



Implementing the Border Clearance Levy

Consultation Regulatory Impact Statement

Prepared by the New Zealand Customs Service and Ministry for Primary Industries.

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1	Agency Disclosure Statement	3
2	Status Quo and Problem Definition	4
2.1	The Government has agreed to implement a border clearance levy	4
2.2	Activities delivered at the border	4
2.3	The demand for border clearance services is increasing	5
2.4	Agencies are under ongoing pressure to meet customer expectations	6
2.5	The rationale for adopting cost recovery for border clearance activities	6
3	Objectives	7
4	Options and impact analysis	8
4.1	Overarching policy choices	9
4.2	Exemptions to the policy	14
4.3	Levy collection mechanism	15
5	Conclusions and recommendations	20
5.1	Implementation plan	20
5.2	Linkages to other regulatory frameworks	21
6	Monitoring, evaluation and review	21
6.1	Performance monitoring	21
6.2	Evaluation and review	22

1 Agency Disclosure Statement

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

It provides an analysis of options to implement the Border Clearance Levy (Levy) the Government has decided to introduce to recover the costs incurred by Customs and MPI in delivering functions in relation to clearing people arriving and departing from New Zealand.

The analysis is based on the following contextual considerations:

1. Cabinet has approved the implementation of a Border Clearance Levy on 1 January 2016; therefore the status quo and other non-regulatory options have not been considered.
2. This analysis has been prepared to assess the options for implementing this policy to best deliver the Government's policy objectives.
3. This 'consultation RIS' is a draft RIS prepared to inform the consultation phase. It provides supplementary information to that contained in the consultation document on levy design options. A final RIS will be developed once officials have received feedback through the public consultation process. The final version will be assessed by the Treasury's Regulatory Impact Analysis Team in October 2015 when Cabinet decisions on the final Levy design are sought.

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2 Status Quo and Problem Definition

2.1 THE GOVERNMENT HAS AGREED TO IMPLEMENT A BORDER CLEARANCE LEVY

1. In April 2015, the Government agreed to impose a Levy to recover the costs incurred by MPI and Customs in delivering their respective functions in relation to people arriving and departing from New Zealand [CBC Min (15) 1/2]. This has been given effect through the Border Processing (Arrivals and Departures) Levy Act 2015.
2. Under the legislation, all people that arrive or depart from New Zealand from 1 January 2016 are liable for the costs incurred by MPI and Customs in relation to the delivery of their border functions.
3. The design of the Levy is to be provided for in delegated legislation after consultation. This draft RIS informs this consultation.

2.2 ACTIVITIES DELIVERED AT THE BORDER

4. The New Zealand Customs Service (Customs) and the Ministry for Primary Industries (MPI) are the agencies that are primarily responsible for processing individuals (both paying passengers and crew) that arrive in New Zealand. In addition, Customs has primary responsibility for processing individuals departing from New Zealand. The Aviation Security Service (Avsec) has a separate responsibility for security screening of both international and domestic passengers when boarding aircraft.
5. Agencies perform a wide range of activities in delivering these functions including:
 - the collection and use of information and intelligence for screening and risk assessment of travellers prior to arrival or departure from New Zealand
 - questioning and searching of travellers and their baggage at designated places of first arrival¹ before giving them clearance to leave the area
 - surveillance and investigations and other activities to verify the effectiveness of border processing.
6. Currently, MPI and Customs activities are fully-funded by the Crown (with the exception of small niche activities delivered at the request of users.)² Total funding in 2013/14 for passenger clearance activities is set out in the table below:

Table 1: International passenger clearance funding by source 2013/14

\$m	Crown-funded	User-funded	Total
Aviation Security Service	-	52.274	52.274
New Zealand Customs Service	54.420	1.514	55.934
Ministry for Primary Industries	47.900	-	47.900
Total	102.320	53.788	156.108

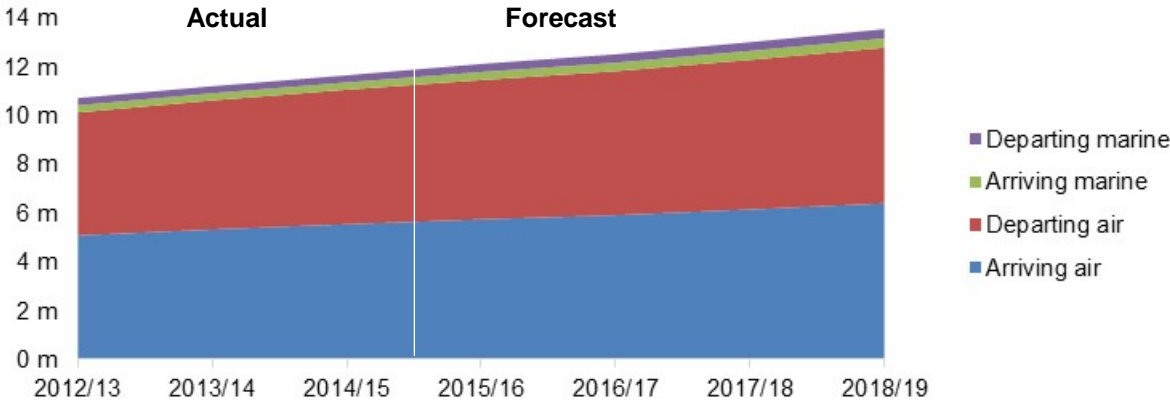
¹ For the purpose of this document, ‘place of first arrival’ refers to both Place of First Arrival under the Biosecurity Act and Customs Port under the Customs and Excise Act.

