.

63 Feedback from some industry stakeholders, however, acknowledges Customs' and MPI's view that exporters would still receive a benefit from Tranche 1. The infrastructure funded in Tranche 1 enables all import and export functions, including the food-related enhancements, to be included as part of JBMS. In addition, exporters can benefit from the new online registration facility; connection options; bulk updating of ship port calls to enable timely loading authorisations to port companies; the enhanced intelligence analysis and risk targeting capability; and the potential for data exchange with other countries.

64 It is therefore equitable for exporters to pay for a share of Tranche 1. This view is consistent with the findings of the New Zealand Productivity Commission in its review of the international freight sector[4] stating that importers should pay a share of the costs of JBMS as 'risk exacerbators', and exporters and the Crown should pay as 'beneficiaries'.

65 A differential fee for food-related exporters, until all the food-related export functions were delivered, was considered impractical because the fees would only apply for 20 months and the difference in the fee rates would be small.

66 Table 4 outlines the current costs recovered from the Customs import transaction fees, the Customs export transaction fees and the MPI biosecurity levy and the impact of the Tranche 1 costs allocated against each of these areas. This is based on an initial 3.25-year cost recovery period, a 2 April 2013 start date, and the allocation of costs as proposed in the JBMS Stage 2 Business Case. These parameters are applied to all the subsequent fee options in the cost recovery analysis. The table also shows the Crown appropriation for Tranche 1. During the initial cost recovery period industry will meet $46.4 million (48.2%) of the costs of Tranche 1.

Table 4: Current Cost Recovery and JBMS Tranche 1 cost allocation

$000 (GST excl)	Current Budget per annum	JBMS Tranche 1 costs to 30 June 2016					
		2009/10 to 2012/13 *	2013/14	2014/15	2015/16	Total costs	Average in outyears
Customs Imports transaction fees	29,279	1,401	6,377	6,849	6,173	**20,800**	5,417
Customs Exports transaction fees	8,416	395	1,799	1,932	1,741	**5,867**	1,528
MPI Biosecurity levy	13,500	1,376	6,002	6,352	6,003	**19,733**	5,311
Total cost recovery for fees/levy	**51,195**	**3,172**	**14,178**	**15,133**	**13,917**	**46,400**	**12,256**
Crown Appropriation for Tranche 1		15,627	11,184	12,079	10,946	**49,836**	9,383

* industry cost recovery covers only the last quarter of 2012/13 from implementation date 2 April 2013

67 A review of the allocation model indicated that it was reasonable to continue on this basis. No further analysis of the cost allocation was undertaken, but the allocations will be further reviewed as part of the Tranche 2 business case as new functionality is determined.

A start date of 2 April 2013 for all fee increases

68 A start date for cost recovery and fee increases of 2 April 2013 (the scheduled implementation date for JBMS Tranche 1, given that 1 April 2013 is Easter Monday and not a business day) is proposed to apply to all participants whether or not they adopt the new lodgement messages or other new facilities from that date.

4 Report on International Freight Services, New Zealand Productivity Commission, April 2012, http://www.productivity.govt.nz/inquiry-content/1508?stage=4

69 Alternatives to a 2 April 2013 start-date were:

- **1 July 2012** – this would mean that industry would pay costs up front before JBMS functions are delivered to them although this was the original start date.
- **1 July 2013** – this would result in around $3.2 million of expenditure for which there is no Crown appropriation. The only benefit of this approach would be to align cost recovery to the biosecurity levy definition of a "levy year".
- **October 2014** – when the 18-month transition period for industry to adopt the new requirements of JBMS ends, after which it will be fully mandatory. Since JBMS would be fully operational during this period, this would result in approximately $21 million expenditure for which there is no Crown appropriation.

70 Another option would be to apply a differential fee so the parties would pay fee increases associated with Tranche 1 only when they adopt the new requirements during the transition period.

71 None of these options was considered justifiable or equitable as they will create an initial funding shortfall that would require Customs and MPI to go into deficit. Differential fees would penalise early adopters, who would pay all the industry's share of Tranche 1 costs (including capital costs), and delay uptake and benefit realisation of JBMS.

An initial cost recovery period of 3.25 years

72 Costs to be recovered are calculated over an initial cost recovery period of 3.25 years (2 April 2013 to 30 June 2016). This period of cost recovery:

- is consistent with the three-year cost recovery period recommended by the Treasury in its cost recovery guidelines
- realigns the cost recovery period back to the government financial year
- reflects that further cost recovery required, if Tranche 2 is approved, is likely to be implemented in 2016. The next period of cost recovery can therefore take into account the overall net costs of Tranche 1 and 2
- also reflects that Customs and MPI are likely to undertake wider reviews of their cost recovery mechanisms in the next few years. The amalgamation of three agencies to form MPI has brought together different cost recovery frameworks that need to be aligned. This wider cost recovery review was another reason why introducing new fees was considered inappropriate for Tranche 1.

73 Customs and MPI intend that the fees to be charged to recover the remaining Tranche 1 costs following this period will be determined by how the operating costs and transaction volumes for Tranche 1 are tracking, any further development of the system (including Tranche 2) and a wider review of cost recovery policy to be undertaken by Customs and MPI.

74 An alternative option would be to set fees based on the costs of Tranche 1 over 8.25 years (the full life-cycle of Tranche 1 from implementation of the system on 2 April 2013 to 30 June 2021). This would reduce the initial fee increases for Customs import fees by $0.48, Customs export fees by $0.22 and the MPI biosecurity levy by $0.56 respectively. This is because there are higher initial costs for outsourcing system support and maintenance until these functions are brought in-house by Customs during 2015/16.

