



Cabinet Business Committee

CBC (15) 8

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Summary of Paper

10 April 2015

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LATE PAPER: This paper was submitted after the Cabinet deadline and has been accepted for the agenda by the Chair.

Introducing a Biosecurity and Customs Passenger Levy

Portfolios Primary Industries / Customs

The Minister for Primary Industries and the Minister of Customs recommend that the Committee:

Background

- 1 note that demand for Ministry for Primary Industries (MPI) and the New Zealand Customs Service (Customs) passenger clearance services is increasing and it is anticipated that passenger volumes will continue to grow at 3.5 percent per annum;
- 2 note that there is a growing gap between increasing demand, risks and service expectations for passenger processing and available resources;

Levy proposal

- 3 agree to introduce, from 1 January 2016, a border clearance levy on arriving and departing international air and sea passengers and crew to fund the costs of border processing incurred by MPI and Customs;
- 4 agree to directly impose the levy in primary legislation enacted under urgency on Budget day, with detailed levy design issues to be consulted on and set out in delegated legislation;
- 5 note that the proposed combined levy is expected to be up to approximately \$16.25 (including GST) per arriving passenger, and up to \$5.90 (including GST) per departing passenger, subject to more detailed modelling and consultation;
- 6 note that the proposed levy will free up to approximately \$103.3 million in annual Crown funding for passenger clearance (\$47.9 million for biosecurity, \$55.4 million for Customs) when fully implemented;

7 **EITHER** (*recommended by the Treasury*)

7.1 agree that all savings to revenue Crown be returned to the centre;

OR (*recommended by MPI*)

7.2 agree that some of the revenue returned to the Crown be used to reinvest in the biosecurity system, as per Appendix B attached to the submission under CBC (15) 8, and announced as part of Budget 2015, comprising \$2 million in operating funding for implementation plus a one off capital injection of \$2 million in 2015/16, and s 9(2)(f)(iv) per annum in operating funding in 2016/17 and outyears;

Consultation

8 direct officials to prepare a consultation document for a combined border clearance levy, which would include detailed proposals for design and implementation;

9 note that the Minister for Primary Industries and the Minister of Customs intend to seek Cabinet's agreement to release the consultation document in late May 2015, and approval of regulations in October 2015, in order to implement the levy on 1 January 2016;

Financial impacts

10 agree to a decrease in revenue Crown and a corresponding increase in third party revenue to provide for cost recovery of MPI's passenger and crew clearance and enforcement activities, with the following impact on the operating balance:

	\$m – increase/(decrease)				
Vote Primary Industries	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Operating Balance Impact	-	(12.000)	(35.900)	(47.900)	(47.900)
No Impact	-	12.000	35.900	47.900	47.900
Total	-	-	-	-	-

11 approve the following changes to baselines to reflect the revenue changes in paragraph 10 above:

	\$m – increase/(decrease)				
Vote Primary Industries and Food Safety Minister for Primary Industries	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Multi-Category Expenses and Capital Expenditure: Border and Domestic Biosecurity Risk Management MCA Departmental Output Expense: Border Biosecurity Monitoring and Clearance (funded by revenue Crown)	-	(12.000)	(35.900)	(47.900)	(47.900)
Departmental Output Expense: Border Biosecurity Monitoring and Clearance (funded by revenue Other)	-	12.000	35.900	47.900	47.900

- 12 agree to a decrease in revenue Crown and a corresponding increase in third party revenue to provide for cost recovery of Customs passenger and crew clearance and enforcement activities, with the following impact on the operating balance:

Vote Customs	\$m – increase/(decrease)				
	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Operating Balance Impact	-	(13.900)	(42.200)	(56.420)	(56.588)
No Impact	-	13.900	42.200	56.420	56.588
Total	-	-	-	-	-

- 13 approve the following changes to baselines to reflect the revenue changes in paragraph 12 above:

Vote Customs Minister of Customs	\$m – increase/(decrease)				
	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Departmental Output Expense: Clearance and Enforcement Services Related to Passengers and Crew (M21) (funded by revenue Crown)		(13.9)	(42.2)	(56.420)	(56.588)
Clearance and Enforcement Services Related to Passengers and Crew (M21) (funded by revenue other)		13.9	42.2	56.420	56.588

- 14 agree that the Minister for Primary Industries and the Minister of Customs will report to Cabinet on any necessary adjustments to appropriations to reflect substantive changes resulting from consultation;
- 15 note that actual costs associated with providing passenger clearance services, and the associated revenue generated by the levy, are expected to grow as volumes increase;
- 16 agree that changes to revenue and appropriations will be made through memorandum account mechanisms during baseline updates;

Reinvestment of Crown Revenue in Biosecurity if recommendation 7.1 is approved

- 17 approve the following changes to baselines, subject to agreement to paragraph 7.1 above:

Vote Primary Industries and Food Safety Minister for Primary Industries	\$m – increase/(decrease)				
	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Multi-Category Expenses and Capital Expenditure: Border and Domestic Biosecurity Risk Management MCA Departmental Output Expense: Border Biosecurity Monitoring and Clearance (funded by revenue Crown)	-	2.000	s 9(2)(f)(iv)		

- 18 approve the following capital injections to MPI to give effect to the policy decision in paragraph 3 above, with a corresponding impact on debt:

	\$m – increase/(decrease)				
	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Ministry for Primary Industries: Capital Injection	-	2.000	-	-	-

