Office of the Minister for Primary Industries
Office of the Minister of Customs

Chair
Cabinet Economic Growth and Infrastructure Committee

IMPLEMENTATION OF THE BORDER CLEARANCE LEVY

Proposal

1. This paper seeks agreement to the proposed arrangements for implementing the Border Clearance Levy (the Levy) from 1 January 2016.

Executive Summary

2. In April 2015, Cabinet agreed to introduce, from 1 January 2016, a border clearance levy on all passengers and crew crossing New Zealand's borders [CBC Min (15) 1/2 refers]. The purpose of this Levy is to fund the costs incurred by the Ministry for Primary Industries (MPI) and the New Zealand Customs Service (Customs) in processing passengers and crew ('travellers') for biosecurity and Customs purposes.

3. On 27 May 2015, Cabinet Economic Growth and Infrastructure Committee gave approval for Ministers to release a public consultation document outlining the proposed approach to implementing the Levy [EGI Min (15) 11/4].

4. Public consultation on the proposed approach has informed the proposed final design and implementation arrangements set out in this paper. A summary of our proposals is contained in Appendix 1.

5. The consultation document proposed a broad-based levy on all travellers, with very limited exemptions, on the basis that all travellers create risk and are subject to the same or similar clearance requirements, and to keep the Levy simple and efficient.

6. Strong arguments were made by the airline, cruise and mercantile sectors to also exempt crew. On balance, we recommend that crew should be made exempt.

7. Spreading the cost of exempting air and cruise crew over other Levy payers in each of these modes would mean Levy rates of $18.76[1] for air and other travel, and $30.85 for cruise travel, a cruise rate substantially higher than the rate specified in the consultation document ($22.80). We present two options in the paper: fully spreading the cost onto other Levy payers, or capping the cruise rate for the first 30 months at the consultation rate of $22.80. The Crown would absorb the cost of capping the cruise rate, a total of $2.844 million over the 30 months. Full cost recovery would begin from 1 July 2018.

8. We propose the Crown absorb the cost of exempting mercantile crew and passengers ($1.186 million per annum), as we do not consider it appropriate to spread this cost to air and cruise passengers.

Background

9. The decision to implement the Levy was based on the increasing demand for border clearance services - passenger and crew volumes are continuing to increase, risks are changing, and service expectations rising. The Levy will:
   - Ensure as far as possible that travellers who generate the costs of border clearance activities (i.e. the risk exacerbators) make a fair contribution to these services;
   - Allow the resourcing of border clearance activities to respond to varying volumes of work generated by travellers; and
   - Support the provision of robust border clearance services on a sustainable basis, with minimal impact on travellers.

10. About 95% of travellers cleared at the border are travellers from commercial passenger airlines. A further four percent are travellers from foreign-going passenger ships. The remaining one percent includes commercial non-passenger craft such as cargo ships, private aircraft, yachts and the military. Around 45% of arriving passengers are New Zealanders.

11. As part of Budget 2015, amendments were made to both the Customs and Excise Act 1996 and the Biosecurity Act 1993 to impose an obligation on Customs and MPI to collect the Levy. This is contingent on making a Levy order that prescribes key implementation details, such as the rate of the Levy and when and how it is to be paid. Because the two border agencies operate separate functions at the border under their respective legislation, two separate Orders in Council will be required to give effect to the Levy.[2]

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[1] All figures in this paper are GST exclusive.

[2] Section 288B(3) of the Customs and Excise Act 1996 and section 140AA(3) of the Biosecurity Act 1993 refer.

12. The following sections outline our proposals for exemptions, setting of the Levy rates, and other implementation matters.

Exemptions

Air and cruise crew

13. The consultation document proposed that commercial air, mercantile and cruise crew would not be exempt from paying the Levy. Crew present a Customs and biosecurity risk similar to passengers, are subject to similar clearance requirements and, with the exception of mercantile crew, generate similar costs. Including crew in the Levy is consistent with the policy intent i.e. those who generate the costs should contribute to paying for the clearance activities.

14. All air and cruise stakeholders submitted that all crew should be exempt from the Levy, on the grounds that:
    - Including crew is inconsistent with other international arrangements;
    - It may not be possible to fully pass the increased costs on to passengers on competitive routes;
    - It will unfairly affect airlines with large numbers of New Zealand-based crew (other crew would remain in transit and not be liable for the Levy); and
    - Most cruise crew will not leave the vessel.

15. Levying crew is also not consistent with the approach taken by Avsec, where aircrew are exempt from charges.

16. The crew to passenger ratio is approximately 1:24 on commercial air travel, and up to as much as 1:2 on cruise ships. If crew are exempt it would be consistent with cost recovery principles to pass the cost of risk screening crew onto the passengers for each mode. This would have a minimal impact on the levy for air passengers ($0.69) but would have a more substantial impact on the rate for cruise ship passengers ($4.56).

17. We consider, on balance, that air and cruise crew should be exempt from paying the Levy, as this is consistent with Avsec's approach and international charging practices and would be administratively more straight forward. It would also recognise the practical difficulty in identifying which cruise crew do and do not disembark for biosecurity purposes (see paragraph 25 below).

Crew (and passengers) on mercantile craft

18. There are different levels of engagement with mercantile craft, compared to the air and cruise modes. Submitters noted that commercial vessels are often in port only for short periods, and some crew do not come ashore. When they do, contact is limited for the purposes of clearance, unless risks have been identified.

19. It is difficult on cost recovery principles to justify mercantile crew and passengers paying the full Levy, because contact with border agencies is less than for other travellers, and costs are lower. Imposing the same rate paid by other travellers would not be equitable.

20. MPI is also unable to levy those that do not disembark. This means there would need to be separate Levy rates for those who disembark and those who do not, and vessel operators would need to be able to monitor and report in an auditable form who does and does not get off a vessel. This would add cost and administrative complexity to the Levy.

21. There are approximately 57,000 mercantile crew arrivals and 2,000 passenger arrivals each year, on around 2,500 voyages. The costs of invoicing and collecting the Levy for this number of voyages, from a variety of shipping agents and lines, would also be significant.

22. We therefore recommend that mercantile crew and passengers should also be made exempt.

23. For the purposes of the Levy, Customs and MPI consider that mercantile vessels include container craft, bulk carriers, tankers, roll on/roll off craft (craft designed to carry wheeled cargo, that are driven on and off the ship on their own wheels or using a platform vehicle), general cargo craft, specialised craft (for example, craft that lay ocean cables or craft that transport oil rigs), tugs, fishing craft, and barges.

24. MPI and Customs will continue to work with carriers to put in place additional measures to manage the risks associated with air, cruise, and mercantile crew. This may mean in future revisiting the decision to exempt crew, including if carriers do not implement adequate measures, or considering alternative cost recovery arrangements.

