

Coversheet: Interdicting drug shipments in international waters

Advising agencies	<i>New Zealand Customs Service</i>
Decision sought	<i>Agree to implement a domestic legislative framework for interdicting drug shipments in international waters</i>
Proposing Ministers	<i>Hon Meka Whaitiri, Minister of Customs</i>

Summary: Problem and Proposed Approach

Problem Definition

What problem or opportunity does this proposal seek to address? Why is Government intervention required?

The number of attempts to smuggle drugs across the maritime border into New Zealand has increased in recent years.

New Zealand has rights and obligations under international conventions to take action to suppress drug trafficking in international waters. However, there is **no clear legislative basis** in New Zealand's domestic law that authorises Customs to take such actions. This presents a risk that any actions taken under the international conventions could be successfully challenged in court.

Proposed Approach

How will Government intervention work to bring about the desired change? How is this the best option?

This change will provide Customs with clear powers to interdict (board, search and take enforcement action) any vessel suspected of attempting to smuggle illicit drugs into or out of New Zealand.

This option will only be exercised rarely. But it will provide an additional tactical option to be considered where suspected smuggling operations are detected by Customs.

Section B: Summary Impacts: Benefits and costs

Who are the main expected beneficiaries and what is the nature of the expected benefit?

The main benefit is protecting New Zealanders, their families and whānau and the wider community from the harms caused by illicit drugs. This will also contribute to law enforcement agencies' (both domestic and international partners) efforts to suppress the smuggling of illicit drugs.

This change that will deliver these benefits by imposing greater costs on criminal groups seeking to smuggle drugs using this method.

Where do the costs fall?

The costs of this proposal are very limited and only relate to the marginal costs of intervention relative to other tactical options for responding to drug smuggling activities.

There may be some cost implications for Customs and agencies providing operational support (NZDF and NZ Police). Any actions will be prioritised based on available resources. However, no new funding is required.

What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

The main risk is where these powers are exercised where there is no offence committed, or actions taken under this framework are successfully challenged in court.

This risk is mitigated by the proposed threshold, which will limit actions to where there is a reasonable cause to suspect that an offence is taking place.

Identify any significant incompatibility with the Government's 'Expectations for the design of regulatory systems'.

Nil.

Section C: Evidence certainty and quality assurance**Agency rating of evidence certainty?**

High. Legal advice is that Customs' ability to take enforcement action in international waters is not clearly defined under current settings.

To be completed by quality assurers:

Quality Assurance Reviewing Agency:

New Zealand Customs Service

Quality Assurance Assessment:

Meets quality assurance criteria.

Reviewer Comments and Recommendations:

Nil

Impact Statement: Interdicting drug shipments in international waters

Section 1: General information

Purpose
<p>The New Zealand Customs Service is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated.</p> <p>This analysis and advice has been produced for the purpose of informing policy decisions to be taken by Cabinet.</p>
Key Limitations or Constraints on Analysis
<p>None.</p>
Responsible Manager (signature and date):
<p><i>Signed by Anna Cook, 16 February 2018</i></p> <p>Anna Cook, Director Policy New Zealand Customs Service</p>

Section 2: Problem definition and objectives

2.1 What is the context within which action is proposed?

Attempts to smuggle drugs across the maritime border are increasing

Transnational criminal groups have a range of options to import illicit drugs into New Zealand. Drugs and other prohibited goods may be carried by passengers on commercial airlines, concealed in mail and cargo items – or even fixed to the hulls of container ships. The New Zealand Customs Service is responsible for countering these smuggling attempts.

Maritime borders can be challenging to police, and smuggling by small, independent craft offers a number of advantages to drug traffickers. Criminal groups have the flexibility to manage and disguise the routing and timing of their voyage to avoid official attention. Vessels can land at remote locations or transfer illicit goods to domestic vessels without getting close to the coastline. If detected, traffickers have the option of trying to outrun enforcement vessels and they can move outside of a country's jurisdiction with relative ease. If they are likely to be intercepted, they can quickly dispose of any illicit goods and evidence. These advantages are multiplied if more than one support vessel is utilised.