75 Fees based on an 8.25-year period would not be as equitable as a 3.25-year period. Parties in the first three years would pay less than their actual costs, while parties in the out-years would effectively cross-subsidise the difference and could face other cost increases. The longer the period of initial cost recovery the more likely that transaction volumes for each fee will be over- or under-estimated and this could lead to significant over- or under-cost recovery. Another benefit of the 3.25-year approach is that the net impact of Tranche 2 cost recovery increases from 2016 is reduced as the Tranche 1 component of costs is lower in outyears.

Assumptions around transaction volumes

76 The fee and levy rates are based on the costs to be recovered from that fee divided by the number of expected transactions incurring that fee. The volumes for the biosecurity levy are based on the number of import entry transaction fees as the levy is charged whenever the IETF is charged. Both the IETF and levy are invoiced and paid together.

77 The transaction volumes underpinning each fee were reviewed for the cost recovery proposal. There has been a significant change in transaction volumes since they were last estimated in 2007 and these affect each fee differently. Factors include the global financial crisis, consolidation of cargo reports[5], and changes in purchasing behaviour, including increased online purchasing of goods.

78 Three scenarios were developed ("likely", "prudent" and "optimistic"). The proposed fees used the "likely" transaction volume scenario, while the prudent and optimistic scenarios were used to set a range for each fee in the discussion document.

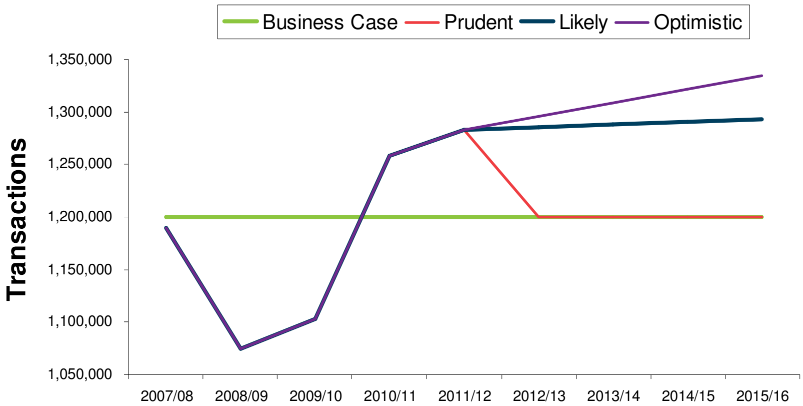
79 For example, the current IETF is based on 1.2 million annual transactions. In 2008/09 there were 1.05 million transactions. The number of transactions increased to 1.26 million in 2010/11 as a result of a partial economic recovery and the removal of exemptions from payment of GST and the IETF for some goods valued $400 to $1,000. There were 212,000 consignments of low-value goods ($400 to $1,000) paying the IETF in 2011. The IETF transaction volume scenarios used were:

- Likely – 1.27 million transactions as the 2011/12 base and 0.2% increase per annum. The 0.2% increase is based on correlation (r>0.9) between IETF transaction volumes and the trade weighted index (Source: Reserve Bank, 2011)
- Prudent – 1.2 million transactions per annum (the volume used to set the current fee)
- Optimistic – 1% increase in transactions per annum.

Figure 1 on page 14 shows how these three scenarios compare with the volume used for the JBMS business case to estimate fee increases and actual volumes to 2011/12.

5 A single vessel or aircraft may be covered by several cargo reports from different parties, such as slot charterers, with each paying a fee for lodgement with Customs. Some of these cargo reports are now being combined before being lodged with Customs, reducing the total number of cargo reports received and cost-recovered.

Figure 1: IETF Transaction Volumes



80 All nine of the submitters who commented on the transaction volumes, during public consultation on the proposal, agreed with the proposed "likely" transaction scenario. The other nine submitters made no comment on transaction volumes. Some submitters also suggested that export entries volumes would be slightly higher than the likely scenario estimated. As a result of this feedback, the likely transaction scenario was updated to include higher transaction volumes for the export entry transaction fee (SES).

81 Volume-based adjustments need to be made to the fees irrespective of the final fee option for adding the JBMS costs. This ensures that the costs associated with each fee are recovered via that fee. Where the number of transactions has increased, the fee can be reduced, and where the number of transactions has decreased, the fee should be increased, before JBMS costs are added. The 2009 fee estimates used in the JBMS Stage 2 Business Case were based on the transaction volumes used to set the current fees in 2007/08.

Summary of parameters against criteria

82 Table 5 outlines the summary of each of the parameters considered in Stage 1 and Stage 2 against the criteria of:

- **Equity** – means that funding for a particular function, power, or service, or a particular class of functions, powers, or services, should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant function, power, or service at a level commensurate with their use or benefit from the function, power, or service

- **Efficiency** – means that costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost

- **Justifiability** – means that costs should be collected only to meet the reasonable costs (including indirect costs) for the provision or exercise of the relevant function, power, or service

- **Transparency** – means that costs should be identified and allocated as closely as practicable in relation to tangible service provision for the recovery period in which the service is provided.