Legislative implications

- 19 note that neither the Biosecurity Act 1993, the Customs and Excise Act 1996, nor the Immigration Act include a suitable provision to directly impose a levy to fund the costs of passenger clearance by MPI and Customs;
- 20 agree to directly impose the levy in primary legislation;
- 21 agree that the levy will have the following key components:
- 21.1 the purpose of the levy is to recover costs of MPI biosecurity services and border processing functions performed by Customs;
- 21.2 the levy will be payable by arriving and departing passengers and crew;
- 21.3 payment is to the Director-General of MPI and the Comptroller of Customs;
- 21.4 surpluses or deficits can be carried over to the following financial year;
- 22 agree that the legislation will empower regulations to be made to detail other matters necessary for the levy's administration, such as the rate of the levy, a collection agency and reporting and auditing requirements, waivers and penalties for non or late payment;
- 23 note that officials will report to the Attorney-General, and the Minister for Primary Industries and the Minister of Customs by 17 April 2015 with a clear recommendation as to the best legislative vehicle;
- 24 delegate to the Ministers in paragraph 23 above, authority to issue drafting instructions to the Parliamentary Counsel Office for the necessary legislative change once officials have reported back;
- 25 agree that the amendments be introduced under urgency on Budget day;

s 9(2)(f)(iv)

Suzanne Howard
Committee Secretary

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Introducing a biosecurity and customs border clearance levy on passengers and crew

Proposal

1. This paper proposes the introduction from 1 January 2016 of a levy to fund the costs of Ministry for Primary Industries (MPI) biosecurity and Customs passenger and crew border clearance (border clearance levy). This will require Budget night legislation for MPI and Customs to directly impose the levy, with consultation to follow on the level of the levy.
2. The paper also seeks agreement to reinvest, as part of Budget 2015, ^{s 9(2)(f)(iv)} per annum from the funds returned to the Crown to further strengthen the biosecurity system.

Executive Summary

3. The demand for Customs and MPI border clearance activities is increasing due to increasing volume of travellers, which is forecast to grow by 3.5 percent, and changes in the risks that both agencies must now manage. In addition, passengers now have higher expectations about the level of service that will be delivered at the border. Border sector agencies¹ have worked together to manage their increasing pressures within constrained baselines, but they are now reaching the limits of their capacity.
4. We recommend Cabinet agree to implement full cost recovery for border clearance services for passengers and crew. All travellers derive private benefits from travel, whether for personal or business, and in addition, from a biosecurity perspective, all passengers and crew are risk exacerbates as they may inadvertently carry "hitchhiker" pests. Therefore it is appropriate that travellers share in the costs associated with MPI and Customs border operations.
5. We estimate the levy will be approximately \$16.25 per arriving passenger and \$5.90 per departing passenger, comparing favourably with border processing charges applied in other jurisdictions. We do not consider that this will have a substantial impact on the number of people choosing to visit New Zealand.

¹ Customs, MPI and MBIE

6. A border clearance levy will ensure that revenue will increase in line with increasing travel volumes. This also offsets future costs that would otherwise need to be met by the Crown. In addition, replacing existing Crown funding with a levy frees up approximately \$103.4 million when fully implemented. There are options for reinvesting a portion of this funding to strengthen the border.
7. The Minister for Primary Industries is seeking investment of around ^{s 9(2)(f)(iv)} per annum and a one off capital injection of \$2 million that would enhance its ability to keep biosecurity risks offshore, stop risks at the border, and respond to risks post-border. ^{s 9(2)(f)(iv)}
^{s 9(2)(f)(iv)}
8. In order to implement these arrangements for 1 January 2016, legislative changes will need to be made under Budget Night urgency. The levy directly imposed under primary legislation and there will be substantial public interest in this proposal. We will work proactively to engage with key stakeholders as soon as announcements are made. A public consultation document will seek feedback on the detailed design for implementation and we will seek Cabinet's agreement to this consultation document in late May 2015.

Background

Current funding of border services

9. The Crown currently funds MPI's biosecurity and Customs' clearance of air and cruise ship passengers and crew, craft and mail. Cargo clearance is cost recovered and funding of cruise ship passenger clearance is Crown funded.
10. The current approach to funding air passenger clearance services has been in place since 2004 and is based on a "beneficiary pays" principle. It was agreed at that time that broadly speaking, biosecurity and customs (and immigration) border services deliver primarily (but not only) public benefits and therefore should be funded by the Crown, while aviation security services were considered to deliver primarily private benefits and should be funded by a per passenger charge levied on airlines.

MPI and Customs passenger clearance activities and costs

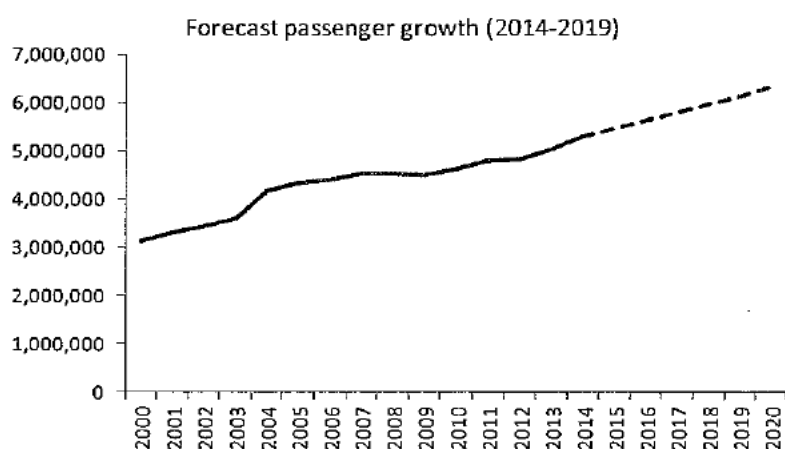
11. The primary activity of border clearance and targeting staff is to detect undeclared risk or prohibited items, and ensure passenger's personal items meet relevant requirements. MPI and Customs interact with each passenger arriving by air or cruise ship through:
 - a. Pre-border activity such as risk profiling and placing alerts to direct high risk passengers for further intervention, such as x-ray screening or full search;

- b. Quarantine and Customs officers risk assessing passengers (including Customs officers exercising immigration functions at the primary line);
 - c. Detector dog screening of passengers.
 - d. Customs also screens departing passengers.
12. Resources and interventions are directed towards higher risk passengers. Based on current forecasts, MPI expects to spend \$47.9 million in 2014/15 on the direct and indirect costs of passenger clearance; Customs expects to spend \$55.4 million.