MPI is unable to levy travellers who do not disembark

25. Under the Biosecurity Act 1993, the biosecurity component of the Levy cannot be charged on travellers who do not disembark a maritime vessel. Discussion with stakeholders during consultation has clarified that an estimated 80% of cruise ship crew do not disembark. Many mercantile crew also do not disembark. It is also difficult to justify applying the biosecurity component of the Levy to these travellers as the majority of biosecurity risk screening (Quarantine Officers and/or dogs checking for risk items) occurs as travellers disembark. The biosecurity component of the levy therefore will not be able to be collected from these travellers.

Age exemption

26. The consultation document included a proposal to exempt children under two years of age because they are usually not ticketed, seated, or risk screened separately from their parents. On airlines, under two-year olds are generally charged at 10% of an adult fare, as babes in arms who do not require their own seat.

27. Four submitters proposed that the age exemption should be raised to 12 years, on the basis of consistency with the position taken in other jurisdictions. It also coincides with the age when a full fare needs to be paid on airlines, and is consistent with the age limits for the Australian Passenger Movement Charge and the UK Air Passenger Duty.[3]

28. Exempting children under two years old only is consistent with the CAA's International Passenger Security Charge, which funds the activities delivered by Avsec. While children under 12 generally travel as part of a family unit, and are not risk screened separately from their parents or guardians, they do create more risk than children under 2. Many of them can be expected to make decisions independently of their parents, some of which may have consequences for border risk management.

29. We consider that for consistency with existing New Zealand charging practices, and to reflect the higher risks of children under 12, that the age exemption should be provided only to those under two years old.

[3] The UK recently abolished APD for children aged under 12 travelling in economy class. This is planned to increase to under 16s in 2016. https://www.gov.uk/government/publications/air-passenger-duty-childrens-exemption

Other exemptions

30. Other submissions sought clarification on whether vessels which cross the 12 mile limit and then return to a New Zealand port would be subject to the Levy. These vessels would be captured by the Levy provisions in the Customs and Excise Act 1996 (but not those of the Biosecurity Act 1993). We propose travellers on these vessels be made exempt in the Customs Levy Order. This would be on the condition that they do not leave the exclusive economic zone (EEZ) and do not interact with a craft that has entered the EEZ from a point outside NZ. This exemption mirrors a current exemption from Customs reporting and clearance requirements.

31. It was also proposed that if a vessel rescues people at sea, they should not be subject to the Levy on arriving in New Zealand. We agree such travellers should also be exempt. We also propose to exempt passengers and crew travelling on craft used for the purposes of the National Antarctic Programme of any contracting party to the Antarctic Treaty.

Summary of proposed exemptions

32. The table below sets out the classes of people proposed to be exempt from paying the Levy, the Levy revenue forgone, and who we propose absorbs the cost.

Table 1: Summary of proposed exemptions

		Who should absorb cost	
Exemption	**Forgone revenue**	**Other Levy payers**	**Crown**
Proposed in consultation - no further financial implications			
Air passengers and crew in transit	No cost		
Children under two years of age	$1.198m	✓	
Passengers and crew travelling on any aircraft or ship being used for the military, diplomatic, or ceremonial purposes of any Government	$0.049m*		✓
Travellers that bought their ticket for travel before 1 January 2016 (for arrival on or after 1 January 2016 to 31 December 2016).	$55.962m		✓
Additional proposed exemptions			
All mercantile crew and passengers	$1.186m		✓
All air and cruise crew	$5.524m	✓	
For the Customs component of the Levy, passengers and crew travelling on any craft that is to depart from New Zealand on a journey: - that does not extend beyond the EEZ, and - that does not include a meeting with any craft or persons entering the EEZ from a point outside New Zealand, and then return to a New Zealand port	No cost		
Passengers and crew travelling on any aircraft or ship used for the purposes of the National Antarctic Programme of any contracting party to the Antarctic Treaty	Minimal*		✓
People rescued at sea or who seek temporary relief from stress of weather	Minimal*		✓
Travellers on any aircraft or ship used for the purposes of emergency, humanitarian or crisis response work organised or carried out by any government	Minimal*		✓

*Agencies consider the costs of these exemptions can be met from within the proposed Crown funding retained for exemption of mercantile crew and passengers.

Setting the actual Levy rates

Further differentiation of Levy by location or travel type

33. The consultation document proposed different rates for cruise travellers and air and other travellers because of the additional biosecurity activities carried out for cruise ship travellers. There was strong support for this. There was general support for not differentiating the Levy by location. Although clearance activities at remote locations add extra costs, differentiating the Levy on this basis would add extra complexity.

34. We propose to retain the differential rates of the Levy between cruise travellers and all other travel modes as originally proposed, because of the different degree of clearance work needed for each mode of travel.

35. We do not propose to make separate provision for trans-Tasman routes despite submissions to that effect. This would be inconsistent with cost recovery principles. The activities undertaken, and costs incurred, to clear trans-Tasman travellers are the same as for other travellers.

Financial implications of exempting all crew and mercantile passengers

36. Exempting all air and cruise crew, and all mercantile crew and passengers, from the Levy (involving approximately 357,000 arrivals each year) will result in approximately $6.710 million of forgone revenue.

37. We do not consider the cost of exempting mercantile crew and passengers should be spread to other air and cruise travellers (ie. to travellers in other travel modes). This would not be equitable. It would amount to inappropriate cross-subsidisation and would not be consistent with cost recovery principles.

38. We propose the cost of exempting air and cruise crew be spread amongst other Levy payers in those modes. However, this will mean the cruise Levy rate will be higher than what was proposed in the consultation document. We propose two options for consideration, either:
    - Option 1 - increase the rates as required accordingly, or
    - Option 2 - cap the cruise rate for the first 30 months at the upper bound of the range proposed in the consultation document. The Crown would fund the additional costs. Note that spreading the cost of exempting air crew to other air passengers does not result in the air and other rate going above the cap.