Table 5: Stage 1 and 2 options analysis of parameters

Criteria	Equity	Efficiency	Justifiability	Transparency	Overall
1. Existing or new fee mechanisms					
• Use current fees	Yes - JBMS costs applied to users	Yes - minimal compliance cost	Yes - costs applied relate to function	Yes – each party can evaluate own costs	Preferred
• Create new fees	Less – winners and losers; time constraints	No – may only be in place a few years; lacks certainty	Yes – may require more complex fee structure with new collection costs	Less – hard to compare with existing charges	
2. Start date for cost recovery					
• All fees increase from 'go-live' date 2 April 2013	Yes – all users gain some benefit and service options are increased	Yes – simple to administer	Yes – actual costs for running system from this date irrespective of user numbers	Yes – costs can be allocated reflecting benefits and/or functionality created	Preferred
• 1 July 2012 (original start date)	No – there are no new functions delivered yet	No	No – industry receives no functions on this date	Yes – but less transparent as to user costs	
• 1 July 2013	No – a shortfall of $3.2 million	Yes – requires no change to MPI levy Order	No – systems are available to industry to use prior to July	Yes – less transparent as to user costs	
• October 2014 (defer until end of 18-month transition)	No – Government must continue to fund with a shortfall of $21 million	No – defers efficiency gains	No – actual running costs start on 'go-live' date	Yes – although industry will have to pay higher fees later	
• Apply JBMS fee increases as businesses adopt JBMS until mandatory October 2014	No – early adopters pay all costs; incentives to delay adoption	No – costs are not efficiently allocated and costs of collection would increase	No – costs for running parallel systems would have to apply across all parties	No – costs of maintaining two systems would need to be allocated	
3. Cost recovery period					
• 3.25 years	Yes	Yes – need to review every 3 years in any case	Yes – reflects actual costs during period	Yes – volumes easier to forecast	Preferred
• 8.25 years (life cycle)	No – penalises users in out years who pay more than actual cost	No – in early years users are not paying minimum cost	No – overcharging in outyears to recover early deficits	No – can over or underestimated volumes	
4. Transaction volumes					
• Status quo (current volumes)	No – cross-subsidisation can occur	No – costs for services not allocated appropriately	No – doesn't fairly allocate costs for each function	Yes	
• "Optimistic" volumes	No – Govt bears most of risk if volumes less	Yes	Yes – although likely to lead to deficits	Yes	
• "Likely" volumes	Yes – risks of over- and under-recovery still occur	Yes	Yes – most likely to recover particular service costs from users of that service	Yes	Preferred
• "Prudent" volumes	No – users likely to pay more than the cost of service	Yes	Yes – although likely to lead to over-recovery	Yes	

83 In summary, the following parameters best meet the criteria:

- A top-up of the seven Customs transaction fees and the MPI biosecurity levy rather than creating new fees (including new fees under food-related legislation)
- All new fees start on the implementation date for delivering Tranche 1 functions, when parties can start to use that new function and gain benefits, irrespective of when the individuals parties adopt that functionality during the transition period
- A cost recovery period based of 3.25 years on all costs applied to industry from 2 April 2013 to 30 June 2016
- Using "likely" transaction volumes for estimating all fees.

Stage 3: development of fee options

84 The following fee options were considered:

Status quo - no increase in cost recovery for JBMS
Customs and MPI would have to make commensurate savings in the order of $26.7 million and $19.7 million respectively over the first period of cost recovery (around 22% of current cost recovery for Customs and biosecurity border activity). This is not feasible as it would compromise the delivery of services and management of border risks. Both agencies also have an obligation to cost-recover for services provided where there is insufficient Crown funding appropriated for this purpose. This option was not explored further in the analysis.

Option 1 – top-ups to the IETF and the biosecurity levy only
All the cost increases for JBMS would be met by importers via their import entries.

Option 2 – flat fee top-ups to the seven Customs transaction fees and the biosecurity levy
The costs allocated to Customs imports over 3.25 years ($20.80 million) is divided into the total estimated transaction volumes for all three Customs transaction fees over that period to create a flat fee to be applied to all the import fees. Likewise the Customs export allocation ($5.88 million) results in a flat fee top-up to the four export transaction fees and the costs allocated to MPI ($19.73 million) results in a top-up to the biosecurity levy.

Option 3 – percentage fee top-ups to the seven Customs transaction fees and the biosecurity levy
As for Option 2, but the Customs transaction fees would be increased by the%age increase required to recover the JBMS costs allocated to Customs import and Customs export fees. Fees set at a higher current rate would therefore have a larger fee increase.

Option 4 – flat fee top-ups to the Customs and biosecurity transaction fees (Option 2) and to food-related cost recovery mechanisms
By including some JBMS costs in food-related cost recovery, the Customs transaction fees and biosecurity levy would decrease slightly. This option was considered inequitable and premature, as the food sectors would not receive specific benefits in Tranche 1 over other importers and exporters and would be paying Customs export transaction fee increases (possible double-charging). This option was therefore not further explored in the analysis.

Analysis of fee options

85 Table 6 outlines the estimated fee increases for the three options analysed, based on the assumptions of a cost recovery period of 2 April 2013 to 30 June 2016, increasing costs to be recovered by JBMS Tranche 1 costs only, and adjusting for transaction volumes under a 'likely' scenario. Note that the biosecurity levy remains the same under Options 1, 2 and 3 because MPI uses only one cost recovery mechanism for Tranche 1.

86 For all options the 'Adjust for "likely" volumes' reflects adjustments to the current fee/levy arising from changes to the volume of transactions for that fee since the fee was last set. For example, the IETF fee of $22.00 set in 2008 and based on 1.2 million transactions reduces to $20.67 because the actual number of transactions has increased.

Table 6: New proposed fees and comparison with the fee increases proposed in 2009

Fee $GST excl	Current fee	Adjust for 'likely' volumes	Option 1: top-up IETF + biosecurity levy	Option 2: flat fee top-up all	Option 3: % fee top-up all	*Compare 2009 estimate in business case*
Import entry transaction fee (IETF)	22.00	20.68	27.10	25.44	25.20	*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	358.44	358.50	363.27	436.88	*316.79*
Export entry transaction fee (secure export scheme)	8.89	7.91	7.91	10.44	9.60	*11.49*
Export entry transaction fee (non-SES)	12.67	13.07	13.07	15.60	15.87	*15.27*
Outward cargo transaction fee (air)	6.67	7.48	7.48	10.01	9.08	*9.27*
Outward cargo transaction fee (sea)	20.00	22.54	22.54	25.07	27.36	*22.60*
Biosecurity levy	11.11	10.57	15.33	15.33	15.33	*15.41*

87 Most of the fees cover fixed costs and automated processing so the cost for providing the services does not materially increase or decrease as volumes change. The highest volume-related fee increase is for the inward cargo transaction fee (sea). Of the increase for Option 2, $45.61 can be attributed to a fall in volumes from 4,600 to around 4,200 (almost 9%) to meet $1.44 million of cost recovery. The inward cargo report, however, usually covers hundreds of lines of cargo, and the carrier who pays the fee can pass the costs onto importers for a few cents per consignment through increased freight costs.