Comment

Demand for passenger clearance services is increasing

13. Arriving air passenger volumes have grown 19 percent in the last five years (from 4.4 million in 2009 to 5.2 million in 2014) and 49 percent in the last ten years. Arriving cruise ship passengers have risen approximately 80 percent in the last five years (from 136,000 to 247,000). Total passenger volumes (arriving and departing, air and cruise ship) are forecast to increase to about 11.5 million by 2018 from around 10.1 million in 2014. This growth is expected to continue at around 3.5 percent per annum.
14. The risk profile of passengers is also increasing. Our trade and travel links with Asia are increasing, and as we enter into more free trade agreements with, and target more tourism marketing into, emerging countries, the flow of people (and goods) coming across our borders will continue to become more diverse. Higher risk passengers require higher levels of intervention (eg. x-ray screening, detector dog screening, physical inspections), which increases the cost per passenger of clearance.



15. Service expectations also continue to increase.

Passenger and tourism industry expectations of fast border processing and high quality experiences are placing ongoing pressure on MPI and Customs to reduce disruptions and target interventions. Additional costs imposed by increasing service expectations include:

- a. An increasing number of places of first arrival;

- b. Increasing numbers of craft and passengers arriving at airports and seaports which are not designated as places of first arrival, and where MPI and Customs do not have a permanent presence (eg. charter flights, cruise ship arrivals);
- c. Changes to flight schedules at established ports (eg. Jetstar has recently scheduled additional flights into Wellington Airport outside current rostered shifts);
- d. Other increasing service expectations eg. faster processing times for cruise ships.

MPI and Customs have taken steps to drive efficiencies but are reaching the limit

16. MPI and Customs have worked together to manage increasing demand pressures through improvements to the way they deliver their passenger clearance services at the border. Initiatives include:
- a. Use of new automated systems, such as SmartGate;
 - b. Major change processes across all areas of Customs to reduce operating costs - this includes the current Operations Transformation Project and the Continuous Improvement project on Auckland Airport departures;
 - c. Shared use of facilities and cross-warranting of staff;
 - d. Biosecurity awareness raising activities targeted at passengers;
 - e. Enhanced profiling and targeting to segment incoming passengers;
 - f. Additional detector dogs allowing more passengers to be directed to the green lane for biosecurity clearance;
 - g. Working with cruise ship operators to pre-clear passengers.
17. While MPI and Customs will continue to look for further efficiency gains, on their own these will not be enough to cope with demand pressures in the longer term. Funding for Customs sought through Budget 2015 and MPI's proposed re-prioritisation of \$9.1 million of Primary Growth Partnership funding will help address key pressure points in the short term, but if we do not take other measures, the gap between increasing demand, risks and service expectations and available resources will continue to grow. This increases the risk of biosecurity incursions and customs harm. The cost of such incursions is very high - for example, the current Queensland Fruit Fly response will cost an estimated \$20.5 million², and MPI estimates the cost to the New Zealand economy of a Foot and Mouth Disease outbreak would be up to \$16 billion³. It also makes it harder to maintain service levels that facilitate trade and travel.

18. s 9(2)(f)(iv)

² This involves seeking funding of s 9(2)(f)(iv) in Budget 2015

³ The potential harm avoided by interceptions of some major classes of illicit drugs in 2013/14 has been quantified using the New Zealand Drug Harm Index at a little over \$107.4 million, an increase from just over \$57 million in 2012/13.

Our options for managing demand pressures

19. There are three broad options for managing passenger clearance demand pressures in the medium to longer term. Our preference is to seek to recover the costs of passenger processing from passengers and crew and our second preference would be providing additional Crown funding. The options are:
 - a. Expand cost recovery to other areas - such as passengers and crew, and/or craft processing, as well as charging for higher levels of service.
 - b. Provide additional Crown funding - regular increases will be required as volumes and risk profiles continue to grow
 - c. Accept a higher level of risk - the direct and indirect costs to the Crown, and the economy and society more generally, of biosecurity incursions and customs-related harms would outweigh the relatively small costs of additional protection

The rationale for passenger cost recovery

20. The principal argument for cost recovery of biosecurity clearance costs is that all travellers (passengers and crew) are risk exacerbators - that is, they create biosecurity risks to New Zealand, and an "exacerbator pays" principle would hold that it is reasonable and equitable that they should pay the cost of managing these risks. The Biosecurity Act 1993 explicitly recognises an "exacerbator pays" principle; it provides that a levy can be imposed on persons who create the risks that require the provision of a particular service or function. All passengers are risk exacerbators, given the potential for all passengers to inadvertently carry "hitchhiker" pests with them.
21. There is also an equity or "fairness" issue given that other biosecurity border clearance is cost recovered (eg. goods clearance) and we are moving to cost sharing for post-border biosecurity under the Government Industry Agreement for Biosecurity Readiness and Response.
22. Most of the services and activities delivered at the border offer a mix of public and private benefits. In the past, the primary beneficiaries of Customs and Immigration activities at the border have been considered to be the New Zealand public. There are clear public benefits through preventing harmful people or goods entering New Zealand, and supporting the growth of tourism and the economy more broadly.
23. However, passengers, ports, airlines and cruise ship operators derive private benefits more broadly from being able to cross the border: people travel to and from New Zealand for private gain - for tourism, visiting friends and family, and for private business. Risk assessment and passenger clearance activities by Customs and Immigration are a clear part of the process of crossing the border. The private benefits associated with improvements in travel facilitation are also

consistent with the rationale used for the recovering the Customs costs of goods clearance.