39. The table below sets out the implications for Levy rates and Crown funding of the two options:

Table 2: Implications for Levy rates and Crown funding (GST exclusive)

Rates in consultation document:	**$17.80 - $19.00**	**$21.60 - $22.80**		
Exemption	**Air and other rate**	**Cruise rate**	**Crown funding**	**Notes**
Base case - rates proposed in consultation updated as noted	$18.07	$26.29	$0.592m per annum	Includes exemptions proposed at consultation, updated for expanded Smartgate operating costs and forecast updates. New cruise rate of $26.29 incorporates cost for biosecurity of cruise travellers who do not disembark (approx. 80% of crew) Crown cost is per annum ongoing for mercantile not levied for biosecurity. Customs will still levy mercantile fleet.
<u>Option 1</u> All crew and mercantile passengers exempted, revenue forgone spread to other Levy payers	$18.76	$30.85	$1.186m per annum	Forgone revenue for air and cruise crew is spread over other Levy payers. Mercantile is absorbed by the Crown. Crown cost is for the full cost per annum ongoing of exempting mercantile (the $0.592m for biosecurity plus additional $0.594m for Customs not levying mercantile)
<u>Option 2</u> All crew and mercantile passengers exempted, Levy rates capped at rates consulted on	$18.76	$22.80	$1.186m per annum plus $2.843m over three years	Crown cost is the cost of exempting mercantile ($1.186m per annum) plus the additional cost for cruise crew above the cap (total of $2.843 m over three years)

40. The Levy rates for the MPI and Customs components under the two options are set out in the Table 6 in Appendix 2.

Discussion

41. Option 1 is more justifiable on cost recovery principles. It does not dilute the principle of full cost recovery, and the fact that this allows funding to flex completely with changing volumes. It is also appropriate to spread the cost of exempting air and cruise crew to passengers, as crew are an essential part of the passenger's travel experience. This means the cost of the border clearance activities that MPI and Customs undertake in relation to crew can justifiably be placed on passengers.

42. It was also flagged in consultation that exempting crew would mean the cost would be spread to passengers. The cruise sector is aware that this would push the cruise Levy rate up by a substantial amount. s 9(2)(f)(iv) [redacted]

43. Other submitters also recognised the need to carefully consider applying the Levy to crew. While the Coalition Against the Travel Tax argued against broad exemptions, it did recognise the issues raised by airlines and cruise lines in relation to crew.

44. Option 2 would be more consistent with the Levy rates included in the consultation document. It would also moderate the additional impost on the cruise industry of the higher Levy rate, and the impacts on cruise travel demand, in effect providing for a 30 month transition to full cost recovery. However, it would be somewhat inconsistent with the key principle of the Levy that costs should lie where they fall, and that those who create risks should contribute to the cost of managing these risks. In this case, taxpayers would continue to fund some of the costs of managing the risks posed by the cruise industry.

Prescribing, calculating, and notifying Levy rates

45. The Levy Orders must prescribe the rate of the Levy, or the basis on which the rate is to be calculated and if so, how it is to be set. We propose that the Orders set the actual rates from 1 January 2016 to 30 June 2018 in order to provide stakeholders with certainty on the Levy payable, and to include the first full year of cost recovery.[4]

46. The Orders would then prescribe the basis for calculating the Levy rates from 1 July 2018 and beyond. For each Levy period, we propose rates be calculated on the following basis:
    a. the estimated annual costs to be incurred by MPI/Customs (taking account of any under- or over-recovery in the preceding period), divided by:
    b. the estimated total number of leviable travellers in that period.

47. The Comptroller of Customs (Comptroller) and the Director-General of MPI (Director-General) would then set the rate for each levy period, based on this calculation, and taking into account changes in forecast volumes, revenue, and costs, and notify the new Levy rates in the Gazette.

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[4] Cost recovery is partial for the 2015/16 and 2016/17 years due to the fact that Crown funding is retained to cover the costs of travellers who have purchased tickets prior to 1 January 2016.

48. The biosecurity component of the Levy currently needs to be updated annually, as the Biosecurity Act 1993 only allows over- or under-recovery from the preceding year to be carried forward. This is under review as part of MPI's first principles review of cost recovery. The Customs component will be set on a three year time horizon, and so may not change year to year (unless there is sustained and material under- or over-recovery).

Setting maximum Levy rates

49. Maximum rates would also be prescribed beyond which the rates could not be increased by the Comptroller and Director-General. Any proposed increase above the maximum rates would require amendment to the Orders. Each Levy Order would set the maximum rates for the Customs and MPI arrival and departure components respectively.

50. We propose these maximum rates be set at $19.70 for air and other, and $32.40 for cruise. This is 5 percent above the proposed uncapped rates of $18.76 and $30.85.

51. The table below breaks these rates by the Customs and MPI arrival and departure components:

Table 3: Proposed maximum rates

	MPI	Customs		Total
		Arrive	Depart	
Air and other	$8.80	$7.80	$3.10	$19.70
Cruise	$17.90	$10.40	$4.10	$32.40

Transitional arrangements

52. All travellers will be liable to pay the Levy from 1 January 2016. However, as collection agents will not be able to include the Levy in the price of tickets purchased before the Levy order is finalised, and we consider it unfair to collect the Levy on tickets already purchased, we propose that passengers who have purchased (and fully paid for) tickets before 1 January 2016 (for arrival in 2016) should be exempt. Airlines and cruise lines will be required to provide Customs with information on the number of fully paid tickets by month/voyage for the 12 month transition period.

Financial monitoring, transparency, and reporting

53. It will be important for transparency and accountability purposes that the Levy is monitored and reviewed on a regular basis to ensure the rates remain valid. This concern was expressed strongly in the consultation process.

54. Both agencies will use memorandum accounts to manage fluctuations in revenue and expenditure, and inflows and outflows will be monitored on a monthly basis. As noted above, we propose the actual rates be prescribed in the Levy Orders for the first 30 months, with the rates then calculated and set for each levy period thereafter (annually for MPI, three yearly for Customs).

55. A review of the operation of the Levy and its level will be carried out in early 2018, after the first full year of cost recovery. Further reviews will conducted every three years as per the Auditor-General’s guidelines (on top of the annual process of updating the Levy rates where necessary).

56. Customs and MPI also propose to provide regular, detailed reporting on the performance of the Levy and to establish one-to-one meetings with key sectors to discuss financial and other performance measures, and to consider further opportunities to work in co-operation with industry. Agencies will work with sectors to develop performance metrics in the areas of risk management/compliance, travel facilitation, efficiency, and cost effectiveness.

Collection mechanisms and other matters to be included in the Levy Orders

57. Appendix 2 sets out our proposals for payment and collection mechanisms, and a range of other matters necessary for implementation of the Levy. Decisions are needed on these matters to enable the Parliamentary Counsel Office (PCO) to proceed with drafting the Levy Orders.

Application of GST

58. The Levy rates in this paper are stated as GST exclusive. A number of submitters strongly suggested that the Levy should not be subject to GST, on the grounds that the Levy is directly associated with international travel (which is zero-rated). While officials consider that GST at the rate of 15% will be applied to these Levy rates, this will be confirmed by Inland Revenue.

