



Government response to the New Zealand Productivity Commission's recommendations on International Freight Transport Services

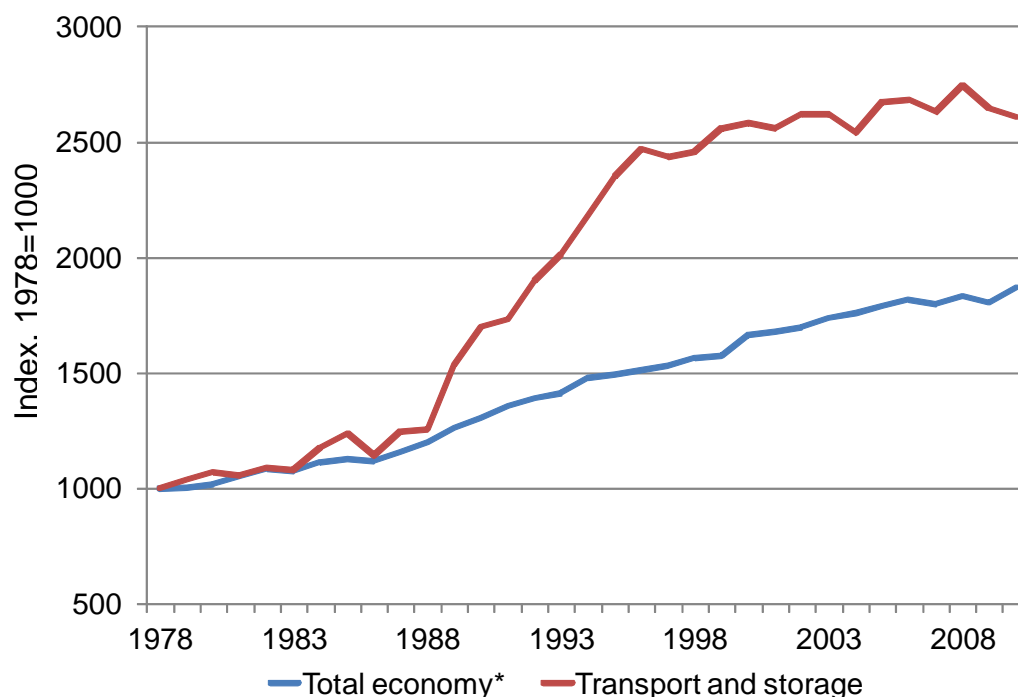
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The Government would like to thank the New Zealand Productivity Commission for its final report on international freight transport services.

International freight transport services provide essential connections allowing trade between New Zealand and the international economy. International trade is crucial for New Zealand's economic success. Our distance from major markets means that freight transport services need to be as efficient as possible to support trade. The Government's goal is to increase the ratio of exports to GDP by 10 percentage points to 40 per cent by 2025. Increasing the performance of international freight transport services will be an important part of achieving this goal.

The freight services sector achieved impressive productivity gains and cost reductions through the 1990s (see figure below). But over the last decade or so, the rate of improvement has waned. Although the cost of onshore freight services now compare favourably with other developed countries, overall sea and air freight costs are considerably higher for New Zealand than they are for Australia. There is clearly room for improvement.

Labour productivity growth: New Zealand transport and storage industry and the total economy, 1978-2010



*Total economy is the “measured sector”, which excludes government non-market industries
Source: Statistics New Zealand

The Commission’s report includes a thorough analysis of the factors influencing the cost and productivity of New Zealand’s international freight transport services. The Commission identifies a number of opportunities for changes that could be made by the Government, councils and freight services companies to lift performance. The Government welcomes these contributions and intends to work collaboratively with councils and industry to address the issues raised.

Actions to improve performance

The Commission identifies five top opportunities for improving the international freight system, which it considers would make the largest difference to New Zealand’s future economic performance and prosperity. The Government agrees with the Commission about the importance of these opportunities and intends to make progress against them all:

1. Lift the quality of infrastructure planning and coordination

The Government intends to make more use of ‘facilitated discussion’ models of cooperation in coordinating investment planning. The New Zealand Transport Agency is currently initiating facilitated freight planning processes, which will include representatives from the Government, councils, freight producers, and transport operators. The Government is also currently progressing reforms to improve the planning and coordination of infrastructure investment through the Better Local Government reform programme and phase two of the Resource Management Act reforms. The Commission has made a number of useful recommendations that will inform this work.