24. The advantage of cost recovery from passengers and crew is that revenue will increase as passenger volumes, risk, and service expectations increase. This allows revenue to 'flex' with demand, and reduces the Crown's exposure to increasing costs.
25. In addition, charging will ensure that the travel and tourism industry factors passenger clearance service costs into their business decisions (eg. introducing charter flights, additional services outside existing shift patterns, increased service expectations).
26. s 9(2)(f)(iv)

Timing of decision-making, consultation and implementation

27. If the levy is agreed to, we propose that it be introduced to take effect from 1 January 2016. This timing will strike an appropriate balance between responding to the demand pressures described above and the time required to carry out detailed design work and consultation on the implementation of the levy.
28. In order for the levy to be collected from 1 January 2016, the legislative amendments should be introduced and passed through all stages under urgency on Budget night. More information on the nature of the changes is set out in the Legislative Implications section below. Officials consider this is necessary in order to meet the indicative timings for design and public consultation on the levy prior to promulgation of a levy order as set out below. If the amendments were to be considered by Select Committee it is very unlikely these timeframes could be met. Public interest in the amendments is likely to be high and there will be an opportunity for public consultation during the levy-making process itself.

Probable design of the border clearance levy

29. Based on current Government appropriations, and subject to more detailed modelling, the levy would be set at around \$16.25 (incl. GST) per arriving passenger, and \$5.90 (incl. GST) per departing passenger. The table below sets out the proposed levy and current Aviation Security Service (Avsec) and Civil Aviation Authority (CAA) charges.

Charge	Arriving	Departing
Biosecurity	\$10.35	-
Customs	\$5.90	\$5.90
Avsec	-	\$11.98
CAA	-	\$1.50
Total	\$16.25	\$19.38

30. The levy on departing passengers comprises a charge for customs clearance only (no biosecurity activities are undertaken on departing passengers).
31. The proposed design is a levy:
- On arriving and departing air and sea passengers and crew
 - Collected by carriers (airlines and cruise ship operators)
 - Calculated based on the average per passenger costs of clearance
 - Added to the cost of tickets
 - Charged at ticket purchase.
32. The design of the levy would be subject to more detailed policy work and consultation. The levy would be designed so as to minimise compliance costs to passengers, industry, and government.
33. Detailed design issues will be tested during consultation, such as the collection mechanism, the precise scope of activities that would be captured by the charge, costings, any exemptions that might apply to the general approach that all air and sea passengers and crew are covered (eg. NZ Defence Force personnel), and alternative design options (eg. charges based on actual rather than average costs eg. different rates for smaller airports).

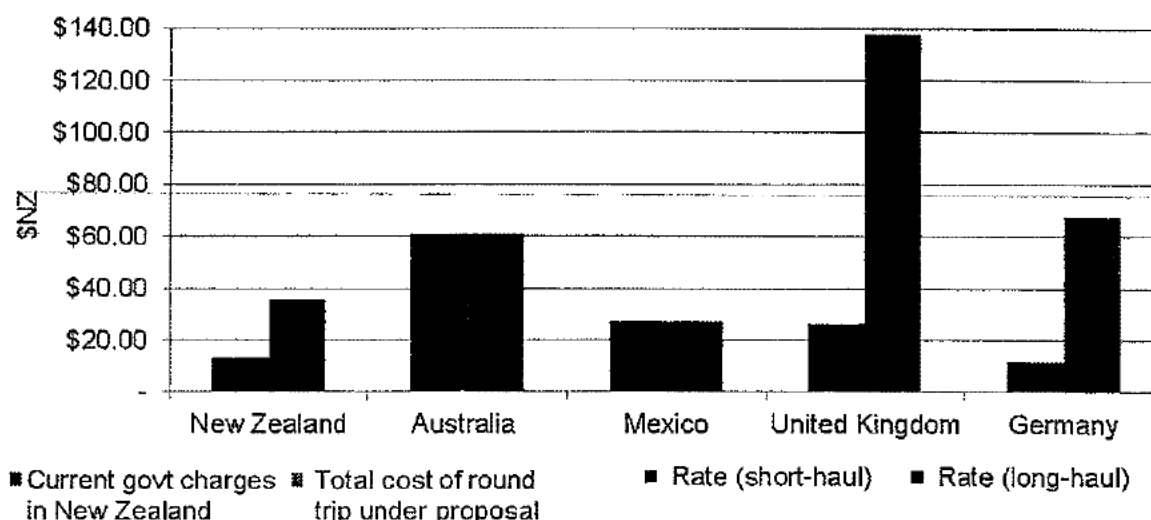
Existing New Zealand and overseas border charges

34. The table below sets out current New Zealand border charges on passengers inclusive of GST.

Air passengers	
Aviation Security Service - International Passenger Security Charge (departing)	\$11.98
Civil Aviation Authority - Levy (departing)	\$1.50

35. A number of airports and sea ports also have passenger charges that fund infrastructure and other improvements, for example, Dunedin Airport has a Passenger Service Charge on arriving and departing passengers of \$12.78 and Environment Southland charges a \$5 levy on cruise ship visitors to Stewart Island.
36. Our comparator countries already cost recover along the passenger pathway. These include Australia, United States, United Kingdom and China. Figure 1 below compares the current and future costs of travelling to and from New Zealand with departure charges in other jurisdictions. Appendix A contains further information on passenger charges.