Criminal groups are quick to adapt to changes in enforcement focus and to exploit the limits in Customs' and other enforcement agencies' powers to evade detection. Withheld under Section 6(c)

Historically, attempts to smuggle drugs into New Zealand by maritime craft have been rare. Withheld under Section 6(c) These operations are challenging for traffickers themselves with considerable financial outlay required, organisational challenges and complex logistics.

There are much fewer of these operations than other efforts to evade border controls – but the size and value of the shipments carried by motherships present a powerful opportunity to disrupt the flow of drugs into New Zealand – if they can be stopped.

The Pacific is emerging as key drug transit route

Over the last two years, there have been Withheld under Section 6(c)

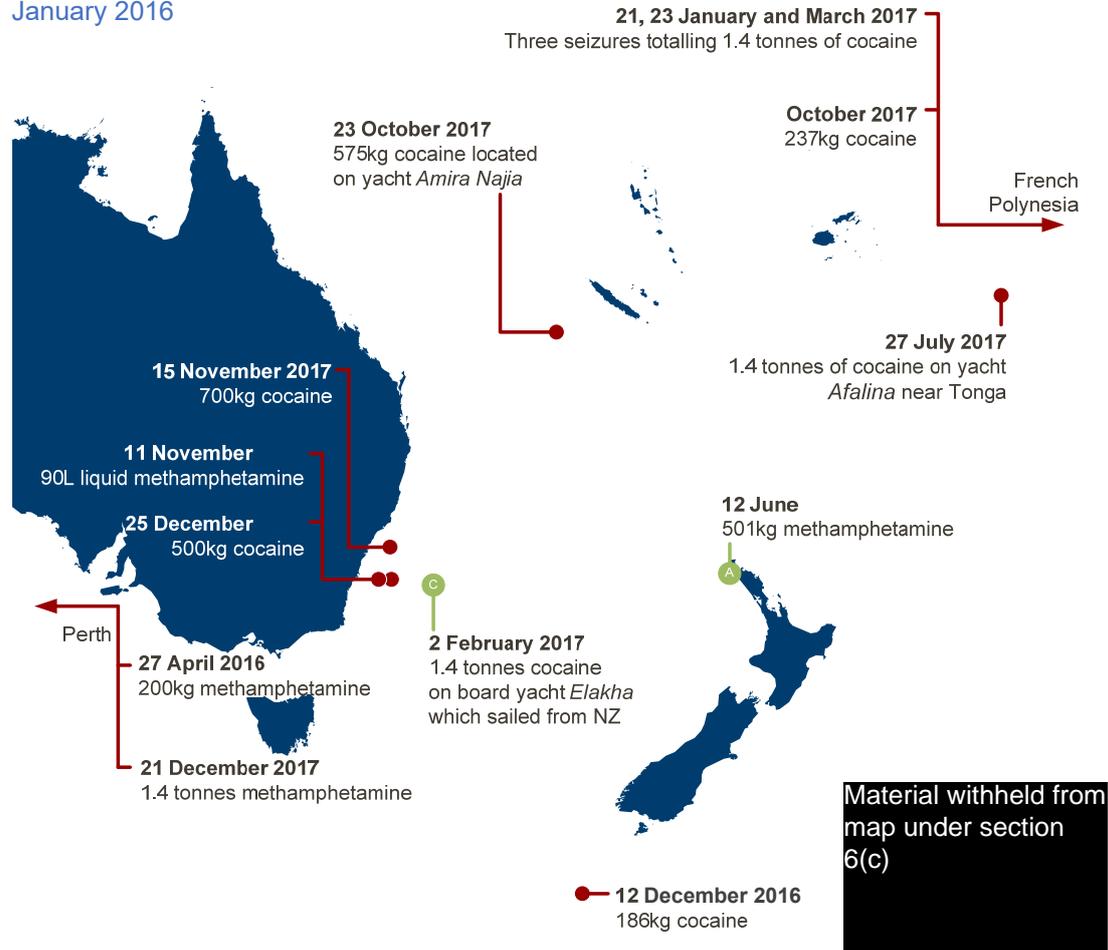
The rest were bound for Australia (see map on page 5 for more detail).