59. We will ensure that all public communications clarify the expected treatment. The Levy Orders will state the Levy rates exclusive of any GST that may apply, and MPI and Customs will retain the right in the Levy Orders to charge GST on the Levy if this is appropriate.

s 9(2)(f)(iv), 18(d)

[redacted]

Independent analysis of impacts on tourism

61. MPI and Customs commissioned Sapere Research Group to undertake a provisional assessment of the potential impact of the Levy on visitor numbers and tourism expenditure. Their report found it would not have a significant impact, with a one-off reduction in forecast increases in air and cruise visitor numbers by 1.4 percent or 34,050 and tourism expenditure by 0.9 percent or $55.9 million. These are midpoint estimates.

62. Officials consider this should be considered as representing the maximum potential impact, and that actual impacts are likely to be lower. The analysis assumes all the other factors that affect traveller decisions do not change. These include economic conditions and income, wealth and confidence levels in origin countries, changes in exchange rates, local events (eg. the Rugby World Cup etc), the price of travelling to other destinations, and security issues.

63. For example, from April to July 2015, exchange rate fluctuations between New Zealand and Australia had an impact on visitor spending ten times greater than the amount of the Levy.

Consultation

With departments and Crown entities

64. The following departments were consulted on this paper: Ministry of Transport, Civil Aviation Authority, Maritime New Zealand, Treasury, Ministry of Foreign Affairs and Trade, Ministry of Justice, Inland Revenue, Ministry of Business, Innovation and Employment, Ministry of Defence, New Zealand Defence Force, and the Parliamentary Counsel Office (PCO). The Department of the Prime Minister and Cabinet has been informed.

Treasury comment

65. Treasury considers that crew should not be exempt from paying the levy as they are risk exacerbators, and therefore generate costs for biosecurity and customs clearance. Exempting crew also removes the incentive for carriers to reduce the risk that crew present, in order to reduce their levy liability.

66. If Ministers do wish to exempt crew, Treasury supports the option of not capping levy rates. The cap only applies to the levy on cruise passengers, since the revised levy rate for airline passengers is within the level consulted on. Economic analysis by Sapere Research Group on the impacts of the levy concludes that potential cruise passengers' decisions to travel to New Zealand are unlikely to be significantly affected by imposition of the levy. The Sapere analysis predicts a $22 levy would reduce the number of cruise passengers travelling to New Zealand from key places of origin by 0.52% (587 passengers). An increase in the levy for cruise passengers to the uncapped rate would cause only a marginal further reduction in the number of cruise passengers, given their low responsiveness to small price increases.

Public consultation process

67. Public consultation took place from 16 June to 28 July 2015, with the release of a public discussion document [EGI Min (15) 11/4 refers]. During this period, Customs and MPI officials met with representatives from 45 separate companies and industry groups, including airlines, airports, cruise lines, commercial shipping agents and lines, the tourism sector, and primary industries.

68. In total, 33 submissions were received as a result of the formal consultation. Of these, five were in full support of the proposal; these were predominantly from the primary industries. Five submissions offered qualified support, and 23 were opposed to the Levy.

69. The overall position of airlines and cruise lines was to oppose the proposal, due to the effect that the Levy would have on demand for travel to New Zealand. Airlines and cruise lines submitted that crew should be exempt.

70. With the exception of New Zealand Maori Tourism, tourism interests were also opposed, considering that the proposal's impacts on tourism have been understated. They submitted that implementation be delayed until January 2017 to allow time for the impacts of the Levy to be fully assessed.

71. A summary of feedback from submissions and the proposed policy responses, is included at Appendix 3 to this paper. Further information on consultation is also contained in the accompanying Regulatory Impact Statement (RIS).

Financial Implications

72. In April 2015, when Cabinet agreed to introduce the Levy, it agreed to a decrease in revenue Crown and a corresponding increase in revenue Other in Votes Primary Industries and Customs to reflect the move to cost recovery.

73. Cabinet also invited the Minister for Primary Industries and the Minister of Customs to report back on any necessary adjustments to appropriations to reflect any substantive changes resulting from consultation [CBC Min (15) 1/2].

Exempting all air and cruise crew, and mercantile crew and passengers

74. Additional Crown funding required to cover the costs of exempting mercantile crew and passengers, and of exempting air and cruise crew, is set out in Table 4. It presents two options: Option 1: costs fully allocated to passengers, and Option 2: cruise rate capped at consultation level. Irrespective of the option chosen, we request that revenue Crown be increased and revenue Other decreased for MPI and Customs by the relevant amounts in Table 4.

75. Total revenue from the Levy when full cost recovery is in place from 2017/18 will be approximately $102.8 million under Option 1 and $101.4 million under Option 2.

Table 4: Crown costs of exempting crew

		2015/16 ($ m)	2016/17($ m)	2017/18 ($ m)	2018/919 and outyears ($ m)
Exempting mercantile crew and passengers					
MPI		0.296	0.592	0.592	0.592
Customs		0.297	0.594	0.594	0.594
Total		**0.593**	**1.186**	**1.186**	**1.186**
Exempting air and cruise crew					
Option 1 (not capped)		0	0	0	0
Option 2 (capped)	MPI	0.252	0.756	1.009	0
	Customs	0.103	0.310	0.413	0
Total Option 2		**0.355**	**1.066**	**1.422**	**0**
Total - Crown funding mercantile plus Option 2 (capped cruise rate)		**0.948**	**2.252**	**2.608**	**1.186**

Legislative Implications

76. In order for the Levy to take effect, separate Levy Orders must be made under section 288B of the Customs and Excise Act 1996 and section 140AA of the Biosecurity Act 1993 respectively. These Levy Orders will prescribe the additional implementation details for the Levy. This paper seeks agreement that drafting instructions be issued to PCO based on the decisions made in it.

77. We expect to take a paper to the Cabinet Legislation Committee on 21 October 2015 seeking agreement to the making of the Levy Orders.

Regulatory Impact Analysis

78. The Regulatory Impact Analysis (RIA) requirements apply to the proposal in this paper and a Regulatory Impact Statement (RIS) has been prepared and is attached.

79. The Regulatory Impact Analysis Team (RIAT) has reviewed the RIS prepared by the New Zealand Customs Service and the Ministry for Primary Industries and associated supporting material, and considers that the information and analysis summarised in the RIS *partially meets* the quality assurance criteria.

80. The RIS examines options to implement a Border Clearance Levy that was agreed to in April 2015 [CBC Min (15) 1/2].

81. The RIS clearly sets out the decisions that need to be made and analyses the likely costs and benefits of the different options. However, the rationale for recommending that crew should be exempt from the levy is not convincing. For example, paragraph 48 in the RIS states “members of the crew are just as much of a potential risk exacerbator as paying passengers”.

82. The RIS does not explain how the proposed levy rates have been calculated making it difficult to understand whether the rates proposed are reasonable or not. However, the RIS does explain that there will be regular detailed reporting after the levy has been introduced that should show whether the levy rates are reasonable, and provision is included for review.