88 There are no appreciable environmental or cultural costs from any of the proposed options. Because top-ups to the existing fees are proposed there is no additional administrative cost associated with the collection of the fees over current state. The MPI biosecurity levy is the same for all options (one budget, one fee mechanism).

89 Table 7a to 7f summarises the comparative impacts of the proposed changes to the cost recovery under Options 1, 2 and 3.

90 In Option 1 all Customs cost recovery is imposed on importers including the costs allocated to exporters (Table 7a). The overall increase in fees to meet JBMS costs is around 21% for Customs import fees, 22% for Customs export fees and 43% for the biosecurity levy.

Table 7a: Share of increased cost recovery for Options 1, 2 and 3

Estimated impacts (GST excl)	OPTION 1	OPTION 2	OPTION 3
Imports cost recovery increase	$46.4 million	$40.5 million	$40.5 million
Share of cost recovery increase as a percentage	100%	87%	87%
Export cost recovery increase	-	$5.9 million	$5.9 million
Share of cost recovery increase as a percentage		13%	13%

91 In 2009 the proposed impact of Tranche 1 on the costs import entries paid by importers (i.e. the IETF and the biosecurity levy) was estimated at a 30% increase in fees from $33.11 to $41.41. Option 2 and 3 are lower than this estimated fee in 2009 (Table 7b). The high number of IETF transactions is, however, mitigating some of the impact of the JBMS costs. As Table 6 demonstrates for Option 2, the JBMS cost increase without adjusting for transaction volumes would have been around $4.76 for the IETF and $4.76 for the biosecurity levy (total increased of $9.52) representing a 29% increase on the current combined fee of $33.11. By adjusting for transaction volumes, the combined fee can be reduced by $1.86 before the JBMS costs are added.

Table 7b: Impact of increased cost recovery for Options 1, 2 and 3 on import entry fees

Estimated impacts (GST excl)	OPTION 1	OPTION 2	OPTION 3
New combined cost of import entries	$42.43	$40.77	$40.52
Net increase in fee	$9.32	$7.66	$7.41
Net increase as a percentage	28%	23%	22%

92 Based on transactions per client in 2011, the impact per client of the new cost recovery fees for import entries would be as set out in Table 7c. For example, around 3,500 clients lodged between 21 and 50 import entries in 2011. If Option 2 is adopted, they individually face cost increases of between $160.86 and $383.00 per annum based on 2011 volumes.

93 A large number of clients (24,040) made only one transaction that was eligible for transaction fees in 2011. The individual fee increases will not have a high overall impact for these clients. It is expected, however, that this group will continue to grow as a result of greater use of internet purchasing. This is a group that targeted communications to improve awareness of the Customs and biosecurity charges to support purchasing decisions would be useful as many may make purchases unaware of the border charges until the goods are landed in New Zealand and it is impractical to return them. Customs Corporate Communications is addressing this need.

94 There are relatively few clients that have more than 500 transactions per year. The highest estimated number of transaction was 7,918 in 2011, equating to a maximum fee increase of $73,796 under Option 1.

Table 7c: Impact of increased cost recovery for Options 1, 2 and 3 on import fees by client transaction volumes in 2011

Estimated impacts (GST excl)			OPTION 1	OPTION 2	OPTION 3
Number of transactions	Number of Clients	Cargo by value ($)	Fee increase ($)	Fee increase ($)	Fee increase ($)
1 only	24,040	425,890,322	9.32	7.66	7.41
2 to 10	17,693	1,441,480,994	18.64 – 93.20	15.32 – 76.60	14.82 – 74.10
11 to 20	3,528	952,625,238	102.52 – 186.40	84.26 – 153.20	81.51 – 148.20
21 to 50	3,470	10,054,002,112	195.72 – 466.00	160.86 – 383.00	155.61 – 370.50
51 to 100	1,759	3,949,601,378	475.32 – 932.00	390.66 – 766.00	377.91 – 741.00
101 to 500	1,849	14,611,786,663	941.32 – 4,660	774 – 3,830	748 – 3,705
>500 – 7,918	354	23,346,546,045	4,669 – 73,796	3,830 – 60,651	3,712 – 58,672

95 Two types of fees are paid by exporters, a lower fee paid by members of the Customs Secure Export Scheme (SES) of $8.89 and a higher fee paid by those who are not in the scheme of $12.67. Under all options, the fee increase for the SES is lower than that for non-SES clients (Table 7d). This could incentive more clients to move to the scheme if the cost increases outweighed the higher security costs incurred by SES members.

96 The adjustment for transaction volumes impacts on the JBMS-related fee increase. Under Option 1, a volume-only adjustment would result in export fees for SES clients would actually reduce by 11% from $8.89 to $7.91 because the volumes underpinning this transaction have increased from around 83,000 transactions to an estimated 93,000 per annum. The non-SES fees would have to increase by $0.41 because the volumes have decreased from 445,000 in 2007/08 to around 432,000 in 2011/12.

Table 7d: Impact of increased cost recovery for Options 1, 2 and 3 on export entry fees

Estimated impacts (GST excl)	OPTION 1	OPTION 2	OPTION 3
Cost of export entries (secure export scheme)	$7.91	$10.44	$9.60
Net increase for export entries (SES)	$(0.98)	$1.55	$0.71
As a percentage of current fee	-11%	17.4%	8%
Cost of export entries (non-SES)	13.07	15.60	15.87
Net increase for export entries (non-SES)	$0.41	$2.93	$3.20
As a percentage of current fee	3%	23%	25%

97 Carriers pay for the lodgement of inward and outward cargo reports whether the goods arrive by air or sea. Different fees are charged for each type of report lodged. The current fees are set out in Table 6. Carriers pay a relatively low component of the JBMS costs (0% in Option 1, 2% in Option 2 and 2.6% in Option 3). This compares to a view expressed by four submitters that carriers should bear no JBMS costs. It is the change in transaction volumes that creates the biggest impacts for this group of stakeholders.