The South Pacific is increasingly becoming an active part of the global drug trafficking network. Withheld under Section 6(c)

Another driver is the emerging surplus of deep-sea fishing vessels, particularly in Hong Kong, which organised crime groups can secure. South American drug networks are also looking to diversify their business and are now turning their attention to markets in the Asia-Pacific region.

For New Zealand and other regional partners, it is important to be able to respond effectively to suppress drug trafficking across the vast distances of the Pacific Ocean.

Figure 1: Interceptions of drug shipments on commercial craft in Australasian waters since January 2016



Recent interdictions relating to New Zealand

A. Operation FRONTIA in June 2016 is New Zealand's largest ever drugs seizure. In a joint operation with Customs, New Zealand Police located 449kg of methamphetamine in the back of a campervan and a further 52kg buried at 90 Mile Beach.

B. Withheld under Section 6(c)

[Redacted]

C. New Zealanders are known to be involved [Section 6(c)] of the incidents in Australia. This includes the seizure of 1.4 tonnes of cocaine on the New Zealand-flagged *Elakha* in February 2017.

2.2 What regulatory system, or systems, are already in place?

Customs' current responses to maritime drug smuggling

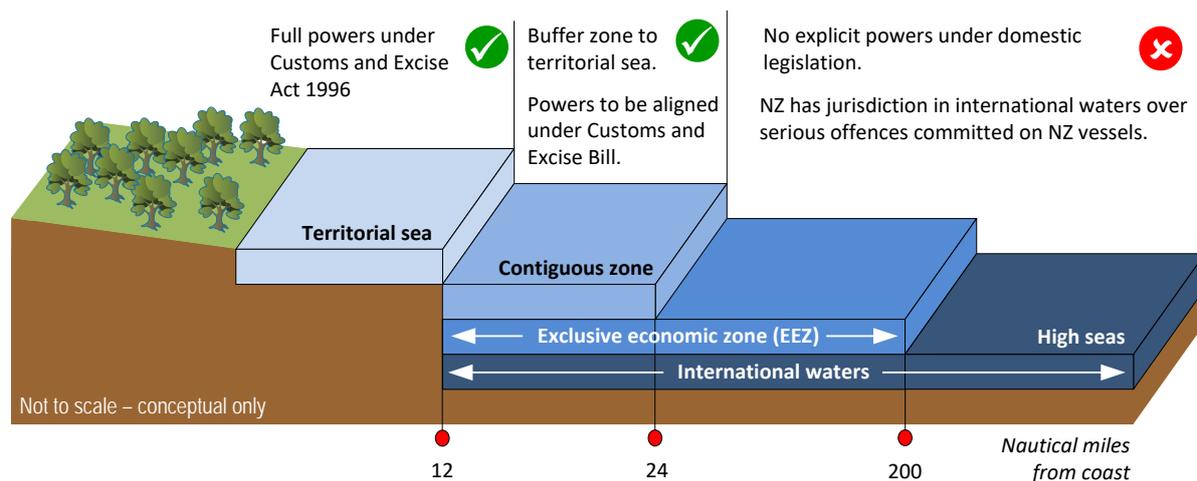
Customs' responses to identifying and responding to drug smuggling activities include:

- the requirement that all craft submit arrival documentation to enable Customs to make a risk assessment
- the power to board and search any craft arriving or departing from New Zealand
- wide powers to seize the goods, detain craft and arrest individuals where prohibited or restricted goods are found, or other offences are identified
- maritime surveillance and operational activities that include:
 - Customs' patrol vessel *Hawk V*
 - maritime patrol and aerial surveillance operations using New Zealand Defence Force assets
 - Coastwatch – a community engagement programme.