Publicity

83. In order to provide certainty about the Government’s decisions on the Levy, and ensure timely implementation of the Levy on 1 January 2015, we seek Cabinet’s agreement to publicly announce decisions on the proposals in this paper as soon as possible. We propose that officials also notify key stakeholders just prior to the public announcement. This will give affected parties the opportunity to prepare for the changes before the Levy Orders have been drafted and gazetted.

84. As well as announcing the Government’s decisions, we also propose to release this paper, the RIS, a summary of submissions received during the public consultation, and the Sapere Research Group report commissioned on the possible impact of the Levy on tourist numbers.

Recommendations

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

    1. **Note** that the earlier Cabinet approval on the Border Clearance Levy included a report-back requirement in October 2015 on the outcomes of consultation and the proposed final design and implementation arrangements for the Levy [CBC Min (15) 1/2 refers];

    2. **Note** that a public consultation on the implementation of the Levy was conducted from 16 June to 28 July 2015, the results of which have informed the final design of the Levy;

    3. **Note** that the design of the Levy will require two Orders in Council, under the legislation administered by the Ministry for Primary Industries and the New Zealand Customs Service, respectively;

Exemptions

    4. **Note** that the legislation provides no waiver option, requiring that all proposed exemptions must be specified in the Levy order;

    5. **Agree** that the following classes of travellers should be exempt from paying the Levy, with the costs spread amongst other Levy payers in the mode of travel, or absorbed by the Crown, as noted below:
        a. Passengers and crew travelling on any aircraft or ship being used for the military, diplomatic, or ceremonial purposes of any Government (Crown);
        b. Air passengers and crew in transit (air passengers);
        c. Children under the age of two years, consistent with the practice of Aviation Security (air and cruise passengers);
        d. All crew and passengers that arrive or depart on mercantile vessels (Crown);
        e. All air and cruise crew (air and cruise passengers);
        f. Passengers and crew travelling on any aircraft or ship used for the purposes of the National Antarctic Programme of any contracting party to the Antarctic Treaty (Crown);
        g. Travellers on any aircraft or ship used for the purposes of emergency, humanitarian or crisis response work organised or carried out by any government (Crown);
        h. People rescued at sea or who seek temporary relief from stress of weather (Crown);

i. A one-off transitional exemption for people who have purchased and fully paid for travel before 1 January 2016, for intending arrival from 1 January 2016 to 31 December 2016 (Crown);

j. For Customs, travellers on craft that leave a New Zealand port but remain within the exclusive economic zone and do not meet with any craft or persons entering the exclusive economic zone from a point outside New Zealand, and then return to a New Zealand port (no cost);

6. **Agree** that for the purposes of the Levy, mercantile vessels include those types of vessels outlined in paragraph 28;

Financial implications

7. **Note** that in April 2015 Cabinet agreed to a decrease in revenue Crown and a corresponding increase in revenue Other in Votes Primary Industries and Customs to reflect the move to cost recovery [CBC Min (15) 1/2];

8. **Agree**, if recommendation 5 is agreed to, that the revenue forgone for air transit passengers and crew, children under 2, and air and cruise crew, be spread amongst other Levy payers in the relevant travel mode;

9. **Agree** that the $1.186 million per annum cost of exempting the mercantile fleet ($0.592 million for MPI, $0.594 for Customs) be absorbed by the Crown, as it is not appropriate to spread this cost amongst other air and cruise travellers;

EITHER: <u>Option 1</u>

10. **Agree** that the costs of exempting cruise crew should be fully allocated to the cruise levy rate, noting that this option would result in the Levy for cruise travel being increased by $8.05 above the upper limit consulted on publicly; and

11. **Agree** that the actual total Levy rates should accordingly be set at $18.76 for all travel except cruise, and $30.85 for cruise from 1 January 2016 to 30 June 2018, as set out in Table 6 of Appendix 2 of this paper;

OR: <u>Option 2</u>

12. **Agree** that the actual total Levy rates should be set at $18.76 for all travel except cruise, and $22.80 for cruise from 1 January 2016 to 30 June 2018, as set out in Table 6 in Appendix 2 of this paper;

13. **Agree** that Crown funding estimated at $2.843 million over three years be retained for border clearance activities for cruise travellers in the event the Levy rate is capped as per recommendation 12; and

14. **Agree** that from 1 July 2018, Levy rates for cruise should be set at the actual cost, estimated to be $30.85;

EITHER:

15. **Agree** to an increase in revenue Crown and a corresponding decrease in third party revenue to reflect the decisions in recommendations 9 and 10 above, with the following impact on the operating balance:

	$m – increase/(decrease)			
Vote Primary Industries	**2015/16**	**2016/17**	**2017/18**	**2018/19 & Outyears**
Operating Balance Impact No Impact	0.296 (0.296)	0.592 (0.592)	0.592 (0.592)	0.592 (0.592)
Total	**-**	**-**	**-**	**-**

	$m – increase/(decrease)			
Vote Customs	**2015/16**	**2016/17**	**2017/18**	**2018/19 & Outyears**
Operating Balance Impact No Impact	0.297 (0.297)	0.594 (0.594)	0.594 (0.594)	0.594 (0.594)
Total	**-**	**-**	**-**	**-**

AND:

16. **Approve** the following changes to baselines to reflect the revenue changes in recommendation 15 above;

	$m – increase/(decrease)			
Vote Primary Industries and Food Safety Minister for Primary Industries	**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)	0.296	0.592	0.592	0.592
Departmental Output Expense: Border Biosecurity Monitoring and Clearance (funded by revenue Other)	(0.296)	(0.592)	(0.592)	(0.592)

	$m – increase/(decrease)			
Vote Customs Minister of Customs	**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)	0.297	0.594	0.594	0.594
Departmental Output Expense: Border Biosecurity Monitoring and Clearance (funded by revenue Other)	(0.297)	(0.594)	(0.594)	(0.594)

OR:

17. **Agree** to an increase in revenue Crown and a corresponding decrease in third party revenue to reflect the decisions in recommendations 9 and 13 above, with the following impact on the operating balance:

	$m – increase/(decrease)			
Vote Primary Industries	**2015/16**	**2016/17**	**2017/18**	**2018/19 & Outyears**
Operating Balance Impact No Impact	0.548 (0.548)	1.349 (1.349)	1.601 (1.601)	0.592 (0.592)
Total	**-**	**-**	**-**	**-**

	$m – increase/(decrease)			
Vote Customs	**2015/16**	**2016/17**	**2017/18**	**2018/19 & Outyears**
Operating Balance Impact No Impact	0.400 (0.400)	0.904 (0.904)	1.007 (1.007)	0.594 (0.594)
Total	**-**	**-**	**-**	**-**