Table 7e: Impact of increased cost recovery for Options 1, 2 and 3 on carrier charges (by air and sea)

Estimated impacts (GST excl)	OPTION 1	OPTION 2	OPTION 3
Inward cargo transaction fees			
JBMS cost impact (3.25 year total)	-	$834,320	$1,837,709
JBMS cost impact per annum	-	$256,713	$565,449
Outward cargo transaction fees			
JBMS cost impact over (3.25 year total)	-	$2,265,571	$2,147,175
JBMS cost impact per annum	-	$697,099	$660,669
Total Impact on carriers per annum	**-**	**$953,812**	**$1,226,118**
Compare with JBMS industry costs of $46.4 million	0%	2%	2.6%

98 Based on transactions per client over 2011, and applying the new proposed fees under each option, the top 30 payers of the Customs and MPI fees are shown in Table 7f. Note that for Option 1, the top 30 payers are all importers, while for Options 2 and 3 it is a mix of importers and exporters (but the same clients under both options). Many importers are also exporters, for example airlines and whiteware manufacturers, and therefore will pay for inwards and outwards entries.

99 While these clients pay around a $1 million of fees in all options, this is still a small component of cargo by value and as a proportion of the total JBMS cost of $46.4 million. It is unlikely that these cost increases will result in these participants no longer trading. It could lead, however, to some parties consolidating their consignments to reduce fees, if the additional work to do so offsets the marginal fee increase.

Table 7f: Impact of increased cost recovery for Options 1, 2 and 3 on top payers of the fees

Estimated impacts (GST excl)	OPTION 1	OPTION 2	OPTION 3
Aggregate increase in cost recovery	$1.06 million	$0.998 million	$0.950 million
Average fee increase per client	$35,336	$33,266	$31,666
Total transactions	113,687	192,768	192,768
Total cargo (by value)	$11 billion	$32.6 billion	$32.6 billion
Total cost recovery charges including JBMS paid	$5.35 million	$5.909 million	$5.861 million
Cost recovery as a proportion of cargo value	0.047%	0.018%	0.018%

Impacts of Option 1

100 In Option 1 the full impact of JBMS cost recovery falls on importers, i.e. $46.4 million over 3.25 years (around $14.3 million per annum) or 48.2% of JBMS Tranche 1 costs (Table 7a). Importers would pay an estimated $42.43 per import consignment (an increase of $9.32 or 28%) via the IETF and biosecurity levy (Table 7b). By adjusting fees for transaction volumes only and applying no JBMS costs, the export entry transaction fee (SES) actually falls by 11%, while the non-SES fee increases by 3% (Table 7d).

101 Most of the top 30 importers by consignment volume are companies importing electronics and computers, mixed consumer merchandise, and aircraft parts. The total new fees of $5.35 million paid by these parties equates to around 0.047% of related cargo value ($11 billion). The maximum increase paid by one importer is estimated at $73,796 based on 7,918 transactions in 2011 (Table 7f).

102 Parties importing low-value goods, where the value of the goods and freight is $400 or more, must also pay the GST and the import entry charges (IETF and biosecurity levy) when the goods are imported. Examples of this would be the purchase of clothing from an Australian distributer or books from an online retailer in the United States. Before the Customs and Excise Regulations 1996 led to some exemptions being removed in 2010, the low-value threshold was set at $1,000. Around 212,000 of the import entry transactions in 2011 were for goods valued between $400 and $1,000.

103 The proposal (for all fee options) has the most significant impact on purchasers of goods for private consumption, where the value of the goods is low and they cannot claim back the GST on the goods or the fees. Under all the options the fee increases for clients importing goods valued at $400 are respectively 2.3%, 1.5% and 1.9% of goods value. However, most international internet purchases are made by people due to the significantly lower prices they can obtain for these products, even with freight and border costs. The total cost of their purchase will usually be lower than if they purchased the equivalent products in New Zealand. Many also purchase overseas because they cannot find the specific goods they need in the time they want. Such purchases, however, still incur work for Customs and MPI and it is considered fair that they share in the cost of JBMS.

104 There is nothing, however, to prevent importers of low-value goods splitting their purchases in some circumstances to reduce individual import values to less than $400. In doing so they avoid paying GST and import fees in many cases although their freight costs would likely increase. Splitting of their purchases would, however, result in more consignments that will need to be managed by Customs and MPI.

105 Another option, to explore reducing the de minimis threshold of $60 GST for low-value goods (i.e. reducing the value of goods at which GST is payable to a figure less than $400), was not considered in this analysis. Commercial importers, who generally have to pay the fees and GST, favour this approach as being more equitable. It could be considered in a wider review of cost recovery where automation of clearances and functions supporting online payment of fees could further reduce the costs of collection. The de minimis was reduced in 2010. The Minister of Customs has requested a further review of the de minimis level following implementation of JBMS. Customs has started scoping this review.

106 Four submitters supported Option 1, of which two were exporters and two expressed a further preference that no fee increases should be applied to carriers for inward and outward cargo reports. Carriers argued that, as agents, they were acting on behalf of importers and exporters and did not contribute to risks. However, under Options 2 and 3 the carriers only pay 2% and 2.6% of JBMS costs respectively. Specific functionality has to be created in Tranche 1 to process the reports that they submit to Customs, although in Tranche 1 it is proposed that they do not meet the costs of advanced notices of arrival and departure and transhipment requests, which they lodge with Customs, as this would require new fees to be created.