² This includes, for example, contractual agreements to provide VIP servicing outside of the main passenger clearance facilities.

2.3 THE DEMAND FOR BORDER CLEARANCE SERVICES IS INCREASING

7. New Zealand’s success in growing trade and tourism has led to increased demand for the services delivered by MPI and Customs at the border. 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 and crew volumes (arriving and departing, air and cruise ship, other craft) are forecast to increase to about 13.3 million by 2018/19 from around 10.1 million in 2014. This growth is expected to continue at around 3.5 percent per annum.

Graph 1: Forecast passenger and crew growth 2012/13-2018/19



8. The risk profile of passengers and crew is also changing. Our trade and travel links are increasing, and as we enter into more free trade agreements with, and target more tourism marketing into emerging economies, the flow of people (and goods) coming across our borders will continue to become more diverse. Higher risk passengers require higher levels of intervention (e.g. x-ray screening, detector dog screening, physical inspections), which increases the cost per passenger of clearance.

9. If insufficient resources are applied to manage risks, the frequency of biosecurity incursions and harm from prohibited goods or persons will increase. The social and economic cost of such events are very high - for example:

- the current Queensland Fruit Fly response is expected to cost approximately \$17 million³
- the outbreak of Foot and Mouth Disease in the United Kingdom in 2001 cost £7.7 billion; MPI estimates the cost to the New Zealand economy of a Foot and Mouth Disease outbreak would be up to \$16 billion⁴
- Didymo cost \$10 million between 2004-07, with significant ongoing management costs.

³ Budget 2015 includes additional Crown funding of \$16.913 million and \$1.2 million of re-prioritised Vote Primary Industries funding for the response.

⁴ 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.

2.4 AGENCIES ARE UNDER ONGOING PRESSURE TO MEET CUSTOMER EXPECTATIONS

10. Service expectations are also increasing. Passenger and tourism industry expectations for fast border processing and high quality experiences are placing ongoing pressure on MPI and Customs to minimise interventions and disruptions to compliant travellers through better targeting. Some of the additional costs imposed through increasing service expectations include:
 - 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 (e.g. charter flights, cruise ship arrivals)
 - changes to flight schedules at established ports that have significant flow on implications for rostered staffing.
11. In effect, most recent investments at the border have been made to improve the quality of the passenger experience. From an efficiency perspective, Customs and MPI could choose to prioritise risk management over passenger facilitation. Clearly, this would not be in the interest of travellers.
12. In the past, the increases in costs have either been absorbed by agencies as efficiency gains, or through specific investments (such as the Government's investment in SmartGate capacity since 2009). However, the emerging gap between volume growth and resources will continue to widen.
13. While MPI and Customs will continue to look for efficiency gains, on their own these will not be enough to cope with demand pressures in the longer term. The gap between increasing demand, risks and service expectations and available resources will continue to grow. For both agencies to continue to carry out their functions effectively, their capacity to intervene with high-risk travellers must keep pace with the growth in volumes.

2.5 THE RATIONALE FOR ADOPTING COST RECOVERY FOR BORDER CLEARANCE ACTIVITIES

14. The Government considers that it is appropriate that users of MPI and Customs border clearance services should meet the full costs of border processing activities, rather than the general taxpayer. Full cost recovery will:
 - be more equitable. It will ensure that costs are borne by:
 - those who give rise to the risks that require delivery of border processing services (all travellers are potential risk exacerbators and it is necessary for Customs and MPI to interact with all travellers to assess and intervene where necessary), and/or
 - those who benefit from them. The costs of border clearance are primarily driven by individuals entering and departing from New Zealand, and the primary beneficiaries of the levels of service Customs and MPI currently offer are travellers, not the public.
 - ensure that funding will scale up and down in line with the traveller volumes