These powers are exercised in New Zealand's territorial sea – either in port or close to the coast. A more limited subset of powers is available in the contiguous zone. As part of the Customs and Excise Bill, Customs' powers in the contiguous zone have been extended to align with what is provided in Article 33 of the UN Convention on the Law of the Sea (UNCLOS).

However, as illustrated in Figure 2, there are fewer powers that can be exercised in the zones further out.

Figure 2: Customs powers by maritime zone



Coordination of the response

Responses to maritime smuggling ventures are normally managed through joint agency responses comprising Customs, Police and NZ Defence Force. The National Maritime Coordination Centre (NMCC) develops a common maritime operating picture on behalf of

New Zealand agencies. It is also responsible for coordinating requests for the deployment of assets to help with patrol or operational responses.

Police and Defence Force assets are usually required to support maritime interventions. There is an authorisation process in the Customs and Excise Act which enables Police and Defence personnel to act as Customs officers. This is made more flexible by the Customs and Excise Bill.

Increasing knowledge of activities at sea

Customs and partner agencies domestically and internationally have greater technical capacity and information about the movements of vessels in international waters than was previously available. In addition to relying on specific intelligence, Customs is also able to monitor vessels approaching New Zealand and can determine suspicious movements. This is achieved through a combination of advance reporting requirements for craft, new satellite technologies, and air and sea patrols.

Powers in international waters are derived from international law

The UNCLOS and customary international law provides that, with a few notable exceptions, the flag state has exclusive jurisdiction over its vessels in international waters beyond the contiguous zone (ie within the exclusive economic zone (EEZ) and the high seas – see **Figure 2**).

UNCLOS and the Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 (the Drug Trafficking Convention)¹ allow members to search and board vessels in international waters under certain circumstances. This includes, for example, actions to suppress crimes such as piracy and slavery and recognising the right of hot pursuit – pursuing vessels into international waters beyond the contiguous zone that have committed an offence against the laws of that coastal state [Article 111 of UNCLOS].

Under Article 17 of the Drug Trafficking Convention, parties have agreed to “co-operate to the fullest extent possible to suppress illicit traffic [of narcotics] by sea”. This convention recognises states’ rights to take enforcement action with the consent of the flag state where there are reasonable grounds to suspect that a vessel is engaged in illicit drug trafficking. This authorisation may include permission to:

- board the vessel
- search the vessel
- if evidence of involvement in illicit traffic is found, take appropriate action with respect to the vessel, persons and cargo on board.

The ability to deal with stateless vessels is not quite so clear. Stateless vessels include those that are not registered with a particular country and those that operate under multiple flags of convenience. UNCLOS is silent on the legal consequences of being a stateless vessel (although stateless vessels are without protection under customary law). There is a difference of views amongst international law experts on whether there is scope to assert enforcement jurisdiction over a stateless vessel or its crew. Legal advice is to exercise caution in the absence of domestic New Zealand legislation authorising such enforcement

¹ UN Convention on the Law of the Sea (UNCLOS) with respect to hot pursuit.

action.

2.3 What is the policy problem or opportunity?

A key focus for Customs is preventing harm to New Zealand by making it harder for transnational criminal groups to target New Zealand. This involves stepping up efforts offshore to disrupt the flow of illicit drugs through greater collaboration with international partners. Law enforcement agencies need to have the authority and capacity to intervene at any point of the border continuum.

There is currently **no clear legislative basis** in New Zealand's domestic law to exercise Customs' powers in respect of vessels suspected of involvement in attempting to smuggle illicit drugs across New Zealand's border when those vessels are detected operating in international waters beyond New Zealand's maritime contiguous zone.