107 The two exporters who supported Option 1, cited affordability (including exchange rate) and a preference not to pay fees. However, compared with the value of their goods, many exporters pay very low charges, and overall are only required to meet around 13% of the costs allocated to industry in Tranche 1 (6% of total Tranche 1 costs).

Impacts of Option 2

108 Under Option 2 all importers, exporters and carriers pay a share of the costs of JBMS Tranche 1. Export fees recover 6.1% of the total costs of JBMS Tranche 1 and import fees recover 42.1% of the costs (Table 7a). Importers pay $1.66 less under this option compared with Option 1 but still pay the majority of the fees under this option (Table 7b).

109 In combination with the volumes adjustment, fees increase by between 3% and 50%, depending on the fee, under this option (Table 6). The highest fee increase (for the outward cargo report by air) relates to an increase from a relatively small current fee of $6.67 to $7.48 due to falling transaction volumes with a $2.56 top-up for JBMS costs (and a net increase of $3.36 on a relatively small base fee of $6.67).

110 Ten submitters supported Option 2, including 3 exporters who acknowledged that exporters would derive some benefit from Tranche 1.

Impacts of Option 3

111 The costs of JBMS will fall across the import sector and export sector under this option in the same proportions as for Option 2. Importers, through the IETF and biosecurity levy, will still pay the majority of the JBMS costs under this option (Table 7b), but they will pay $1.91 per transaction less than under Option 2 (or $2.4 million less per annum).

112 In combination with the volumes adjustment, fees increases are between 4 and 40%, depending on the fee, under this option (Table 6). But carriers, who pay higher fees now for the processing of their cargo reports, will bear a proportionately higher share of the JBMS costs.

113 Four of the 18 submitters preferred Option 3 as they considered the costs were more transparent. They assumed that the spread of the current fees equates to the increased functionality provided by JBMS. This would imply that the inward cargo report (sea) incurs 17 times more costs to process than an import entry. This is not, however, the case. The costs of the new functions in JBMS are not directly comparable to the share of current costs of processing cargo reports and entries in Customs.

114 Two further options were suggested by submitters:

- Option A: A single fee increase irrespective of transaction type
- Option B: Applying the JBMS fee increase to import and export entries only and not to cargo report fees.

115 Both options would require a further round of consultation with stakeholders and are unlikely to be acceptable to other stakeholders.

116 Option A was put forward by one submitter on the basis that this would be simpler to communicate and administer. If this option were to be adopted, all fees would be around $19.68. Importers would be faced with two fees – one for the IETF and one for the biosecurity entry levy. This would be an overall fee of $39.36 (slightly less than proposed in Options 1, 2 and 3). Exporters would, however, pay significantly more of the total cost recovery and MPI would over-recover under this option. Furthermore this option would not reflect the estimated costs for each type of activity, which is the main reason for the different fees and is therefore not considered equitable.

117 Option B was put forward by four submitters (all carriers) on the basis that, as carriers are only acting as the agents of importers and exporters, they should not be paying fees. This option would increase the JBMS top-up to the IETF to $5.09 (cf $4.77 under Option 2) and the export entries by $3.47 per transaction (cf $2.56 under Option 2). The fees would still need to be adjusted by volume transaction changes. Imports and exporters would cross-subsidise the carriers for the functionality developed to process inward and outward cargo reports and craft information. As the parties required to provide this information (carriers) can be clearly identified and the costs for providing this service can be estimated, this is not considered consistent with cost recovery guidelines.

Summary of fee options against criteria

118 Table 8 outlines the summary of each of the fee options considered in Stage 3 against the criteria of equity, efficiency, justifiability and transparency.

Table 8: Comparison of fee options against criteria

Criteria	Equity	Efficiency	Justifiability	Transparency	Overall
Status Quo (no fee increases)	No – Government pays for all new functionality when users of that service can be identified	Yes	No	No	Not feasible creates a $46.4 m shortfall
Option 1: top-up IETF and biosecurity levy only	No – exporters get functionality, but importers pay all costs	Yes – only two fees affected	No – importers cross subsidise export by an estimated $5.9 million	No – not charging who requires the service	
Option 2: flat fee top-up to all fees	Yes- more equitable	Yes	Yes	Yes	Preferred
Option 3 – proportionate fee top-up to all fees	No – those paying higher fees pay more for JBMS functions	Yes	Yes	Yes	
Option 4 – Option 2 and food-related fee increases	No – food sectors don't receive specific Tranche 1 functions	No – complex cost recovery and possible new fees		No – double charging food stakeholders	
Option A - Single fee increase	No – exporters cross subsidise importers	No – would require further consultation	No – differential fees reflect actual costs	No	
Option B – Entry fees only	No – carriers require functionality in JBMS	Yes – less fees affected	No – carrier functions incur costs	No	

The preferred option

119 Option 2 is the preferred option of submitters (10/18 compared with 4/18 for each of Options 1 and 3). Customs and MPI also prefer this option, as it is the most equitable overall as most JBMS costs are fixed costs irrespective of whether information for a single consignment (an entry) or multiple consignments (cargo reports) are lodged. It best meets the four criteria, particularly equity and justifiability. The main fee increase for carriers relates to changes in transaction volumes.

120 Option 1 does not recognise that exporters receive some benefits and functions in Tranche 1 and should share in the infrastructure that has been developed. This option was not considered equitable as exporters and carriers will also benefit from or have activities supported by functionality delivered in Tranche 1. Option 3 would increase the fees for parties paying higher current fees, such as carriers, which is not a fair reflection of the comparative functionality that Tranche 1 will deliver for these fees. Stakeholders agreed with Customs and MPI that Option 4 was premature as food-related export functions were still to be implemented.