- ensure that funding arrangements for MPI and Customs border processing services are sustainable
 - be consistent with other cost recovery arrangements already managed by MPI and Customs (e.g. goods clearance activities).
 - provide greater transparency through requiring border agencies to clearly identify the costs of services provided
 - increase users' and collectors awareness of the costs of the service they pay for, increasing pressure for efficiency in service delivery.
15. Cost recovery is consistent with the recommendations of the Australian and New Zealand Productivity Commissions' joint study on *Strengthening Trans-Tasman Relations*. While they recommended the Australian Government change the Passenger Movement Charge (an effective tax) to a user charge for services provided, they also recommended that the New Zealand Government should review the appropriateness of using Crown funding for funding passenger clearance services, given the potential advantages and consistency with other cost recovery arrangements at the border.⁵
16. This is a change to the policy set in 2004 by the previous Government on the funding of passenger clearance services. At that time, the New Zealand public was considered to be the primary beneficiary of Customs and MPI's passenger clearance services, and, therefore, that all costs should be met by the Crown. The new policy places greater emphasis on recovering the costs from those that give rise to the risks.

3 Objectives

17. The overarching objective is the implementation of a Border Clearance Levy that supports Customs and MPI in meeting the border clearance costs of those arriving and departing from New Zealand. In order to be considered viable, all options must:
- support Customs' and MPI's strategic direction
 - be consistent with the guidelines on cost recovery issued by the Treasury (2002) and the Office of the Auditor-General (2008)
 - be feasible and achievable (i.e. ensuring implementation on 1 January 2016).
18. The options for implementation will be assessed against the following objectives:

Table 2: Assessment objectives

Objective	Elements	Explanation
Equity and fairness	Horizontal equity	Parties with similar benefits/risks are treated the same
	Vertical equity	Parties with different benefits/risks are treated differently
Efficiency	Revenue balances with costs	Costs should be allocated and recovered in a manner that ensures maximum benefits are delivered at minimum costs

⁵ Australian Productivity Commission and New Zealand Productivity Commission (2012) *Strengthening trans-Tasman economic relations*, Joint Study, Final Report, 118.

	Minimal distortion	Imposition does not lead to undesirable changes in behaviour
Effectiveness	Level of service maintained	Able to deliver the services expected by those paying
	Minimal scope for avoidance	Payment is easy to do and hard to avoid
	Ease and costs of collection	Simple to administer and manage
Legitimacy	Transparency and visibility	Liable parties understand what services are funded through the fee.
	Certainty and clarity of rules	Parties can comply with minimal effort (incl. convenience to travellers)

4 Options and impact analysis

19. There are no non-regulatory options available. The Customs and Excise Act 1996 and the Biosecurity Act 1993 have now been amended to impose a Levy on all individuals arriving and, in the case of Customs, departing from New Zealand. Therefore, this analysis excludes consideration of alternative, non-regulatory options, including the status quo. It is limited to assessing the options for implementing the Levy, as agreed by Cabinet in April 2015.
20. Table 3 outlines the key design dimensions available and the choices available under each option.

Table 3: Long list of options for implementing the border clearance

Dimension	← Choices within dimension →		
Implementation timing	Full implementation on 1 January 2016 All users required to pay, regardless of date of ticket purchase	All crew liable for Levy from 1 January 2016 but applies to tickets purchased on or after 1 January 2016.	
Scope of Levy (and timeframes for implementation)	Airline and cruise only	Charter flights Commercial vessels	Private yachts and aircraft NZ Defence Force and other military's vessels and aircraft
Scope of activities covered by Levy	The direct costs of activities that relate to functions delivered under the relevant Acts specifically at the border	A wider set of activities that relate to the delivery of functions (e.g. pre-clearance, staff and dog training etc.)	Indirect costs are also included
Service delivery (might need to be differentiated according to scope of Levy)	Levy collected by third party (e.g. airline on tickets) and paid once liability incurred		Collect Levy directly from travellers at the border (i.e. turnstile)
Allocation of costs through Levy	Applying one national average charge across all travellers	Differentiating charge by class (scheduled flights/cruise ships/other)	Differentiating charge by location and class
Exemptions to the policy	All travellers are liable to pay the Levy	Certain users are made exempt (e.g. crew, infants etc.)	

Dimension	←	Choices within dimension	→
Setting the amount(s) of the Levy	Specifying the amounts in the Levy order for a three year period	Specifying a formula	Specifying the maximum amount of the Levy
Collection mechanism and metrics	Establish new mechanisms to collect levies from airlines, cruise lines etc.	Connect to existing Civil Aviation Authority(CAA)/Avsec and Maritime New Zealand mechanisms and use similar metrics	Individuals are responsible for meeting their obligations (i.e. turnstile model)

Refining the dimensions

21. While some of the options apply equally across all travellers, some will need to be tailored for different contexts. These design choices will be applied differently for different modes. For example, there is less scope for third parties to collect levies from private vessels and aircraft compared with commercial passenger services.
22. The design dimensions have been split into three categories:
 - overarching policy settings that will apply to all individuals liable to pay the Levy.
 - the Levy collection mechanism and how to implement it for different modes.
 - issues associated with the implementation and management of the Levy.
23. Any variations to approaches will be balanced against the need for equity – ensuring that those that generate a similar level of cost are treated on a similar basis.