2. Better governance of ports and airports

The Government will work together with councils to clarify the objectives of port ownership, to better manage conflicts of interest, and to improve monitoring and information in order to support better decision making. Part of this work will be progressed through the Better Local Government reform programme.

3. Make competition regimes for freight more pro-competition

The Government is currently progressing the Commerce (Cartels and Other Matters) Amendment Bill, which is designed to encourage pro-competitive collaborations between businesses, while at the same time deterring anti-competitive cartel behaviour, by narrowing the exemptions from competition law. As part of its consideration of this Bill, the Government has asked the Commerce Committee to consider whether the current industry-specific competition regimes for international shipping and air services are optimal, or whether a Commerce Act-only regime would be more efficient.

4. Build more productive workplaces at ports

Good workplace relationships between employers and employees are essential for developing high-productivity workplaces. The Government supports the proposed improvements to governance and information infrastructure, a number of which are for local authorities and port companies to consider. Recent changes to the Employment Relations Act have also been designed to encourage more productive employer and employee relations in all workplaces.

5. Develop a richer information infrastructure

The Government intends to develop more comprehensive systems for gathering and disseminating freight data in order to support better individual and co-ordinated decision-making, monitoring and policy development. In designing these systems, the Government will seek to minimise compliance costs imposed on the freight services sector.

The Government response to NZPC Freight Inquiry can be found on the Treasury website (<http://www.treasury.govt.nz/publications/informationreleases/transport>).

ANNEX 1: DETAILED RESPONSE

Chapter 3: International freight transport – how it operates and performs

Recommendation 3.1

Alongside container productivity measures, the Ministry of Transport should measure and publish the productivity of NZ ports in handling logs and other significant non-containerised exports and imports

The Government agrees in principle that there would be benefit in developing performance measures for non-containerised freight, and that these would help to assess where productivity improvements could be made. Currently the three container productivity measures published by the Ministry of Transport provide a partial measure of port productivity. New Zealand ports service a mix of containerised and other freight, and three ports handle specialised bulk cargo only. In total 52 percent of all cargo going through ports is non-containerised.

The challenge will be in developing meaningful measures that do not significantly raise compliance costs for ports. As a first step, the Ministry of Transport will work with ports to determine what measures are practical and useful for commercial, governance and policy purposes. Port company participation will be voluntary.

Chapter 7: Customs, security and bio-security

Recommendation 7.1

The use of a risk-based approach increases the need for regular monitoring of outcome based performance measures. Border agencies should continue to enhance their performance measures and review procedures in order to improve the transparency of agency performance.

Cabinet has recently considered the Future Direction for the Border Sector and agreed that border agencies will progress a new programme of work over the next five years. That work programme will include developing joint performance measures where appropriate.

Recommendation 7.2

The recently announced Future Directions for the Border Sector initiative should develop transparent and quantifiable performance measures for border cooperation. These measures should form the basis of the planned six-monthly reports to Cabinet. Active oversight of the Border Sector Governance Group by border sector Ministers should continue beyond the completion of the Future Directions programme of work.

The Government notes this recommendation. Cabinet has recently considered the Future Direction for the Border Sector and agreed that border agencies will progress a new programme of work over the next five years. Cabinet agreed that Border Sector Ministers will continue to have oversight of sector initiatives and will oversee the new programme of work.

Recommendation 7.3

The Customs and Excise Act 1996 should be added to the Government's Regulatory Review Work Programme with a view to assessing whether it is fit for purpose in light

of changes to border management practices and developments in technology since 1996

The New Zealand Customs Service is undertaking a review of the Customs and Excise Act to identify the changes needed to meet new border management practices and to identify the best legislative framework to deliver these. Customs will report the findings of this review to the Minister of Customs late in 2013.

Recommendation 7.4

The Government should place emphasis on developing mutual-recognition schemes for New Zealand air cargo exports with a view to reducing delays for time-sensitive exports caused by increased security requirements.

The Government notes this recommendation and is currently undertaking work to support it. New Zealand agencies are working proactively with other countries to ensure that our security processes are recognised and validated. The Government will seek to strengthen mutual recognition arrangements with other countries where needed.

Chapter 8: Encouraging efficient investment and innovation

Recommendation 8.1

Section 5 of the Resource Management Act should be reviewed to clarify the consideration of net social benefits and costs including those accruing at a national level.

Should the Government decide not to review s 5, s 6 should be amended to include specific reference to the development and operation of regionally and nationally significant infrastructure.