It may be possible to authorise an operation by relying on the international conventions. However, in practice this has proven difficult. Customs and other law enforcement agencies have tended to take a cautious approach, given the risk of successful legal challenge to actions not clearly provided for within a domestic legal framework.

There are other options available for responding to drug smuggling. Customs works with international partners to share information to disrupt smuggling activities in source countries. This may lead to the interdiction of suspected drug smuggling vessels in international waters by other countries. If vessels are closer, New Zealand agencies must wait until the vessel enters New Zealand's territorial waters or when the illicit drugs are brought to shore.

There is a gap, and it is important to ensure that all options are available. There may be some situations where intervening in international waters is the most effective tactical option. In particular, boarding and searching a mothership (that never enters New Zealand waters) potentially offers greater scope to gather evidence about the upstream connections that can be used to disrupt criminal groups in source countries.

How robust is the evidence supporting this assessment?

This assessment is based on legal advice from Customs, the Ministry of Foreign Affairs and Trade, the Ministry of Justice and the Crown Law Office.

2.4 Are there any constraints on the scope for decision making?

There is no scope for the proposal to exceed the powers made in UNCLOS and the 1988 Drug Trafficking Convention.

2.5 What do stakeholders think?

Customs has consulted the following agencies: Ministry of Foreign Affairs and Trade; Ministry of Defence; New Zealand Defence Force; New Zealand Police; Ministry of Transport; Ministry of Justice; Ministry for Primary Industries; and the Ministry of Business, Innovation and Employment (Immigration).

There is broad support for adopting a domestic legislative framework that implements the powers and obligations established in relevant international conventions. This will provide

certainty for operational agencies (Customs, with the support of Police and the Defence Force) to take action to respond to suspected drug smuggling activities in international waters beyond the contiguous zone.

The Ministry of Foreign Affairs and Trade has emphasised that any domestic legislative framework should not exceed the limits set in international agreements. Customs agrees with this.

Public consultation

There were no sections of the public identified as having specific interests in the implementation of these powers.

Section 3: Options identification

3.1 What options are available to address the problem?

There is only one feasible option considered. This involves implementing a domestic legislative framework that:

- is consistent with New Zealand's international legal rights and obligations
- establishes clear offence jurisdiction in relation to all vessels in international waters that are involved in the illicit transport of drugs into or out of New Zealand
- allows Customs to board, search and take necessary enforcement actions
- authorises action only where there is reasonable cause to suspect offences are being committed.

The key features of this option are outlined below.

Providing a domestic framework that reflects international conventions

Any actions taken by Customs must be lawful. Authorisation may be obtained by relying on international conventions and the customary law of the sea, or by establishing a domestic framework that reflects (or elaborates upon) these powers.

Relying on international conventions

While it may be possible to authorise an operation by relying on the international conventions, in practice this has proven difficult. Without a domestic legal framework with clearly articulated powers to exercise the rights provided for in international conventions, Customs and other law enforcement agencies have tended to take a cautious approach. This is particularly the case when considering taking action against stateless vessels.

The New Zealand Defence Force has noted that its offshore missions (eg narcotics counter-smuggling and anti-piracy operations in the Indian Ocean) are performed on the basis of existing international conventions and customary international law. These missions are usually focused on disruption, rather than for the purposes of investigation and prosecution. From a law enforcement perspective, actions are limited when it comes to seizing goods for evidentiary purposes and arresting or detaining vessels for offences committed in relation to New Zealand.

Providing a domestic framework that reflects international conventions

A domestic legislative framework that reflects and enables international conventions will:

- provide greater transparency about what actions are permitted, to inform operational decision-making
- provide a clear mandate where the support of other agencies is required
- minimise risk of successful challenge to evidence given in New Zealand courts.

Other countries, such as Australia and the United Kingdom, have provided some form of domestic legislative framework as a guide to how enforcement activities should be carried out in accordance with international conventions.²

A domestic framework is also necessary to address where conventions are silent or unclear – eg in relation to the treatment of stateless vessels.