4.1 OVERARCHING POLICY CHOICES

24. This section focuses on the overarching elements of the policy which will apply to all options. This includes:
 - the scope of the activities funded through the Levy
 - allocation of costs
 - individuals made exempt from the Levy.

4.1.1 Activities funded through the Levy

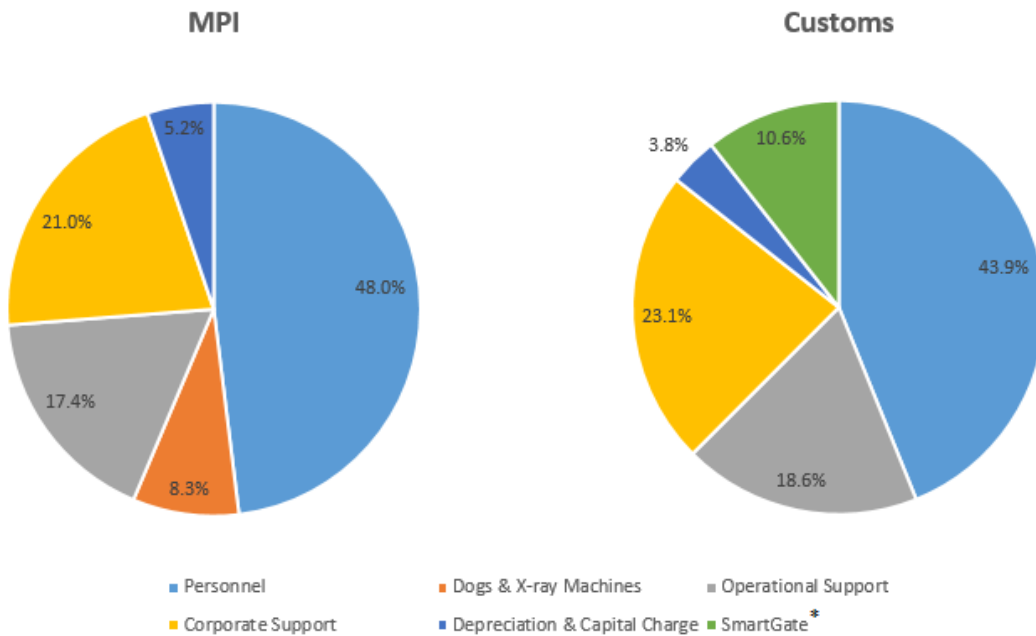
25. The respective provisions (as amended) of the Biosecurity Act 1993 and Customs and Excise Act 1996 provide that:

Every traveller who on or after 1 January 2016 arrives in [or departs] New Zealand is liable ... to pay a levy in relation to the costs incurred by [the Customs or MPI] in, or for the purpose of, exercising its powers or performing its functions in relation to travellers and their accompanying baggage (or other goods in their possession or under their control).

26. In general, Customs and MPI activities in relation to clearance of travellers can be considered in three separate phases: pre-border, at border and post-border. Table 4 outlines the key activities delivered by Customs and MPI by cost. While the cost generated by the majority of travellers is lower, this recognises that all travellers will potentially consume all of these activities. For charges to be equitable, all biosecurity

and customs activities funded through the Levy are *potentially* consumed by all travellers.

Graph 3: Allocation of costs for passenger clearance activities



* Depreciation and capital charge is included.