Figure 1: Comparison of border charges on departures, compared with current and proposed passenger charges in New Zealand



Impact on visitor arrivals

37. At the rate it is likely to be set at, the proposed levy is unlikely to have anything more than a very minimal impact on the number of travellers visiting New Zealand. It would be a very small component of not only the cost of an international airline ticket (especially for long haul flights) but also of overall travel costs. The table below shows the indicative cost of a return ticket between the capitals of each of the top five source countries for arriving international passengers and Wellington, and the proportion of the airfare the proposed levy would be⁴:

	Cost of economy return ticket between major cities and Wellington	Proposed MPI and Customs passenger clearance charge as a % of return ticket	Total additional charges (current AVSEC and CAA, plus MPI and Customs) as a % of return ticket
Australia (Melbourne)	\$420	5.3%	8.5%
India	\$1815	1.2%	2.0%
United Kingdom	\$2536	0.9%	1.4%
China	\$2586	0.9%	1.4%
United States	\$2660	0.8%	1.3%
Germany	\$2677	0.8%	1.3%
Argentina	\$3236	0.7%	1.1%

⁴ Approximate prices sourced where possible from national carriers, for a return flight booked six months in advance, between major cities and Wellington.

38. It is likely that economic conditions in travellers' home countries and fluctuations in the exchange rate would be more significant than price increases for travellers' decisions on whether to visit New Zealand.
39. Any impact would be more pronounced for the lower priced, short haul Trans-Tasman market than for long haul travel. Officials will undertake further analysis to quantify the precise impacts, and the results of this work will inform the final levy design, including the level of the levy.

International obligations

40. New Zealand is a contracting party to the Convention on International Civil Aviation. The Convention includes expectations that any charges should not be differentiated by the nationality of the carrier, or charged in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon. Parties to the convention are able to file a difference to the relevant annex. This is an administrative requirement and would not prevent the levy being implemented.
41. We consider that sufficient flexibility exists in the relevant international agreements to which New Zealand is party to enable implementation of a border clearance charging regime which would not breach those agreements. We will continue to work to ensure compliance with international obligations as part of the fuller design of the levy.

Financial Implications

42. Estimated baseline expenditure for MPI and Customs passenger processing services is set out in Table 1 below. This represents the current level of Crown funding for these services and hence the expected return to the Crown that would be realised if a levy is put in place. These estimates are based on existing appropriations for border clearance and will be refined once the final levy design has been confirmed and more detailed modelling has been undertaken.

Table 1: Estimated baseline expenditure on passenger clearance

\$m	2015/16 \$m	2016/17 \$m	2017/18 \$m	2018/19 \$m
Ministry for Primary Industries	47.9	47.9	47.9	47.9
New Zealand Customs Service	55.4	56.2	56.4	56.6
Total	103.3	104.1	104.3	104.5

43. Customs spending on passenger clearance is higher as it undertakes a wider range of clearance activities, including immigration processing, and on both arriving and departing passengers.
44. Most tickets are purchased weeks or months in advance of travel. If cost recovery is implemented on 1 January 2016, we estimate that approximately 25 percent of \$103.3 million (\$25.9 million) will be generated in levy revenue in

2015/16, and approximately 75 percent in 2016/17 (\$78.1 million). Note this is subject to further modelling.

45. The actual costs associated with providing passenger clearance services, and the associated revenue generated by the levy, are expected to grow as volumes increase. We propose to manage the levies within memorandum accounts, to ensure that variations in revenue and actual and reasonable expenditure can be managed effectively, and easily accounted for to industry and levy payers.
46. There will be costs in 2015/16 associated with implementing the levy, which we propose be funded out by the Crown from those funds returned to the Crown. Agencies will work together to leverage off existing systems to reduce the costs of implementation and administration where possible.
47. Approval is sought to recognise the change in funding source resulting from Cabinet's decision to adopt cost recovery for biosecurity and Customs passenger and crew processing activities. This ensures that the estimated savings generated through this proposal are included in the Treasury's fiscal forecasts. The estimated savings are set out in the tables below. The tables assume 25 percent of funding in 2015 will be met through third parties; 75 percent in 2016/17.

Vote Primary Industries (\$m)	2015/16	2016/17	2017/18	2018/19 & Outyears
Border Biosecurity Monitoring and Clearance (funded by revenue Crown)	12.0	35.9	47.9	47.9

Vote Customs (\$m)	2015/16	2016/17	2017/18	2018/19 & Outyears
Clearance and Enforcement Services Related to Passengers and Crew (funded by revenue Crown)	13.9	42.2	56.420	56.588

48. We will report back to Cabinet when final approval for regulations is sought on whether any necessary adjustments are required to reflect substantive changes resulting from consultation or delays in implementation.

Opportunities for reinvestment to further strengthen the border sector

49. ^{s 9(2)(f)(iv)}



50. Introduction of passenger cost recovery also provides an opportunity to reinvest in the short term some of the funding returned to the Crown to enhance the overall biosecurity system to ensure it remains fit for purpose in the face of increasing risk, while improving the facilitation of travel and passengers' experience at the border.
51. MPI has identified investments totalling ^{s 9(2)(f)(iv)} per annum in operational funding and a one off capital injection of \$2 million that would enhance its ability to-keep-biosecurity-risks-offshore, stop risks at the border, and respond to risks post-border. The investments build on, but are in addition to, current plans for \$9.1 million of reinvestment over four years in the biosecurity system set out in MPI's Four Year Plan. These enhancements will help to reduce pressure at the border. Detailed information on the proposed investments is contained in Appendix A. ^{s 9(2)(f)(iv)}
^{s 9(2)(f)(iv)}
52. The Minister for Primary Industries seeks agreement to ^{s 9(2)(f)(iv)} per annum in operational funding and a one off capital injection of \$2 million in 2015/16, from the freed up from funds returned to the Crown, being used to reinvest in the biosecurity system, as per Appendix A, and as announced as part of Budget 2015.
53. The Minister for Primary Industries has also directed MPI to review the biosecurity system over the next 6 months, in consultation with stakeholders, to ensure that the system remains resilient to emerging risks and developments over the longer term (the Biosecurity 2025 project). The project will provide a clear direction for the biosecurity system over the next ten years, and replace the 2003 Biosecurity Strategy. The Minister for Primary Industries intends to seek Cabinet agreement later in 2015 to the update, which is expected to include a vision statement for biosecurity, one or more direction statements to signal expectations of what the biosecurity system will deliver or have in place by 2025, and priorities for action and improvement. This will inform further investment opportunities beyond 2016.