Recommendation 8.2

The Minister for the Environment should commence development of a National Policy Statement for transport infrastructure. This would provide guidance for local authorities when considering competing national and local priorities.

Recommendation 8.3

The Government should review ways to reduce the time it takes to produce fully operational local government plans.

Recommendation 8.4

The Government should conduct a review of whether to include port companies as network utility operators in s166 of the Resource Management Act.

[Joint response to recommendations 8.1 – 8.4]

The Government acknowledges that more work is needed to encourage efficient investment and innovation. The Government's resource management reform programme will work to ensure that the Resource Management Act 1991 provides for community needs including, amongst other matters, the development of appropriate infrastructure and improved planning efficiency. In September 2012, Cabinet agreed to a two-Bill approach for this reform, with one to be introduced in 2012 and a second in 2013.

Recommendation 8.3 will also be addressed through the Better Local Government taskforce reform programme. This taskforce will be providing advice on ways to streamline local government consultation, planning, and financial reporting requirements and practise under the Local Government Act 2002, to make them more efficient.

Chapter 9: Investment Coordination and Planning

Recommendation 9.1

More use should be made of ‘facilitated discussion’ models of cooperation in coordinating investment planning. These models are based on information sharing, robust discussion and relationship-building, but do not bind the participants to particular outcomes. They do not create the strong incentives for the costly behaviours that undermine directive planning models (such as tactical misinformation, rent-seeking and strategic hold-up).

The Government agrees with this recommendation and intends to develop this roundtable approach, which brings into the planning process all the key decision-makers across the freight system. The value of this approach will be to draw on each others’ knowledge and insights, challenge assumptions and develop a common public/private sector view of what the future freight system should look like. Roundtable discussion will help to develop a shared long-term view of the trends, challenges and opportunities to improve the safety and efficiency of freight movements.

The New Zealand Transport Agency is initiating facilitated freight planning processes in each of the upper North Island (working with the Upper North Island Strategic Alliance), lower North Island, upper South Island and lower South Island. During 2012/13, these processes will establish the key freight productivity questions and opportunities in these areas, and identify and prioritise potential solutions. Identified opportunities will be included in regional and national planning and investment processes, such as the National Land Transport Programme. These plans will be developed with the active involvement of central and local government, freight producers and transport operators (including rail, coastal shipping and port interests).

Recommendation 9.2

The government should:

- **coordinate its assessment of road and rail projects in order to allocate capital where it can add most value; and**
- **seek ways to improve the transparency of decision-making around road and rail infrastructure projects, including the publication of cost-benefit analyses.**

The Government agrees in principle that there would be merit in a more transparent assessment of capital expenditure decisions on rail and road transport, so that funds can better flow to the highest value projects. However this would be difficult to achieve under the existing models and in-depth analysis of alternative options would therefore be required. The Government has asked officials to undertake this analysis and to report back to Ministers with potential options.

Recommendation 10.1

The legislated principal objective of council-controlled port and airport companies should be changed to: “to be a successful business, as profitable and efficient as comparable businesses that are privately owned”.

The Government agrees in principle that it would be desirable for port and airport companies to have the same statutory purpose statement, and for this statement to be explicit that their purpose involves operating as profitably and efficiently as comparable businesses that are privately owned.

The Port Companies Act and Airport Authorities Act already assign a commercial focus to port and airport companies. The principal purpose of a port company, specified in the Port Companies Act, is to operate as a successful business. Similarly the Airport Authorities Act specifies that an airport company is to be managed as a ‘commercial undertaking’, which has been interpreted in case law to mean to maximise the commercial value of the company over time.

Given that the existing purpose statements are in effect close to what the Productivity Commission has recommended, it may be that changing these statements will not be sufficient to encourage port and airport companies to be run more commercially. The Government will take further advice on the options for increasing the commercial focus of ports and airports.

Recommendation 10.2

Elected representatives and council staff should be precluded from being a Director of council-controlled port and airport companies. This increases the separation between commercial and wider council objectives.

The Government agrees in principle with this recommendation and encourages councils to adopt policies to preclude elected representatives and council staff from being directors of council-controlled port and airport companies. This approach is consistent with the Government’s general policy towards board appointments for State-owned enterprises.

It is important for all directors to be committed to acting in good faith and in the best interests of the company and to not let any obligations to others, or personal interest, conflict with the interests of the company. To support the selection of suitable candidates the Government will take opportunities as they arise to encourage council-controlled ports and airports to use the national database of qualified directors for publicly owned companies when recruiting directors.