27. Table 4 below provides a further description of border clearance activities.

Table 4: Activities funded through the levy

Stage of the process	Customs	MPI
Pre-border	<ul style="list-style-type: none"> • Identification of persons of interest from advanced information • Planning processes for significant operations/events • Intelligence/information sharing with other agencies and administrations to inform risk identification and operational activity • Forecasting and supporting analysis • Provision of co-ordination functions (including for ad hoc arrivals) 	<ul style="list-style-type: none"> • Screening for targeted interventions - identifying travellers of biosecurity interest • Coordination of resourcing and tasking of border activities • En route biosecurity clearance - where possible • Management of craft applications for arrival at non approved Places Of First Arrival
At border	<ul style="list-style-type: none"> • Primary line processing (manual and via SmartGate): validation of identity, completion of immigration processes, identification of persons of interest • Secondary activities and processes i.e. interaction with persons of interest, questioning and search activities • En-route and alongside processing of cruise passengers • On-site support to secondary and verification activities and processes i.e. more involved questioning and intervention with persons of interest, assistance around examination of electronic devices • Customer service functions 	<ul style="list-style-type: none"> • Assessment of arrival documentation against biosecurity requirements • Verification of compliance to biosecurity requirements of travellers • Application of intervention tools e.g. communications, searches, detector dogs, x-ray • Collection of information relating to pathways and effectiveness of interventions
Post-border activities appropriately.	<ul style="list-style-type: none"> • Investigative activity (including surveillance and monitoring of persons of interest once they move beyond the border process) • Processing of the reporting that is completed (i.e. activity and information reports) including review and management of entities/alerts/profiles • Post seizure analysis (including the supporting frontline briefing processes) • Debriefing processes for significant operations/events • Information sharing with other agencies/administrations • Storage and disposal of seized goods • More involved analysis and intelligence processes i.e. strategic assessments, analysis and refinement of profiles and alerts. 	<ul style="list-style-type: none"> • Review and management of high risk travellers • Verification of the process for the disposal of risk goods seized from travellers • Investigation into noncompliance • compliance monitoring and analysis to measure performance of pathways

4.1.2 Allocation of costs

28. There are several options for how the costs should be recovered through the levies. This includes:

- one levy based on the total costs divided by the total number of liable individuals (a national average)
- differentiated levies based on the mode of travel
- differentiated levies by location – to reflect the differences in costs.

29. Costs are driven, to some extent, by traveller choices. Entering or departing New Zealand from remote locations can also add costs that would otherwise not be incurred by Customs or MPI. However, there does not appear to be a substantial variance, and we do not propose to differentiate the fee by location.

Assessment criteria (1 – 5)	Nationally averaged charge	Differentiated based on mode	Differentiated by location
Policy objectives:			
• Equity/fairness	2	3	4
• Efficiency	4	3	2
• Effectiveness	4	3	2
• Legitimacy	3	4	5
Critical Success Factors:			
• Strategic fit	Yes	Yes	No
• Satisfies cost recovery principles	Yes	Yes	Yes
• Feasibility/practicality	Yes	Yes	No
Overall Assessment	Preferred option		

4.1.3 Differences in costs by mode, arrival and departure

30. The pre- and post-border costs of activities are applied regardless of mode of travel. Table 5 below sets out the average costs of processing by mode. As can be seen, the cost per traveller on cruise ships (both passenger and crew) is higher by around \$4.00. This reflects the additional activities MPI must undertake in relation to cruise ships, given biosecurity officers must risk assess at each port.

31. Customs has not identified a substantial difference in costs by travel mode. However, the level of resources applied to manage arrival processes (approximately 72 percent) is much greater than departures.

Table 5: Average costs of processing

\$ GST excl.	Customs			MPI (arrivals only)		
	Arrivals	Departure	Average	Air + Other	Cruise Ship	Average
Total	\$7.30	\$2.86	\$5.09	\$8.40	\$12.20	\$8.60

4.1.4 Alternative charging arrangements may be considered in future

32. Customs and MPI will consider alternative charging arrangements where the costs of providing a higher level of service are identified. This includes, for example:

- servicing ad-hoc arrivals or remote locations where the costs are substantially higher than the average cost
- establishment costs for new and restart airports (as per paragraph 57 below)
- requests for higher levels of service (e.g. VIP processing).

33. Where the levy is applied, only the additional costs will be recovered through alternative mechanisms.

4.2 EXEMPTIONS TO THE POLICY

34. In general, the application of exemptions will undermine the objectives of the policy by reducing efficiency, effectiveness and equity objectives. Overall, our preferred option is to limit the number of exemptions as far as possible. There is no waiver option provided in the legislation – therefore, all exemptions will need to be specified in the levy order.

35. Under similar arrangements within New Zealand and overseas, crew are generally exempted from the requirement to pay departure taxes. However, from a border management perspective, both Customs and MPI consider members of the crew to be just as much of a potential risk exacerbator as paying passengers. Therefore, it is appropriate that the Levy is applied to crew as well. This also ensures equity with the treatment of commercial vessels where there are no paying passengers.

36. The grid below sets out some of the possible grounds for exemptions:

	Rationale	Comment
Transit passengers	A passenger in transit through New Zealand who does not leave the transit or arrival or departure areas of an aerodrome. Some cruise passengers are also 'in transit' (i.e. visas are not required) but leave secure areas.	While less activity is undertaken, agencies do screen all arriving passengers – and may intervene. In the event that a transit passenger leaves the secure areas, they would be liable for the Levy.
Young people aged under two	These travellers do not usually generate Customs or biosecurity work, and it would therefore be unfair to apply a charge to them.	Costs are still incurred in relation to these individuals, though they are minimal
Passenger travelling on any aircraft being used specifically for the military, diplomatic, or ceremonial purposes of any Government (consistent with civil aviation conventions)	This applies to travel undertaken in the course of their duty and on Defence Force aircraft or vessels. Under the 1958 Memorandum of Understanding with the United States, New Zealand has agreed to waive normal requirements for United States vessels and personnel engaged in operations to Antarctica. ⁶	Costs are still incurred and military flights do carry non-military passengers.