The legislative framework is likely to be similar to the maritime boarding powers included in the Maritime Crimes Amendment Act, which was enacted in December 2017. This Act implements in New Zealand law the 2005 Protocol to the Rome Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation. The Protocol contains provisions for at-sea boardings in relation to maritime terrorism and the illicit trafficking of weapons of mass destruction.

For the avoidance of doubt, this legislation should not limit the exercise of any powers that are enabled through these conventions by Customs, or any other New Zealand agency.

Providing explicit jurisdiction in international waters

Under current legislative settings, there is no specific offence that relates to ships outside of New Zealand that are involved in cross border drug smuggling. An offence only occurs when the drug is imported or exported from New Zealand. Section 12C of the Misuse of Drugs Act 1975 is the only offence provision that has extra-territorial application in respect of drug offending, but this was primarily designed to address offences committed by New Zealanders in other countries.

The proposed legislative change would mean that a person would commit an offence if:

- they are on any vessel in international waters
- they are in possession of controlled drug, or are otherwise knowingly involved in the carrying or concealment of the drug on this or any other vessel
- where it is intended that the drug is to be imported, or has been exported, to or from New Zealand.

The penalties for these offences should be consistent with the existing offences – up to life in prison if the offence involves Class A controlled drugs.

² Australian powers are provided under the [Maritime Powers Act 2013](#). This Act provides a common framework for all federal enforcement agencies' operations in the maritime environment.

The United Kingdom's [Criminal Justice \(International Co-operation\) Act 1990](#) provides that persons on a British ship, a ship registered in another state that is a party to the Drug Trafficking Convention, or a stateless vessel commits an offence if they are knowingly involved in carrying controlled drugs with the intention to import or export drugs contrary to British law or the law of any other country.

Customs did consider relying on existing offence provisions under the Misuse of Drugs Act and the Crimes Act. This would have meant that changes could be made via a Supplementary Order Paper to the Customs and Excise Bill. However, we have determined that the absence of an explicit offence presents a substantial risk of successful legal challenge to any actions on bill of rights grounds. Any benefits in expediting the change are outweighed by the risk that these powers could not be exercised effectively.

Available powers

This proposal corresponds to Customs' powers in territorial and contiguous waters, as contained in the Customs and Excise Act 2018 (once enacted). These powers have been grouped from least to most intrusive:

- **stop and secure a vessel:** to enable access and boarding
- **assess the level of risk:** by searching the vessel and questioning crew
- **enforce the law:** by seizing goods, directing vessels to New Zealand and arresting people.

From an operational effectiveness perspective, it is preferable to have all three types of powers available when interacting with vessels in international waters. The circumstances of each particular situation will determine how these powers will be exercised.

Threshold for exercising powers in international waters beyond the contiguous zone

Based on the analysis above, Customs recommends that the threshold for exercising powers in international waters beyond the contiguous zone should be:

- where the applicable international legal conditions have been satisfied (which may include obtaining prior flag state consent); and
- there is **reasonable cause to suspect** that an offence is being committed
- the vessel to be interdicted has been, is being, or intended to be involved in, or connected to, the facilitation of illicit drugs crossing New Zealand's border.

3.2 What criteria, in addition to monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

Options have been considered against three objectives:

Effectiveness	<ul style="list-style-type: none"> • Customs can apply pressure across the border continuum by responding to risk as early as possible. • Ability to interdict vessels at any point based on tactical value. • Transnational organised criminal groups are deterred from attempting to import (or export) prohibited goods on maritime craft into New Zealand. • Supports integrated operations with regional partners, particularly Australia.
Legitimacy	<ul style="list-style-type: none"> • Actions taken by New Zealand in international waters will adhere to international standards and must not cause any harm to New Zealand's international reputation. • Does not inhibit or jeopardise any existing powers exercised by New Zealand authorities. • Offences against New Zealand laws are adequately prosecuted. • There is a clear mandate when seeking operational support from NZDF and

	Police.
Transparency	<ul style="list-style-type: none"> • Powers and obligations are clear, easy to understand and publically available.