121 Option 2 has been modified by adjustments to the export transactions volumes (an amended "likely" scenario). This reduces the impact of individual fee increases to all export parties (the modified volumes were incorporated into Table 4). The proposed fee changes under the preferred fee option are set out in Table 9.

122 Importers pay the majority of the costs under Option 2, but this is fair given that the most of the functionality provided in Tranche 1 supports import activity. The combined IETF and biosecurity levy of $40.77 (up $7.66 from current $33.11) represents a 23% increase in the fees. This compares favourably to the predicted 30% increase communicated in 2009. Fee increases greater than the 2009 estimate are solely as the result of the changes in the underlying volume of transactions associated with each fee.

123 Issues of the amount of Crown funding for cargo clearances, or introducing passenger fees, and whether or not carriers pay for a share of border and/or JBMS costs, are more appropriately addressed in a wider review of cost recovery policy.

Table 9: Summary of adjustments to each fee under Option 2

$ (GST exclusive)	Current fee	Changes due to transaction volumes	JBMS flat fee increase	New proposed fee	Net increase
Customs					
Import entry transaction fee (IETF)	$22.00	$(1.33) -6%	$4.77 22%	$25.44	$3.44 16%
Inward cargo transaction fee (air)	$26.67	$(3.90) -15%	$4.77 18%	$27.54	$0.87 3%
Inward cargo transaction fee (sea)	$312.89	$45.61 14.5%	$4.77 1.5%	$363.27	$50.32 16%
Export entry transaction fee (partner in secure export scheme)	$8.89	$(0.98) -11%	$2.53 29%	$10.44	$1.55 17%
Export entry transaction fee (non-SES)	$12.67	$0.40 3%	$2.53 20%	$15.60	$2.93 23%
Outward cargo transaction fee (air)	$6.67	$0.81 12%	$2.53 38%	$10.01	$3.34 50%
Outward cargo transaction fee (sea)	$20.00	$2.54 13%	$2.53 13%	$25.07	$5.07 25%
MPI					
MPI biosecurity levy	$11.11	$(0.54) -5%	$4.76 43%	$15.33	$4.22 38%
IETF + biosecurity levy (importers pay both these charges)	$33.11	$(1.87) -6%	$9.53 29%	$40.77	$7.66 23%

CONSULTATION

Consultation in 2009

124 Consultation on the cost recovery proposal commenced in 2007/08 when the concept of JBMS was first described and stakeholders were given opportunities to identify the specific functionality that would support their business processes. Following the approval of the JBMS Stage 2 Business Case in November 2009, Customs and MPI were directed to formally consult with industry stakeholders on the costs. Three meetings were held in December 2009 in Auckland, Wellington and Christchurch for this purpose and in association with the consultation by MPI on proposed changes to biosecurity fees and the biosecurity levy. Information was also provided via specific websites on the biosecurity cost recovery project.[6]

125 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.

126 A top-up to the Customs transaction fees and to the newly created biosecurity levy was proposed to recover industry's share of the costs of JBMS. The feedback from stakeholders was that this was reasonable, but that costs should align with benefits received from the system.

127 In March 2010, Cabinet was provided with information indicating that around 50% of the JBMS costs would potentially be recovered from industry over the life of the system and that Customs/MPI would consult with industry in late 2011 or early 2012 with cost recovery proposals. Since then, stakeholders have had opportunities to discuss the design of the JBMS system with Customs and MPI.

Consultation in 2012

128 On 30 May 2012, the Economic Growth and Infrastructure Committee agreed to the release of a public discussion document on the cost recovery proposal [EGI Min (12) 10/4 refers]. The document, *Discussion Document: Cost recovery for Tranche 1 of the Joint Border Management System*, and other information was released online on 13 June on www.jbmsconsultation.govt.nz, linked from both Customs (and via its weekly electronic *Customs Release*) and MPI websites. Public notices were published in the major daily newspapers over the period 14 to 30 June.

129 Seven public consultation meetings (118 stakeholders attended) were held in Auckland (2), Tauranga, Napier, Wellington, Christchurch and Dunedin over the period 18 June to 3 July 2012. Three additional meetings were held with specific organisations (Fonterra, BusinessNZ and MPI biosecurity stakeholders). An overview of JBMS, comparing what stakeholders had asked for in 2009 with what Tranche 1 will deliver, was provided in addition to the cost recovery proposal.

130 A number of questions on the cost recovery proposal were raised by stakeholders at the meetings and responses were provided via updated online FAQs on 12 July 2012.

[6] http://www.biosecurity.govt.nz/regs/cont-carg/costs-regs-levy-orders-project

131 The closing date for submissions of 16 July was extended until 27 July 2012 following concerns expressed by some MPI stakeholders that they had not been directly approached to seek their feedback on the proposal. A meeting was held on 19 July in Wellington to address this gap and was attended by 15 stakeholders.

132 Feedback from 22 stakeholders was received on the cost recovery proposal, of which 18 were formal submissions. The public discussion document asked for specific feedback on their preferred option for Tranche 1 cost recovery, whether a top-up to existing fees was preferred over new fees, if 'likely' transaction volumes were reasonable and what other factors should be taken into account in setting fees.

133 Table 10 outlines the preferences (number of responses in brackets) indicated by submitters to the questions posed in the discussion document.

Table 10: Summary of feedback from formal submissions received

1.	Preferred option (page 10)	Option 1 (4)	Option 2 (10)	Option 3 (4)	Option 4 (0)
2.	Top-up to existing fees for Tranche 1	Yes (13)	No (1)	Not specified or no comment (4)	
3a)	Use a "likely" volumes of transactions	Yes (9)	No (0)	Not specified or no comment (9)	
3b)	Other factors that should be considered in calculating fees	Affordability (1), inflation (1), compare countries (2), remove/reduce carrier fees (4), allocate on benefits (8), allocate on risks (3)			
4	Other comments	Have only one fee (1), costs of Tranche 1 (4), allocation of costs to Crown and industry (5), 3.25-year cost recovery period (6), start date and mandatory uptake (4), general benefits quantification (7), inward and outward cargo report fees (4), consultation (4)			

134 A top-up to the seven Customs fees and the MPI biosecurity levy by way of flat fee increases (Option 2) was agreed by a small majority of submitters. Supporters of Option 1 were adverse to any fee increase for exporters or didn't want carrier fees increased, while supporters of Option 3 considered a proportional increase was more transparent since they assumed that the rationale for the current fee rates was based on actual levels of activity and that JBMS functionality will fall along similar splits.