37. Other possible exempted travellers could include:

	Rationale	Comment
People on humanitarian missions (e.g. crisis response and organ donor flights).	In the event of a crisis response, charging a levy may interfere with the ability to respond.	In the event of a major emergency, and the Levy was viewed as an impediment, the Levy could be suspended by order in council.
Emergency events	This includes, for example, people who arrive in New Zealand due to bad weather, or medical emergencies.	No intent to arrive, but must still report to Customs officer.
People that temporarily cross the 12 mile territorial limit (e.g. oil rigs, fishing)	Strictly speaking, these people are entering or departing from New Zealand.	No Customs or MPI resources would be applied

4.3 LEVY COLLECTION MECHANISM

38. While individuals will be liable for paying the Levy, there are options for how it should be collected. Where practical, it is preferable that the Levy would be incorporated in the price of tickets and paid by a collector – generally the airline or cruise company. This makes it substantially more convenient for travellers to meet their obligations, and reduces the risk of non-compliance. There are three options:

- Pull model: Customs or MPI would issue a monthly invoice, based on identified passenger and crew volumes for the previous month, using the data collected by

⁶ Exchange of Notes between the Government of New Zealand and the Government of the United States of America regarding the Provision of Facilities in New Zealand for United States Antarctic Expeditions. Available at: <http://www.treaties.mfat.govt.nz/search/details/t/3164/10>
Regulatory Impact Statement – Implementing the Border Clearance Levy | 15

Customs. The collector would have the opportunity to reconcile payment with the data it holds.

- Push model: Collectors would provide a monthly return based on their assessment of how much is owed, with the opportunity for a wash-up later in the month. This is consistent with the model managed by the Civil Aviation Authority.
- The turnstile option: the individual is required to pay directly when crossing the border.

39. The key consideration between the push and pull mechanisms is which has the least administrative impact on the collectors. The risk in implementing the pull option is that collectors will argue that they do not have the systems in place to administer returns on arrivals (albeit they manage this for departures). Under either option, the expectation would be that both parties will act to check and validate the amount owing.

40. The push arrangement is already in place in the commercial aviation sector. The Civil Aviation Authority has indicated that it is willing to administer the Levy in the commercial airlines area on Customs and MPI’s behalf. This will minimise the costs for both agencies and airlines in establishing separate payment arrangements. Under this model:

- on the first day of the month, collectors will make a lump sum payment based on estimated traveller volumes (less any exemptions) in the previous month.
- on the 20th day of the month, the collector will provide a detailed return on the actual number in the previous month, and either pay the difference or credit it against the next month.
- where necessary, these arrangements will be audited by Customs and MPI.

41. It is possible that airlines and cruise lines will argue that this model will impose additional transaction costs and will require substantial changes to IT systems to implement. In this event, we would consider introducing a ‘pull’ payment model, where operators are invoiced based on the data collected by Customs.

Assessment criteria (1 – 5)	Pull	Push	Turnstile option
Policy objectives:			
• Equity/fairness	3	3	3
• Efficiency	4	3	1
• Effectiveness	3	4	2
• Legitimacy	3	4	3
Critical Success Factors:			
• Strategic fit	Yes	Yes	Yes
• Satisfies cost recovery principles	Yes	Yes	Yes
• Feasibility/practicality	Yes	Yes	Yes

Overall Assessment	Preferred option	To be applied where other options not feasible
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42. On balance, the recommended options are:

Commercial passenger airlines

- Use existing arrangements managed by the Civil Aviation Authority for the collection of its existing levies. The costs of the Levy will be incorporated into the price of the ticket.
- This will be done through airlines sending a return with payment to CAA at the beginning of every month. Payment would then be reconciled at the end of the month by comparing the payment against actual data.
- While airlines will be required to report on arrivals, as well as departures, this option will presents the most efficient and effective option. We will work with airlines to determine what additional costs are incurred in collection.

Cruise ships

- The current preferred approach is for Customs to collect the Levy from cruise ship operators, similar to the CAA model.
- The trigger point will be entry into and exit from territorial waters as advised by operators.
- The Levy will be charged separately on arrival and exit from territorial waters. It will be applied to individuals “in transit” – i.e. on a round trip who not are required to be immigrated. It is proposed that the Levy be applied to all passengers and crew, whether they disembark the ship or not. Both classes of travellers pose biosecurity and customs risks, and sufficient border clearance capacity must be available to clear any travellers who can potentially disembark the ship.