An efficiency objective has not been included. This would not be useful for evaluating the options. Operational decisions on the exercise of these powers will be prioritised based on the available resources. The proposed change will not change the level and type of resources available for offshore activities.

3.3 What other options have been ruled out of scope, or not considered, and why?

Customs has not considered a legislative framework that would exceed the rights and obligations authorised under international law. Any benefits to this approach are outweighed by the risks to legitimacy if New Zealand was seen to be operating beyond the parameters of agreed international law.

No non-regulatory options have been considered. This is because the application of powers to stop, board, seize vessels and arrest individuals in international waters beyond the contiguous zone under certain circumstances must be specified in legislation.

Section 4: Impact Analysis

Marginal impact: How does each of the options identified at section 3.1 compare with the counterfactual, under each of the criteria set out in section 3.2?

	Status quo	Proposed framework	Rationale
Effectiveness	0	+	<ul style="list-style-type: none"> • Customs has a full range of tactical options available to respond to drug smuggling activities. • Transnational crime groups are deterred from using this method.
Legitimacy	0	++	<ul style="list-style-type: none"> • New Zealand can take actions in ways that are consistent with its rights and obligations under international conventions. • Actions taken by Customs are recognised by the courts.
Transparency	0	++	<ul style="list-style-type: none"> • Clarity and certainty over how these powers may be applied.
Overall assessment			The advantages of implementing a domestic legislative framework substantially outweigh any disadvantages.

Key:

- ++ much better than doing nothing/the status quo
- + better than doing nothing/the status quo
- 0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

Section 5: Conclusions

5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

The risk of unauthorised entry into New Zealand for the purpose of trafficking illicit drugs has risen substantially over the last year, relative to historic levels. It is anticipated that this risk will continue to be elevated.

Customs needs to have a full set of tools, consistent with New Zealand's international rights and obligations, to fulfil its responsibility to protect New Zealand from harm. To enable this, there is scope to address the current gap by ensuring that the option of interdicting a mothership vessel in international waters can be considered alongside other tactical options.

It is not possible to quantify the impacts of the preferred approach to a high degree of certainty. Given this provides another option, it does not necessarily mean that Customs will seize any additional shipments of illicit drugs, or, that it will arrest, prosecute and imprison any more individuals. However, the use of this power may offer greater benefits than other tactical options. This includes:

- prevention: the seizure of large shipments has a more disruptive impact than seizing the same amount in many smaller shipments³
- intelligence: information collected from mothership vessels provides access to greater information on upstream connections
- deterrence: setting a clear expectation that Customs has the power to interdict vessels in international waters means that criminal groups will exercise greater caution.

The marginal costs associated with this option are minimal. There may be some additional costs, relative to other tactical options. But the decision to exercise these powers will be based on a practical assessment of available resources.

5.2 Summary table of costs and benefits of the preferred approach

Affected parties	Comment:	Impact	Evidence certainty
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Additional costs of proposed approach, compared to taking no action

Customs	There may be some costs associated with delivering these operations, and maintaining capacity to operate in international waters.	Low	High
Other agencies (NZDF and Police)	There may be some additional costs associated with participating in these operations. Joint operations will be organised through NMCC and will be based on available resources.	Low	High

³ The seizure of 501kg of methamphetamine as part of Operation FRONTIA corresponds to avoided social harms of \$590 million. The loss of such a major shipment will have greater impacts along the supply chain.