Alongside this, the Government will take further advice as to whether other initiatives are required to achieve a better separation between the commercial objectives of the port and airport companies and wider council objectives.

Recommendation 10.3

Port companies should regularly publish economic value added analyses for their operations, including disaggregated data for significant business segments. This would improve reporting and transparency, and help to ensure the efficient use of capital in the freight transport system.

The Government agrees in principle that regular publishing of economic value analysis by ports would help to improve reporting and transparency, and encourages ports to adopt this recommendation. However, the Government will not in the first instance mandate a requirement for Port companies to publish economic value analysis. Port companies are already required under the Port Companies Act to make their statements of corporate intent, including key financial information, publicly available and to provide annual and six monthly reports to the Minister of Transport. Although economic value analysis reporting requirements would enrich this picture, setting up a system for its standardised measurement would add significant cost. This is because it requires the establishment of a standardised methodology for asset valuation across ports.

Recommendation 10.4

To support benchmark competition between port companies, the Ministry of Transport should regularly publish an independent assessment of comparative financial performance for port owners and policy makers to consider.

The Government agrees with this recommendation. By publishing financial performance information alongside measures of port productivity (recommendation 3.1), a richer picture of the overall performance of ports would be readily available to the public. This could further strengthen ownership disciplines and encourage better performance.

This collated information would also assist transport and logistics investment decisions made by government and the private sector. To avoid the published information being viewed as investment advice, the Ministry of Transport will:

- restrict the information published to that available in annual reports with minimal comment; and
- work collaboratively with ports to agree the detail of what is published and to resolve any differences in the way ports assess their financial performance.

Recommendation 10.5

Government should use the s7 provisions in the State Owned Enterprises Act (providing for SOEs to receive direct payments for non-commercial activities) with KiwiRail to transparently identify expectations around public goods and the costs incurred in their delivery.

The Government agrees in principle that greater transparency around the expectations and costs relating to public goods provided by KiwiRail would be desirable. The Government will consider options for improvement in this regard, including clarifying the scope statements and reporting arrangements pertaining to KiwiRail's funding under section 7 of the State Owned Enterprises Act.

Recommendation 10.6

Councils should be clear about the objectives they wish to pursue through port ownership. Having decided those objectives, they should choose the minimum level of council ownership that offers the required control rights. Increased private capital participation offers improved incentives for port efficiency, and the dynamic efficiency of the freight system in general.

The Government notes that this is a recommendation for local authorities to consider. Nevertheless, it is the Government's view that if the fundamentals of good governance are in place, and port companies focus on their commercial objectives, then the issue of ownership is less relevant.

Recommendation 10.7

Councils should consider landlord port models in which land ownership is separated from terminal operations. This may be an efficient mechanism for maintaining control over port land use while benefiting from the efficiency improvement resulting from increased private involvement in port operations.

The Government notes that this is a recommendation for local authorities and port companies to consider. Whether or not the landlord model of port ownership would be of net benefit would depend on the circumstances of each port. For instance, for small ports the costs of structural separation and ongoing coordination costs may outweigh any efficiency benefits gained.

Chapter 11: Regulation of international sea freight services

Recommendation 11.1

Ratemaking agreements – ones involving price-fixing or limiting capacity with the intent of raising prices – have a high risk of anti-competitive detriment. Exemptions for such agreements should be removed and authorisation mechanisms should be relied upon for assessing whether these agreements are in the public interest.

There should be a transitional period to allow the agreements in place at the time the exemption is repealed to continue until their compliance with the Commerce Act has been tested.

Recommendation 11.2

The exemption for non-ratemaking agreements should be retained in the Shipping Act 1987 and be conditional on filing agreements with the Ministry of Transport for placing on a public register.

To be eligible for exemption, agreements must allow and protect confidential individual service contracts.

The exemption and remedial regime should apply equally to outwards and inwards shipping.

The exemptions for international shipping in the Commerce Act 1986 should be repealed.

[Joint response to recommendations 11.1 & 11.2]

The Government considers the objectives of these recommendations may be better achieved through a Commerce Act regime. Currently the Shipping Act provides a parallel, but outdated and unused regime for regulating competition compared with that provided by the Commerce Act.