Other transport modes

- For agents operating irregular services to New Zealand, the Levy would be payable upon arrival and departure, with scope to establish a deferred payment arrangement.
- For example, the Passenger Movement Charge in Australia is applied on a manual basis where necessary.
- There is also scope to consider alternative cost recovery mechanisms where there are additional costs generated by servicing remote locations, this could include applying a fee for passenger and craft clearance that is differentiated by the costs incurred in meeting additional service expectations. There is a potential risk that the imposition of a Levy on small craft may create an incentive to evade border controls.

4.3.1 Implementation and management of the Levy

Implementation timing

43. All travellers will be liable to pay the Levy from 1 January 2016. However, collectors will not be in a position to include the Levy in the price of tickets purchased before the final Levy order is issued (expected in October 2015).
44. Therefore, we recommend making passengers that purchased tickets before 1 January 2016 exempt from the requirement to pay the Levy. We will work with collectors to ensure that those that are liable for the Levy have paid. This may require additional effort in the early stages to separate out which passengers are liable for the Levy and which are not.
45. Customs and MPI will continue to work with affected stakeholders, including identified collectors to ensure that transaction costs can be minimised, or collectors recover costs transparently.

Setting the amount of the Levy

46. The main parameters of the Levy will be set on a triennial basis. The levies will be based on expected traveller volumes and expected costs over a three year time horizon.
47. It will incorporate forecasts based on the current service delivery model and cost structure. The expenditure estimates do include new costs, including future servicing of new places of first arrival (i.e. cruise ships, charter flights), schedule changes, increasing service expectations, and new risks.
48. Because Levy rates will be influenced by a number of factors (including exemptions), the rates have been presented as options, with ranges. The ranges are:
 - \$15.20 - \$15.90** for arriving travellers (with the exception of cruise ships)
 - \$19.00 - \$19.70** per arriving cruise ship traveller and
 - \$2.60 - \$3.10** per departing traveller.
49. Table 6 below outlines the expected revenue and expenses over the next four years based on the highest range. At the end of 2017/18, we expect the overall balance to be close to zero over the first year period. The table indicates a surplus occurring in 2018/19 – revenue and expenditure will be reassessed before this time.

Table 6: Estimated expenditure and revenue

		2015/16	2016/17	2017/18	2018/19
		Estimated (\$m)	Forecast (\$m)	Forecast (\$m)	Forecast (\$m)
Expenses					
Biosecurity*		51.951	53.631	55.553	57.577
Customs		57.449	59.263	60.448	61.657
	Total	109.400	112.894	116.001	119.234
Revenue					
Biosecurity	Crown	38.589	13.260		
	Third party	12.863	39.780	55.141	57.406
	Total - MPI	51.452	53.040	55.141	57.406
Customs	Crown	42.775	14.724		
	Third party	14.258	44.172	61.237	63.752
	Total - Customs	57.033	58.896	61.237	63.752
	Total	108.485	111.936	116.378	121.158
Over-recovery/(Under-recovery)		(0.915)	(0.958)	0.377	1.924
Cumulative balance		(0.915)	(1.873)	(1.496)	0.428

4.3.2 Consultation

50. The Ministry of Foreign Affairs and Trade has been consulted to determine whether the proposals are consistent with New Zealand's international obligations under the ICAO Convention and relevant International Maritime Organisation conventions. MFAT has advised that the proposal is consistent with international conventions.
51. Customs and MPI will consult with affected stakeholders before finalising the Levy Order. This includes targeted consultation with key stakeholders, such as BARNZ (Board of Airline Representatives New Zealand), Cruise New Zealand, cruise ship operators, Tourism NZ, Tourism Industry Association, New Zealand Shipping Federation, Federated Farmers, primary producers and exporters, and importers.
52. The consultation document has been prepared to seek input from stakeholders on the key areas outlined in this Regulatory Impact Statement. A copy of the discussion document is available on the MPI website.

53. The key questions for consultation are:
- a. Should any other classes of traveller be exempted from the Levy? If so, who and why?
 - b. Should the Levy be differentiated by transport mode or location to reflect the differences in the costs of clearing travellers?
 - c. How practical is it for operators to differentiate between passengers who have purchased tickets prior to 1 January 2016?
 - d. Should the rate payable by travellers on other transport modes be differentiated from those proposed for air and cruise ship travellers?
 - e. For the air and cruise industry: Do you agree with the proposed approach for collection of the Levy? Do you have any suggestions on how this might be improved?
 - f. Are the costs of collection likely to be a concern to the air and cruise industry?
 - g. How might systems be put in place to ensure that collection of the Levy from those not arriving through the commercial air operators or on cruise ships?
 - h. Are there any other financial or performance metrics that might be useful for monitoring the efficiency of border clearance services?
 - i. Are there any other matters that could be addressed as part of a post-implementation review?
54. This Regulatory Impact Statement will be updated based on the feedback provided as part of the public consultation process.