Justice system	There may be additional impacts on the justice system if more individuals are arrested, prosecuted and imprisoned in New Zealand as a result of these operations.	Low	Medium
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Expected benefits of proposed approach, compared to taking no action

Organised crime groups	Expanding the effective area for interdiction will make it harder and more expensive for organised crime groups to target New Zealand.	Medium	Medium
New Zealand communities	Controlling the supply of illicit drugs into New Zealand will reduce the harms to individuals, their families and whanau and the wider community (1kg of methamphetamine consumed causes \$1.2 million in social harms). Stopping large shipments has a greater disruption impact on supply chains.	High	Medium
International partners	Scope to collect more intelligence on organised crime connections to other countries.	Medium	Medium
Customs and other agencies	Best option can be applied when drug smuggling attempts are detected.	Medium	High

5.3 What other impacts is this approach likely to have?

Nil.

5.4 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

This proposal is consistent with the Government's *Expectations for the design of regulatory systems*.

Section 6: Implementation and operation

6.1 How will the new arrangements work in practice?

Customs is proposing that these legislative changes should be made through an omnibus bill that makes the necessary changes to both the Customs and Excise Act and the Misuse of Drugs Act.

The exercise of these powers will be based on operational decisions once the legislation is in place. The option of using these powers will become part of Customs' toolkit for responding when a mothership operation is detected. Its use will be considered against other available options, the availability of defence assets, as well as health and safety considerations. It will only be exercised where it is determined to be the most effective tactical approach.

Coordination with New Zealand Defence Force and New Zealand Police

It is likely that Customs will require the involvement of both the New Zealand Defence Force and Police – both to provide transport out to the target vessel and to secure it once

it is intercepted.

Consistent with current arrangements, the Comptroller of Customs would have the power to authorise suitably qualified people to carry out the functions of a Customs officer. This includes New Zealand Defence Force and New Zealand Police personnel that may be required to support operations in international waters.

While these personnel may need to exercise the powers of a Customs officer, this will not affect their powers as Police or Defence Force staff. For example, these personnel would be entitled to be armed while carrying out these duties.⁴

6.2 What are the implementation risks?

The main risk is where these powers are exercised where there is no offence committed.

This risk is mitigated by the proposed threshold, which will limit actions to where there is a reasonable cause to suspect.

Evidence of other prohibited items or activities found during a search

These powers will only apply to attempts to smuggle illicit drugs. There may be circumstances where evidence of other customs, immigration or biosecurity offending is identified during a search of a vessel. However, Customs will not have any powers to seize the goods or take any other enforcement actions unless there is a specific international legal basis for doing so (and, if applicable, the flag state has given separate authorisation).

In managing this risk, Customs will share relevant intelligence about potential offences with the relevant authorities. These authorities will then determine how best to respond to this information within their respective authorisation frameworks.

At this stage, the importation of drugs is the main presenting issue. Customs recommends that the framework is limited to drugs at this stage. There may be scope, in future, to consider whether New Zealand has adequate powers in place to respond to other matters covered by international conventions.

⁴ This is also being clarified by the Customs and Excise Bill through an amendment to the Arms Act 1983 [refer Schedule 9 of the Customs and Excise Bill 209-1].

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

There are already arrangements in place to monitor Customs' overall effectiveness in detecting and responding to drug smuggling activities.

As noted at section 5.3, it is not possible to quantify the impacts of this initiative, relative to other interventions by Customs.

7.2 When and how will the new arrangements be reviewed?

There are three types of review expected:

- operational debriefs following the exercise of these powers
- regular review of operational policies and procedures
- monitoring and review as part of Customs' regulatory system.

These powers will be exercised rarely. Customs, and other participating agencies, will debrief once an operation is completed. The primary purpose of these debriefs will be to identify and address any improvements for future operational activity.

Relevant operational policies will be reviewed on a two-yearly basis, to ensure they remain fit for purpose.

These arrangements will also be monitored and reviewed as part of Customs regulatory stewardship strategy. There is no plan to review these arrangements in the next three years.

The types of results that might prompt an earlier review include:

- recommendations from operational debriefs
- situations where Customs is unable to exercise these powers due to changes in smuggling methods
- an adverse court decision that highlights deficiencies in the legislation.