Consultation

54. The following departments have been consulted, and their views incorporated in this paper: Ministry of Transport, Ministry of Business, Innovation, and Employment (immigration and tourism policy), the Treasury, and the Parliamentary Counsel Office. The Department of the Prime Minister and Cabinet and the Ministry of Foreign Affairs and Trade have been informed.
55. We intend to seek Cabinet agreement to release of a public consultation document on levy design options in June 2015. This document will be placed on MPI's and Customs' website and the public will be given the opportunity to submit on the proposed levy. Consultation will also involve targeted meetings with key stakeholders impacted by the levy and other key stakeholders, including: the Board of Airline Representatives of NZ (BARNZ), airlines, Cruise

NZ, cruise ship operators, Tourism NZ, Tourism Industry Association Federated Farmers, primary producers and exporters, and importers. There will be significant stakeholder interest in this proposal.

Treasury comment

56. Treasury supports the proposal to cost recover passenger clearance services, but not the proposal to reinvest a portion of the savings into the biosecurity system. Normal practice is for all revenue Crown that is no longer needed for its intended purpose be returned to the centre. This enables the Government to make funding decisions taking into account all its priorities. In addition, in this case detailed policy work and consultation will provide more clarity on exactly what activities should be cost recovered, which could include some of the proposed reinvestment activities. This work should be completed before any decisions on future Crown funding.

Human Rights

57. The proposals in this paper are not in any way inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative Implications

58. The Customs and Excise Act does not include a suitable provision to authorise the imposition of a levy to fund the costs of customs clearance of passengers. Nor does the Immigration Act include an appropriate provision to authorise the imposition of a levy to fund the costs of immigration clearance of passengers by the NZ Customs Service. Legislative change would therefore require amendment to proceed with the imposition of a levy.
59. While the Biosecurity Act 1993 already includes a general levy-making provision which would enable the imposition of a levy, a decision to impose the levy could not be taken without consultation on the proposal. Amendment to the Biosecurity Act 1993 would therefore be required.
60. The primary legislation will:
- a. Specify the purpose of the levy to recover costs of MPI biosecurity services and border processing functions performed by Customs, including immigration and customs functions.
 - b. That the levy will be payable by arriving and departing passengers and crew
 - c. That the levy is payable to the Director-General of MPI and the Comptroller of Customs respectively
 - d. Provide for surpluses or deficits to be carried over to the following financial year
 - e. Authorise regulations for all other matters necessary for the levy's administration, such as the mechanism for determining the rate, a collection agency and arrangements for collecting payment, waivers, audits and penalties for late or non-payment.

61. Officials have identified two options for giving effect to the required change. One option is to enact one levying power which would cover the imposition of a levy to recover the costs of international passenger processing by MPI and Customs in the most suitable legislative vehicle. The other option is to amend the Biosecurity Act, the Customs and Excise Act and if necessary, the Immigration Act to add a new provision that would impose the levy.
62. We recommend officials work with Parliamentary Counsel Office on the best legislative vehicle to give effect to the levy, and report back to the Attorney-General, and the Ministers for Primary Industries and Customs by Friday 17 April with a clear recommendation.

Regulatory Impact Analysis

63. The Regulatory Impact Analysis (RIA) requirements apply to the proposals in this paper. A Regulatory Impact Statement will be prepared and attached to the Cabinet paper seeking agreement to the release of the public consultation document in late May 2015.

Publicity

64. We propose that the Minister of Finance announce the proposed levy on Budget day. Officials will prepare communications materials for Budget Day and engage with key stakeholders proactively once announcements are made.

Indicative timing

65. The table below sets out indicative timing for introduction of the levy.

Date	Milestone
21 May 2015	Budget Day : announcement and amendments to legislation
27 May	EGI - agreement to issue consultation document
15 June	Consultation commences
20 July	Consultation ends
Early Oct	Cabinet approval of final levy design
Oct	PCO drafting
Early Nov	LEG approval of Levy Orders
Late Nov	Gazettal
1 January 2016	Levy in place

Recommendations

66. The Minister for Primary Industries and the Minister of Customs recommend that the committee:

Background

1. **Note** demand for MPI and Customs passenger clearance services is increasing and it is anticipated that passenger volumes will continue to grow at 3.5 percent per annum.
2. **Note** there is a growing gap between increasing demand, risks and service expectations for passenger processing and available resources.

Levy proposal

3. **Agree** to introduce from 1 January 2016 a border clearance levy on arriving and departing international air and sea passengers and crew to fund the costs of border processing incurred by MPI and Customs
4. **Agree** to directly impose the levy in primary legislation enacted under urgency on Budget night, with detailed levy design issues to be consulted on and set out in delegated legislation.
5. **Note** the proposed combined levy is expected to be up to approximately \$16.25 (incl. GST) per arriving passenger, and up to \$5.90 (incl. GST) per departing passenger, subject to more detailed modelling and consultation.
6. **Note** the proposed levy will free up to approximately \$103.3 million in annual Crown funding for passenger clearance (\$47.9 million for biosecurity, \$55.4 million for Customs) when fully implemented.
7. **EITHER:**
 - a. **Agree** that all savings to revenue Crown be returned to the centre (Treasury recommended)
 - or:
 - b. **Agree** that some of the revenue returned to the Crown be used to reinvest in the biosecurity system, as per Appendix B, and announced as part of Budget 2015, comprising \$2 million in operating funding for implementation plus a one off capital injection of \$2 million in 2015/16, and ^{s 9(2)(f)(iv)} per annum in operating funding in 2016/17 and outyears (MPI recommended).