5 Conclusions and recommendations

55. The Government has agreed to introduce a Border Clearance Levy from 1 January 2016. The proposed Levy design incorporates the following elements:
- All travellers (both passengers and crew) will be required to pay the Levy unless there is a compelling reason not to
 - The Levy will be collected, where practical, as part of ticket prices by passenger airline and cruise ship operators, and collected directly from travellers at the point of arrival and departure on other craft (e.g. private yachts or aircraft).
 - The Levy will be collected on tickets purchased on or after 1 January 2016.
 - The Levy will be set at different rates for arriving and departing passengers to reflect differences in costs between these two groups.
 - A higher Levy rate will be applied for cruise ship travellers to reflect the higher costs incurred by MPI in processing cruise ships stopping at multiple ports

5.1 IMPLEMENTATION PLAN

56. In order to give effect to the Levy, a Levy Order must be made by Order in Council, prescribing implementation details. It is expected that this order will be made by November 2015.

5.2 LINKAGES TO OTHER REGULATORY FRAMEWORKS

57. The Airports (Cost Recovery for Processing of International Travellers) Act 2014 sets the framework for recovering the costs of services delivered by Customs, MPI and Avsec at new and restarting airports. The enabling regulations have not yet been promulgated. These will be made in such a way to ensure that the costs collected through these different mechanisms do not relate to the same activities.⁷
58. MPI, Customs and CAA/Avsec expect to consult on the proposed arrangements later in 2015.

6 Monitoring, evaluation and review

6.1 PERFORMANCE MONITORING

59. Because costs (and volumes) are not static, it is important that levies are reviewed on a regular basis to ensure they remain appropriate, and the assumptions upon which they are based remain valid.
60. Both agencies will use memorandum accounts to manage fluctuations in revenue and expenditure and inflows and outflows will be monitored on a regular basis. We expect to carry out a simple review each year to ensure that revenue and costing assumptions remain valid. However, in general, we will seek to limit the frequency of changes to levies to provide certainty to users and collectors.
61. This could include, for example, ongoing checks to assure users that they are receiving value-for-money, as well as responding to requests for improved levels of service from all (or some users). We will also consider alternative cost recovery mechanisms where a differentiated level is sought by some users.
62. The cost recovery models will be comprehensively reviewed on a triennial basis, to ensure the policy remains fit-for-purpose and the objectives are still being met.
63. Customs will continue to report on the basis of existing performance measures:

Measure	Performance target
The value of harm avoided through Customs drug seizures	\$100-\$200 million per annum
Losses incurred by importers of illegal goods(e.g. drugs, proceeds of crime) through intervention by Customs	Equal to or more than \$10 million per annum
Percentage of travellers who rate their experience of immigration processing as good or very good	Equal to or more than 85% of those surveyed
Percentage of international air passengers satisfied or very satisfied that Customs processes passengers quickly and conveniently	Equal to or more than 77% of those surveyed
Percentage of arriving international air passengers who exit Customs primary processing points within 45 minutes of arrival	Equal to or more than 90%

⁷ This is explicitly provided for in section 140AA of the Biosecurity Act 1993 and section 288B of the Customs and Excise Act 1996.

64. For MPI, the relevant performance target is:

Measure	Performance target
Percentage of international air passengers that comply with biosecurity requirements by the time they leave the airport	98.5%

65. While this information will be made available through accountability documents, such as annual reports, it is important that those paying the Levy also have an insight into the performance of the border services. The proposed consultation document asks stakeholders for feedback about other possible metrics of relevance to border clearance services.

66. Customs and MPI will be looking at opportunities to build on this information and share it in more accessible ways.

6.2 EVALUATION AND REVIEW

67. Customs and MPI will also undertake a more detailed review of the impacts and performance of the Levy in three years. The review will include the following:

- A consideration of any undue impact on international travellers, and on those transport operators responsible for collecting the Levy
- Whether costs could (or should) be more closely aligned with costs associated with certain transport modes and/or with clearance activities at certain locations
- What further steps can be taken to improve the effectiveness of Levy collection arrangements.

68. Both agencies are now conducting first principles reviews of approaches to cost recovery, which will be designed to ensure consistency with existing arrangements.

69. We intend to work alongside other agencies with responsibilities at the border, such as Immigration New Zealand, and transport agencies (including Aviation Security Service and Maritime New Zealand) to ensure consistency of approach across the border sector.