AND:

18. **Agree** to the following changes to baselines to reflect the revenue changes in recommendation 17 above;

	$m – increase/(decrease)			
Vote Primary Industries and Food Safety **Minister for Primary Industries**	**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) Departmental Output Expense: Border Biosecurity Monitoring and Clearance (funded by revenue Other)	0.548 (0.548)	1.349 (1.349)	1.601 (1.601)	0.592 (0.592)

	$m – increase/(decrease)			
Vote Customs **Minister of Customs**	**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) Clearance and Enforcement Services Related to Passengers and Crew (M21) (funded by revenue other)	0.400 (0.400)	0.904 (0.904)	1.007 (1.007)	0.594 (0.594)

Prescribing and calculating Levy rates

19. **Agree** that the Levy Orders prescribe the actual rates of the Levy from 1 January 2016 to 30 June 2018, reflecting the decision on recommendations 11 and 13;

20. **Agree** that the basis for calculating the Levy rates from 1 July 2018 and beyond is the estimated costs for the period divided by the estimated total number of travellers (as described in paragraph 46 of this paper);

21. **Agree** that the Comptroller of Customs and the Director-General of MPI set the Levy rates from 1 July 2018, based on the calculation in recommendation 20 above;

22. **Agree** that the Levy Orders prescribe maximum rates beyond which the rates could not be increased by the Comptroller and Director-General, as set out in Table 3 of this paper;

23. **Agree** that before the Comptroller of Customs and the Director-General of MPI set the rates for the period beginning 1 July 2018, the Comptroller of Customs and the Director-General of MPI must notify the rate of Levy by notice in the *Gazette;*

Payment and collection

24. **Agree** that travellers will be required to pay the Levy no later than their arrival, or for the Customs departure component, their departure (although practically air and cruise travellers will pay the Levy as part of their tickets);

Other matters

25. **Agree** that Levy Orders be prepared under section 140AA of the Biosecurity Act 1993 and section 288B of the Customs and Excise Act 1996, to impose a border clearance Levy on travellers entering and leaving New Zealand;

26. **Agree** that the Levy Orders also provide for the other matters as set out in Appendix 2;

27. **Agree** to the establishment of new memorandum accounts for the Ministry for Primary Industries and New Zealand Customs for services provided under the Border Clearance Levy;

28. **Agree** to authorise the Minister for Primary Industries and the Minister of Customs to specify other minor policy and other matters as required for the detailed drafting of the Levy Orders, beyond the decisions made in this paper;

29. **Agree** to authorise the Minister for Primary Industries and the Minister for Customs to release details of the decisions in this paper prior to the Levy Orders being made, in order to provide early notification to affected parties for the necessary adjustments to their pricing and practices; and

30. **Invite** the Minister for Primary Industries and Minister for Customs to issue drafting instructions to Parliamentary Counsel Office to draft the Levy Orders to give effect to the decisions above.

Hon Nathan Guy
Minister for Primary Industries

/ / 2015

Hon Nicky Wagner
Minister of Customs

/ / 2015

Appendix 1: Summary of final design dimensions

	Consultation Paper	Final Paper
Exemptions	- Air passengers and crew in transit; - Children under 2; - Official diplomatic and military missions, and - Potentially humanitarian missions	- Air passengers and crew in transit - Children under 2; - Military, diplomatic and ceremonial purposes of any Government - Emergency, humanitarian and crisis response work carried out by any Government - Crew and passengers on mercantile vessels - All air and cruise crew - Any vessel used for National Antarctic Programmes or other Antarctic Treaty party - People rescued at sea or sheltering from bad weather - Vessels leaving from and returning to an NZ port without leaving the EEZ
Collection agent	- Civil Aviation Authority to collect for air travellers - Cruise ship operators to collect levy for cruise ship travellers	- Commercial airlines to collect for air travellers - Cruise operators to collect for cruise travellers - Other craft (private yachts, private jets etc) – agent to collect if there is one, otherwise master / pilot to collect
Differential Levy rate	- Not differentiated by location - Differentiated by transport mode; higher cost to clear cruise ships	- As per consultation
Transitional arrangements	- To apply only to passengers purchasing tickets after 1 January 2016	- As per consultation
Settling Levy rates		- Actual rates prescribed in Levy Orders for first 30 months - DG of MPI and Comptroller of Customs then set based on formula, subject to prescribed maximum

Options

How the cost of the air and cruise crew exemptions are allocated

Option 1: Costs fully allocated to passengers

All air and cruise crew exempt

- Mercantile crew and passengers exempt
- Revenue foregone for air and cruise crew picked up by other levy payers
- Crown funding $1.186 m pa for mercantile
- Air & other levy $18.76 (excl. GST)
- Cruise levy $30.85 (excl. GST)

Option 2: Rates capped at consultation rates

All air and cruise crew exempt

- Mercantile crew and passengers exempt
- Levy rates capped at consultation level for first 30 months
- Revenue foregone for air crew picked up by air passengers
- Crown funding $1.186 m pa for mercantile
$2.843 m over three years to cap cruise rate
- Air & other levy $18.76 (excl. GST)
- Cruise levy $22.80 (excl. GST)

Appendix 2 – Payment and collection mechanisms, Levy rates, and other matters to be included in the Levy Orders – decisions required for PCO drafting

Payment of the Levy

Travellers will be required to pay the Levy to collection agents no later than their arrival or departure, though practically air and cruise passengers will pay as part of their ticket price to airlines and cruise lines prior to travel.

Calculating the collection amount on arrivals only

The consultation document suggested departing travellers would be levied the $2.60-$3.10 Customs cost component separately. Applying the Levy at one point only was suggested by a number of submitters, and most indicated this should occur on arrivals.

We propose to collect the Levy on arriving and departing travellers, as this is consistent with the provisions of the legislation. However, as means of providing an administratively simple solution, we will look to provide the opportunity for collection agents to meet their obligations within one invoice at arrival. If they choose not to, they will be issued a separate invoice upon departure.

Collection mechanisms

There are three major categories of traveller requiring collection mechanisms to be established: commercial air, cruise, and other craft. Following consultation, we propose the following Levy collection mechanisms. In all cases, Customs will collect the Levy from collection agents or travellers on behalf of both Customs and MPI. Customs will generate invoices based on passenger information already provided to it, and adjusted for exempt travellers and, for biosecurity, those travellers who do not disembark.