Consultation

8. **Direct** officials to prepare a consultation document for a combined border clearance levy, which would include detailed proposals for design and implementation

9. **Note** we intend to seek Cabinet agreement to release of the consultation document in late May 2015, and approval of regulations in October 2015, in order to implement the levy on 1 January 2016

Financial impacts

10. **Agree** to a decrease in revenue Crown and a corresponding increase in third party revenue to provide for cost recovery of MPI's passenger and crew clearance and enforcement activities, with the following impact on the operating balance:

	\$m – increase/(decrease)				
Vote Primary Industries	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Operating Balance Impact	-	(12.000)	(35.900)	(47.900)	(47.900)
No Impact	-	12.000	35.900	47.900	47.900
Total	-	-	-	-	-

11. **Approve** the following changes to baselines to reflect the revenue changes in recommendation 10 above:

	\$m – increase/(decrease)				
Vote Primary Industries and Food Safety Minister for Primary Industries	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Multi-Category Expenses and Capital Expenditure: Border and Domestic Biosecurity Risk Management MCA Departmental Output Expense: Border Biosecurity Monitoring and Clearance (funded by revenue Crown)	-	(12.000)	(35.900)	(47.900)	(47.900)
Departmental Output Expense: Border Biosecurity Monitoring and Clearance (funded by revenue Other)	-	12.000	35.900	47.900	47.900

12. **Agree** to a decrease in revenue Crown and a corresponding increase in third party revenue to provide for cost recovery of Customs passenger and crew clearance and enforcement activities, with the following impact on the operating balance:

	\$m – increase/(decrease)				
Vote Customs	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Operating Balance Impact	-	(13.900)	(42.200)	(56.420)	(56.588)
No Impact	-	13.900	42.200	56.420	56.588
Total	-	-	-	-	-

13. **Approve** the following changes to baselines to reflect the revenue changes in recommendation 12 above:

Vote Customs Minister of Customs	\$m – increase/(decrease)				
	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Departmental Output Expense: Clearance and Enforcement Services Related to Passengers and Crew (M21) (funded by revenue Crown)		(13.9)	(42.2)	(56.420)	(56.588)
Clearance and Enforcement Services Related to Passengers and Crew (M21) (funded by revenue other)		13.9	42.2	56.420	56.588

14. **Agree** that the Minister for Primary Industries and the Minister of Customs will report back to Cabinet on any necessary adjustments to appropriations to reflect substantive changes resulting from consultation
15. **Note** that actual costs associated with providing passenger clearance services, and the associated revenue generated by the levy, are expected to grow as volumes increase
16. **Agree** that changes to revenue and appropriations will be made through memorandum account mechanisms during baseline updates

Reinvestment of Crown Revenue in Biosecurity if recommendation 6b is approved

17. **Approve** the following changes to baselines, subject to agreement to recommendation 6b above:

Vote Primary Industries and Food Safety Minister for Primary Industries	\$m – increase/(decrease)				
	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Multi-Category Expenses and Capital Expenditure: Border and Domestic Biosecurity Risk Management MCA Departmental Output Expense: Border Biosecurity Monitoring and Clearance (funded by revenue Crown)	-	2.000	s 9(2)(f)(iv)		

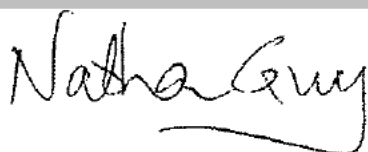
18. **Approve** the following capital injections to the Ministry for Primary Industries to give effect to the policy decision in recommendation 3 above, with a corresponding impact on debt:

	\$m – increase/(decrease)				
	2014/15	2015/16	2016/17	2017/18	2018/19 & Outyears
Ministry for Primary Industries: Capital Injection	-	2.000	-	-	-

Legislative implications

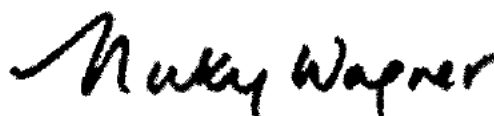
19. **Note** that neither the Biosecurity Act 1993, the Customs and Excise Act 1996, nor the Immigration Act include a suitable provision to directly impose a levy to fund the costs of passenger clearance by MPI and Customs
20. **Agree** to directly impose the levy in primary legislation
21. **Agree** that the levy will have the following key components:
 - a. The purpose of the levy is to recover costs of MPI biosecurity services and border processing functions performed by Customs,
 - b. The levy will be payable by arriving and departing passengers and crew,
 - c. Payment is to the Director-General of the Ministry for Primary Industries and the Comptroller of Customs; and
 - d. Surpluses or deficits can be carried over to the following financial year.
22. **Agree** that the legislation will empower regulations to be made to detail other matters necessary for the levy's administration, such as the rate of the levy, a collection agency and reporting and auditing requirements, waivers and penalties for non or late payment
23. **Note** that officials will report back to the Attorney-General, and the Ministers of Primary Industries and Customs by 17 April 2015 with a clear recommendation as to the best legislative vehicle
24. **Invite** the delegated Ministers to issue drafting instructions to the Parliamentary Counsel Office for the necessary legislative change once officials have reported back
25. **Agree** the amendments be introduced under urgency on Budget Day

s 9(2)(f)(iv)