135 A top-up to current fees was considered by most submitters as being pragmatic and practical within the time constraints to April 2013. Customs' and MPI's view that Option 4 was premature was also agreed. In agreeing to a top-up many of the stakeholders considered a wider review of border cost recovery should be conducted before the end of the cost recovery period (30 June 2016), with possible new mechanisms and cost allocations to be confirmed with stakeholders.

136 Nine submitters (others made no comment) supported the likely transaction volume scenario, although the export volumes were expected to be slightly higher. The export entry transaction fee (SES) volume was increased in line with this feedback.

137 Some submitters expressed strong views that the Crown should meet 50% of cargo costs in addition to meeting all passenger-related costs for Tranche 1. The current cost recovery policy for cargo and craft is that the cargo sector should increasingly bear the costs of providing the necessary services needed for clearances and to manage related risks. Additional Crown funding or commensurate savings of around $7 million per annum would be needed for the Crown to fund 50% of cargo JBMS costs. Government, however, has already agreed in principle that industry would pay around 50% of the total costs for Tranche 1. The actual share of marginal Tranche 1 costs to 30 June 2016 met by industry is 48.2%.

138 There was a commonly expressed view that costs should align closely to share of benefits received although this is only one of many factors considered under the Treasury's guidelines for cost recovery.

CONCLUSIONS AND RECOMMENDATIONS

139 Customs and MPI propose that the industry's share of JBMS Tranche 1 costs is recovered using:

- a flat fee top up to the seven Customs transaction fees and to the MPI biosecurity levy (Option 2 in the discussion document)
- a modified "likely" volume of transactions for each fee, where the number of export entry transactions is increased slightly to reflect the 2011/12 transaction volume outturn
- a start date for all increases of 2 April 2013, the implementation date of Tranche 1
- a 3.25-year period for calculating the fees (i.e. all costs to be recovered from industry and the estimated transaction volumes for the period 2 April 2013 to 30 June 2015)
- budgets based on current cost recovery for the fees and levy (no general increase in fees and cost increases absorbed by Customs and MPI) plus the costs allocated to Customs imports, Customs exports and MPI for JBMS Tranche under the cost allocation model
- the fee increases are based on an initial 3.25-year period of cost recovery
- fees are adjusted first for transaction volumes and then the flat fees for JBMS are added.

140 On consideration of the various options and parameters, Customs and MPI consider this proposal provides overall the most efficient, equitable, transparent and justifiable option for applying Tranche 1 costs across parties during the initial cost recovery period. The new fees (GST inclusive as per the regulations) are set out in Table 11.

Table 11: Proposed new fees

$Fee (includes GST at 15%)	Regulation	Current fee	New fee
Customs and Excise Regulations 1996			
Import entry transaction fee (IETF)	24A(1)	25.30	29.26
Inward cargo transaction fee (air)	13A(2)(b)	30.66	31.67
Inward cargo transaction fee (sea)	13A(2)(a)	359.82	417.76
Export entry transaction fee (secure export scheme)	28(1)(a)	10.22	12.01
Export entry transaction fee (non-SES)	28(2)(b)	14.56	17.94
Outward cargo transaction fee (air)	29A(3)(b)	7.66	11.51
Outward cargo transaction fee (sea)	29A(3)(a)	23.00	28.82
Biosecurity (System Entry Levy) Order 2010			
Biosecurity levy	3, 7 to11	12.77	17.63

IMPLEMENTATION

141 An Implementation Plan will be prepared covering communications to stakeholders, adjustments to existing MPI and Customs websites on fees and charges, and updating of the financial systems associated with invoicing of the fees. Cost recovery information will also be included in JBMS-specific communications.

142 Compliance costs are minimised by informing parties of the new fees around three months or more prior to coming into effect. Since Customs generates the invoices at the new rates, the specific compliance cost around the fee increases is minimal.

143 The proposal will be given effect for the Customs transaction fees by amending the relevant regulation to the figure stated as the new fee in Table 11 (GST inclusive at 15%).

144 For the Biosecurity (System Entry Levy) Order 2010, a number of changes will be required to increase the levy rate. The levy order assumes that the levy is adjusted annually from 1 July each year. The levy order will therefore need to be amended so that the levy rate can be increased from 2 April 2013. As a transition, MPI will also want the first 'levy year' under the new rate to cover 15 months not 12 months so that the next Director-General review is not required until the lead up to 1 July 2014. This amendment will mean MPI can avoid a formal review of the levy by 1 July 2013, when the new levy rate will only have been in place for three months.

145 This proposal will not reduce or remove any existing regulations. The enforcement strategy will be inline with current communications on fees and charges. No changes are proposed.

MONITORING, EVALUATION AND REVIEW

146 Customs and MPI will continue to monitor the associated budgets and transaction volumes to ensure that the cost recovery is met in accordance with the policy. Existing information on the charging of the fees to specific clients is collected now, allowing the new fees to be interrogated. Transaction volumes are reviewed monthly.

147 Each agency will determine the process for implementing a wider review of cost recovery, which will incorporate consideration of the Customs transaction fees and the MPI biosecurity levy. Before the end of the 3.25-year cost recovery period, fees will need to be reviewed and take into account wider cost recovery issues and the impact of further JBMS costs. This is in line with stakeholder expectations raised during the public consultation.