Table 5: Proposed collection mechanisms

Travellers on…	Collection agent	Collection frequency
Commercial aircraft	Commercial airlines (26 airlines). Levy incorporated into the price of tickets.	Monthly invoice in arrears
Cruise ships	Cruise carriers. Levy incorporated into the price of tickets.	Voyage-by-voyage invoice in arrears. There are approximately 100 cruise ship arrivals per year.
Other craft (private yachts, private jets etc)	Either agent (where one exists) or the master or pilot of the craft	It is expected that the most efficient method will be for Customs to issue invoices manually on a voyage-by-voyage basis. Invoices will be created at the point of initial clearance of the vessel where possible, with on-line payment options such as internet banking or on-line credit cards for ease of payment.

We are proposing that mercantile crew and passengers be made exempt. If this group is not made exempt, the collection agent will be shipping agents. Billing details for commercial agents will be obtained; most are already known as the result of processing by Maritime New Zealand. There are approximately 2,500 commercial voyages to New Zealand each year. Invoices will be issued to collection agents on a voyage-by-voyage basis in arrears.

Collection agents will be required to pay the Levy by the 20th day of the month following receipt of an invoice.

Levy Orders not to provide for recovery of costs of collection

The Acts provide for the Levy Orders to specify that collection agents can recover the costs of collecting the Levy. A number of submitters in the consultation process suggested they should be permitted to recover the costs of collecting the Levy. Airlines indicated they estimated this would amount of 3% of the cost of the Levy. It is not standard practice for cost recovery regimes, including for Avsec's International Passenger Security Charge, to explicitly provide for this in regulation, and doing so could limit collection agents' ability to recover these costs as part of their commercial relationship with passengers. It would also not provide the desired incentives to ensure that collection costs are minimised. We therefore recommend that the Levy Orders not include provision for collection agents to recover their costs of collecting the Levy.

Collection agents will also benefit from holding funds from the point of collection until the due date after receipt of an invoice from Customs.

Levy rates for 1 January 2016 to 30 June 2018

Table 6: Rates for 1 January 2016 to 30 June 2018

	Mode	**Rate per traveller**	
		Option 1	**Option 2**
Customs	Arrivals Air and other	$7.45	$7.45
	Arrivals Cruise	$9.93	$7.50
	Departures Air and other	$2.93	$2.93
	Departures Cruise	$3.88	$3.10
MPI	Air and other	$8.38	$8.38
	Cruise	$17.04	$12.20
Total	**Air and other**	**$18.76**	**$18.76**
	Cruise	**$30.85**	**$22.80**

*Exempting crew means Customs must also apply a separate rate for cruise. This is because the same costs are spread over a smaller group of Levy payers.

Other matters

The following table sets outs proposed arrangements for other implementation matters to be provided for in the Levy Orders.

Returns to be provided to enable amounts of the Levy payable to be calculated, determined, or verified	Returns are to be provided to MPI and Customs to enable amounts of levy payable to be calculated, determined or verified. Returns are to be provided by the following collection agents: **Cruise ship operators** ▪ Number of travellers claiming the exemption for tickets purchased prior to 1 January 2016 **Other collection agents** ▪ Number of travellers claiming the exemption for tickets purchased prior to 1 January 2016
Extension of time for payment of the Levy, and the conditions put on this	Director-General and/or Comptroller may extend the time for a collection agent to pay an amount of levy money, if he/she considers that the collection agent was or will be unable to pay the levy money by the latest date for payment because of extraordinary circumstances beyond the collection agent's control.
Payment of additional or increased Levy for late or non-payment	8% of the unpaid balance at the due date, plus an additional 2% per month thereafter
Specifying the records which must be kept - the Director-General, the Chief Executive, and collection agents will be required to keep specified records for a set period for the purpose of determining whether an Order is being complied with	For the purpose of determining whether an Order is being complied with the following records must be kept for each levy year for a period of 2 years by the following: **Director-General/Comptroller** ▪ *Records about the estimated costs and traveller numbers for each levy period for which the levy rate was set* ▪ *Records of the rate at which the levy was set* ▪ *Each amount of levy paid to them, the date it was paid and by whom it was paid* ▪ *How the levy money was spent for the levy year* **Collection Agents** Collection agents should keep records that will allow them to evidence a difference in the amount of levy invoiced. They should also keep the following records: ▪ *Number of travellers arrived per invoice period* ▪ *Number of persons who are exempt from the levy per invoice period* ▪ *Records of returns made* ▪ *Amounts of levy paid and the dates it was paid*
Appointment and remuneration of auditors	A person appointed as an auditor must be remunerated by the Director-General or Comptroller at a rate determined by the responsible Minister.

We do not propose there be a requirement at this stage for collection agents to hold Levy funds on trust in separate accounts. The powers in legislation to require this can always be applied in future by amending the Orders if there is consistent difficulty in securing Levy revenue. Officials do not expect this to be the case.

Appendix 3: Summary of feedback from consultation and proposed policy responses

Public consultation took place from 16 June to 28 July 2015, with the release of the public discussion document. Customs and MPI officials met with representatives from 45 separate companies and industry groups, including airlines, airports, cruise lines, commercial shipping agents and lines, the tourism sector, and primary industries. In total, 33 submissions were received as a result of the formal consultation. Of these, five were in full support of the proposal; these were predominantly from the primary industries. Five submissions offered qualified support, and 23 were opposed to the Levy.

The overall position of airlines was to oppose the proposal, due to the effect that the Levy would have on demand for air travel to New Zealand, and the effect on airline profitability in competitive markets. Airlines submitted that crew should be exempt, and the age exemption extended to children under 12.

Cruise lines were overall opposed to the proposal, on the grounds that New Zealand is already an expensive destination, and this may influence lines' decisions to go elsewhere in future seasons. Cruise lines also submitted that crew should be exempt.

With the exception of New Zealand Maori Tourism, tourism interests were also opposed, considering that the proposal's impacts on tourism have been understated. They submitted that implementation be delayed until January 2017 to allow time for the impacts of the Levy to be fully assessed.

Commercial shippers were opposed to the proposal, due to what they regarded as the arbitrary nature of the rates. Most would not be opposed if mercantile crew were made exempt from paying the Levy.

Submitters from the primary industries were supportive of the Levy.

Feedback on specific issues and the proposed policy responses are set out in the table below.