The Government is currently progressing the Commerce (Cartels and Other Matters) Amendment Bill. This Bill is designed to encourage pro-competitive collaborations between

businesses, while at the same time deterring anti-competitive cartel behaviour. It provides a new broad collaborative activity exemption and has a new clearance regime that would help shipping firms manage the risk that agreements might breach the Commerce Act.

Following its first reading, the Bill has been referred to the Commerce Committee. The Government has asked the Commerce Committee to examine the international shipping exemption in light of the inquiry recommendations, as part of its consideration of the Bill. This includes seeking the views of affected parties, including shippers (exporters and importers) and carriers as to whether they consider removing the exemption is likely to benefit New Zealand, or whether it will deter carriers from servicing New Zealand.

Chapter 12: Regulation of international air freight services

Recommendation 12.1

The Government should account for freight-specific costs and benefits whenever it considers changes to air services agreements or new air services agreements.

This recommendation reflects current practice. The Government considers the all-identifiable benefits to New Zealand as a whole when negotiating air services agreements, and pursues open skies agreements where possible. Where a negotiating partner will not agree to open skies, inclusion of additional freight-specific rate rights and capacity has been, and will continue to be, taken into account.

Recommendation 12.2

Subject to a review of the passenger-specific impacts, the Government should consider adopting a Commerce Act-only regime for regulating international air services.

The Government agrees that airline alliances and other arrangements between competitors could be considered under the Commerce Act rather than the Civil Aviation Act. The Government has asked the Commerce Select Committee to examine this change as part of its consideration of the Commerce (Cartels and Other Matters) Amendment Bill (as per the response to recommendations 11.1 and 11.2).

Recommendation 12.3

If the Government decides to retain Part 9 of the Civil Aviation Act, it should amend Part 9 to require:

- **the Minister of Transport to have regard to an assessment of the benefits and costs of trade practices that are proposed for authorisation under s.88 or s.90 of the Act, and commission regimes that are proposed under s.89;**
- **an assessment of the detriment arising from any potential reduction in competition as part of each assessment of benefits and costs;**
- **public consultation on an assessment of benefits and costs, if the proposed trade practice or commission regime is likely to reduce competition in a market; and**
- **the public disclosure of section 88 and section 90 authorisations that are granted under that regime.**

The Government agrees that if, upon further investigation, there do not appear to be net benefits in adopting a Commerce Act-only regime for considering alliances and other collaborative arrangements between airlines, there would be merit in reviewing and amending Part 9 of the Civil Aviation Act in line with this recommendation.

Chapter 13: Other regulatory issues

Recommendation 13.1

The Government should examine ways to share the increased road user charge revenue from high productivity motor vehicles with councils, so as to encourage the local road upgrades required to support these vehicles.

The Government agrees that the investment required for upgrading and maintaining local roads to cater for high productivity motor vehicles should be shared between local councils and the National Land Transport Fund. This reflects both the local and national benefits derived from improved efficiency of freight movements. At this stage, the Government does not consider that changes are required to the current investment framework or the investment currently being made in local road maintenance or improvement activities.

The New Zealand Transport Agency is working closely with local councils on improving the availability of routes suitable for HPMVs. This includes co-investing in local roads to allow for upgrades using funds from the National Land Transport Fund. The NZTA has advised that it will respond to specific concerns that might arise, including any additional or unexpected costs that might be involved in providing for HPMV access, and how these costs might be addressed.

Recommendation 13.2

Port and airport companies should periodically review the extent they allow access to their facilities by competing suppliers. Competitive provision can improve productive efficiency and customer service.

The Government agrees with this recommendation. Port companies have a principal object of being a successful business and airports are required to act as a commercial undertaking. Both ports and airports are bound by the obligations of the Commerce Act in the same way as other companies and, as such, should be considering the competition aspects of allowing access to their facilities by competing providers.

Recommendation 13.3

The Ministry of Transport should develop a proposal to extend the Freight Information Gathering System and subject the proposal to a regulatory impact analysis 'efficiency test' to determine whether it would deliver net benefits beyond existing information collection and dissemination.

The Government agrees that there may be merit in expanding the freight information gathering system. The freight information gathering system was established in response to the lack of reliable, consistently collected data on freight movements in New Zealand. Currently it provides information on containerised freight movements in and out of 10 ports. The Ministry of Transport is planning to expand the freight information gathering system to include non-participating ports and bulk freight data. The Ministry of Transport intends to continue operating the freight information gathering system on a voluntary basis, which will

put the onus on the Ministry, ports, local government and road and rail users to ensure that the information has benefits that outweigh its collation and collection costs.