Hon Nathan Guy
Minister for Primary Industries

10 / 4 / 2015



Hon Nicky Wagner
Minister of Customs

10 / 4 / 2015

Appendix A - Passenger charges in other jurisdictions

Country	Tax name	Rate (short-haul)		Rate (long-haul)	
		Local currency	NZ dollar	Local currency	NZ dollar
New Zealand	Avsec International Passenger Security Charge (departure)	\$11.98	\$11.98	\$11.98	\$11.98
	CAA Levy (departure)	\$1.50	\$1.50	\$1.50	\$1.50
Australia	Passenger Movement Charge (PMC) (departure)	\$55.00	\$58	\$55.00	\$58
USA	U.S. International Transportation Tax (arrival and departure)	\$17.50	\$24	\$17.50	\$24
	US Customs User Fee (arrival and departure)	\$5.50	\$7.50	\$5.50	\$7.50
United Kingdom	Air Passenger Duty (APD) (departure)	£13	\$27	£94	\$194
China		90 Yuans	\$20	90 Yuans	\$20
Canada	Air Travellers Security Charge	\$25.91	\$28	\$25.91	\$28
Mexico	Derecho de No Inmigrante (DNI)	Mx\$294	\$26	Mx\$294	\$26
Germany	Luftverkehrsteuergesetz (LuftVStG)	€ 7.50	\$11	€ 42.18	\$62
Austria	Flugabgabegesetz (FlugAbgG)	€ 7	\$10.30	€ 35	\$51.70

Appendix B - Options for reinvestment in the biosecurity system

Categories of New Investment	Keeping Risk Offshore s 9(2)(f)(iv)			Stopping Risk at the Border ⁶ s 9(2)(f)(iv) + \$2.0 million CAPEX		Responding to Risk Post Border s 9(2)(f)(iv)	
	Total: \$16.6m (+ \$2.0m CAPEX)						
Key Initiatives Proposed	Managing risk offshore Regular proactive auditing of export countries' biosecurity assurance screening programmes to prevent risks arriving in NZ e.g. ensuring the US screening programme of brown marmorated stinkbug is effective	Smarter tools and treatments to manage risk Increase research into risk treatment options to improve effective intervention while reducing toxicity or invasiveness e.g. finding an alternative for highly toxic treatments such as methyl bromide	Improved risk profiling and targeting Increased ability to use intelligence to target interventions, (e.g. passenger searches, x-ray, cargo inspections) based on risk profiles e.g. increased interventions on passengers from Australia during peak fruit fly season	Make compliance easier for arriving passengers Provide market and culture specific information before people pack to travel to NZ so that it is easier for them to comply	Improved detection Increased detector dog programme to all ports of first arrival (from 40 to 60 dogs) Introduce hand luggage x-raying	Enhanced surveillance programme onshore Increased capacity to detect risks that have arrived post border e.g. trapping and monitoring	Strengthening readiness and response Increase capacity in laboratories to meet expected demand due to increased surveillance Maintaining a world class response capability within our laboratories Increase current baseline funding for readiness and small to medium responses
Expected Benefits	Ensuring risk is managed offshore to our standards Higher assurance offshore systems are managing our risks Reduces our need to be reactive	Identifying treatment options and opportunities Making sure we are using the best available tools Identify treatments for known risks in advance e.g. brown marmorated stinkbug Switch to less toxic treatments Less impact on the environment	Improved efficiency in applying interventions and resource Increased confidence that risks are being appropriately managed	Enhanced customer experience on arrival Reduce interventions Shorter queues Faster processing times for passengers Keeps risk offshore	Improved detection of risk items at the border (dogs are the most efficient and effective intervention) X-raying hand luggage will provide another layer of protection	Improved early risk detection onshore Quicker response time and increased likelihood of successful interventions Earlier detection results to lower response costs	Better prepared and better able to manage pressure during responses Improved laboratory analysis and response times

⁶ Proposed investments in this section are technically on the passenger pathway so could be included in the potential border clearance levy (but this is not currently included in the \$50 million proposed levy referenced above). CAPEX would need to be Crown funded, but OPEX depreciation could be recovered to allow replacement.

Consultation on Cabinet and Cabinet Committee Submissions

Certification by Department:

Guidance on consultation requirements for Cabinet/Cabinet committee papers is provided in the CabGuide (see Procedures: Consultation): <http://www.cabguide.cabinetoffice.govt.nz/procedures/consultation>

Departments/agencies consulted: The attached submission has implications for the following departments/agencies whose views have been sought and are accurately reflected in the submission:

Ministry of Transport, Ministry of Business, Innovation, and Employment (immigration and tourism policy), Treasury, Parliamentary Counsel Office.

Departments/agencies informed: In addition to those listed above, the following departments/agencies have an interest in the submission and have been informed:

Department of the Prime Minister and Cabinet, Ministry of Foreign Affairs and Trade have been informed.

Others consulted: Other interested groups have been consulted as follows:

Deborah Roche, Deputy Director-General, Policy and Trade Branch, Ministry for Primary Industries

Date:

10th / 4 / 15

Signature

D Roche

Certification by Minister:

Ministers should be prepared to update and amplify the advice below when the submission is discussed at Cabinet/Cabinet committee.

The attached proposal:

Consultation at Ministerial level



has been consulted with the Minister of Finance
[required for all submissions seeking new funding]



has been consulted with the following portfolio Ministers: Customs



did not need consultation with other Ministers

Discussion with National caucus



has been or ☒ will be discussed with the government caucus



does not need discussion with the government caucus

Discussion with other parties



has been discussed with the following other parties represented in Parliament:

☐ Act Party

☐ Maori Party

☐ United Future Party

☐ Other [specify]



will be discussed with the following other parties represented in Parliament:

☐ Act Party

☐ Maori Party

☐ United Future Party

☐ Other [specify]



does not need discussion with other parties represented in Parliament

Portfolio

Primary Industries

Date

10 / 4 / 15

Signature

Nathan Guy