ISSUE	STAKEHOLDERS VIEWS	PROPOSED RESPONSE
Exemptions to the Levy	**Crew** Nine stakeholders argued that crew should be exempt from the Levy on the grounds that: • it is inconsistent with other international arrangements • it may not be possible to pass these costs on to passengers on competitive routes • it will unfairly affect airlines with large numbers of New Zealand-based crew (crew in transit will not be subject to the Levy) • most cruise crew will not leave the vessel. Crew on commercial vessels may not leave ships and often do not interact with Customs or biosecurity officers when they do.	We recommend the exemptions proposed in the consultation document (transiting air passengers and crew, military/diplomatic/ceremonial passengers). We also propose exempting all crew, but working with carriers to better understand and put in place additional measures to manage the risks associated with crew.. We propose the cost of exempting mercvantile crew be absorbed by the Crown as we do not consider appropriate to spread this cost to air and cruise passengers. We propose the cost of exempting air and cruise crew be spread across other travellers in the same mode (i.e. cruise crew spread across cruise passengers), with rates either: 1. Capped at the rates consulted on in the consultation document, or 2. Spread across other travellers up to their true cost.
	Age Three submitters (Qantas, Cruise Lines International and Carnival Australia) suggested that the age exemption could be set at 12. This is consistent with the approaches in Australia and the UK. Those younger than 12 generally travel with families and it would minimise impacts on this market.	We propose that the age exemption remains at under 2s only, for consistency with existing New Zealand charging practices.
	Vessels crossing the 12 mile limit Some vessels will cross the 12 mile nautical limit, but will return to a New Zealand port. Under the Customs and Excise Act definition, such journeys would be subject to the Levy.	We agree with this exemption. Customs does not collect information on vessels that cross the 12 mile limit and return - therefore we would have no capacity to collect the charge - and we do not clear them for biosecurity purposes. Levying vessels that cross the 12 mile limit and then return would capture many fishing vessels.
	Passengers and crew travelling to sub-Antarctic islands Heritage Expeditions must clear Customs and MPI because passengers land at Macquarie Island – which is part of Australia. These landings occur under specific permit conditions and they have sought an exemption for this.	We do not agree. We do not consider that there is scope for differential treatment on this basis. Agencies undertake clearance activities and incur costs.

ISSUE	STAKEHOLDERS VIEWS	PROPOSED RESPONSE
	Humanitarian rescues It should be made clear that if a vessel rescues people, they do not become liable for the Levy once they arrive in New Zealand. Support exemption on humanitarian grounds – such as unintended arrivals, refugees and incoming Urban Search and Rescue (USAR) teams.	We agree, but we recommend the exemption be managed carefully to minimise administrative complexity (e.g. if travelling on a scheduled flight) and to ensure appropriate conditions are put around the exemption (eg. ensuring only "government sanctioned" missions are exempt)
Differentiation by transport mode or location	**Differentiation by mode** There was strong support for the levy to be differentiated by travel mode – i.e. airlines do not want to subsidise other clearance activities. **Differentiating by location** We proposed not differentiating the levy by location. This was generally supported in submissions as it would add additional complexity and could lead to smaller locations with a higher per-passenger cost getting a decline in visitors. New and restart airports can be managed separately through powers provided in the Airports (Cost Recovery for Processing of International Travellers) Act 2014. **Rates for trans-Tasman routes** Emirates and Qantas suggested that the Government should consider lower rates for trans-Tasman routes given the price sensitivity of travellers on these routes. This was not supported by BARNZ on the grounds that it added complexity.	We propose retaining the differentiation between cruise and other modes of travel, but no other differentiation on location or mode, including for trans-Tasman routes. This would be inconsistent with cost-recovery – the costs are not different for those travellers.
Transitional arrangements for tickets purchased before 1 January 2016	Airlines say that it is not practical to separate out information on when each individual purchased a ticket. This would require substantial investment in systems for a limited purpose.	In consultation with airlines and the cruise sector, we propose a transitional arrangement for 12 months that will require airlines and cruise companies to provide a schedule of bookings made before 1 January 2016. Each month, Customs will invoice for the number of passengers arriving during that month less those that had booked before 1 January 2016.
Levy collection mechanism	Most submitters preferred to be invoiced directly by MPI or Customs instead of through CAA, rather than providing a separate return. **Collecting the levy on arrivals and departures** We proposed a levy on arrivals and departures, to reflect the costs incurred on arriving and departing passengers. To make collection simple, seven submitters suggested applying the Levy at one point only – most suggested this should occur on arrivals.	We propose that Customs will manage the collection of the Levy on behalf of both agencies. Customs will continue to work with carriers and agents to ensure the most appropriate levy collection arrangements.
Timing of implementation	Most submitters recommended the Government take further time to assess the potential impacts of the Levy, and to allow more time for implementation. The cruise industry has raised concerns about its ability to implement from 1 January 2016, due to Australian requirements to publish ticket prices inclusive of all costs. s 9(2)(b)(ii) [redacted] The cruise industry has sought a deferral until at least 1 July 2016.	We do not recommend delaying implementation. We consider that the concerns raised by the Cruise industry have been overstated – they have a responsibility to represent full and accurate costs, and may wish to consider alternative measures to communicate this change.
Costs of collection	A range of submitters have indicated that there will be costs, and have indicated that they are likely to ask for a rebate (of around 3%) from Customs/MPI for collecting the Levy. This would be consistent with practices in other countries, such as Australia, Papua New Guinea, Samoa and Tonga, where operators collect levies or taxes on behalf of the government. Shipping agents have suggested that there is little scope to recover administration costs from their clients.	We do not propose a rebate arrangement. This is not standard practice for cost recovery in New Zealand, and aligns with the approach taken by Avsec with regard to the passenger security charge. Administration costs should be subject to commercial arrangements between the collector and the traveller.

ISSUE	STAKEHOLDERS VIEWS	PROPOSED RESPONSE
Transparency and accountability	The need for strong transparency and accountability was emphasised in the majority of submissions. In particular, stakeholders want to have a more informed view of cost structures and planning to have an assurance that resources are being used responsibly. **Joint advisory group** Many supported the establishment of a joint advisory group to review the performance of the Levy over time. This group should provide oversight for the Levy on behalf of all interested stakeholders **Sector working groups** Cruise and airline stakeholders have expressed a desire for ongoing conversations – both for an assurance on how the Levy is being used, but also to determine how they can support voluntary compliance to lower overall costs. **Performance measures** Current performance measures are focussed on risk management and are only focused on commercial air lines; they are limited value from a traveller facilitation/customer experience perspective. Stakeholders are willing to work with Customs and MPI to establish metrics that are more suitable. **Primary industries' views** Primary industries noted that there is scope to report on traveller compliance in other modes – an assurance on the effectiveness of traveller clearance will also influence their decisions to commit to Government Industry Agreements.	MPI and Customs propose two elements to address these concerns: • one-to-one meetings with key stakeholders/sectors to discuss financial and other performance, as well as emerging risks or opportunities for collaboration • regular public reporting on the performance of the Levy (this would expand on information contained in Annual Reports). We will continue to use existing performance measures, but we will look at improvements, working with sectors to develop performance metrics in the areas of risk management/compliance, travel facilitation, efficiency, and cost effectiveness.
The rationale for the Levy	Submitters had mixed views but were generally of the view that full cost recovery was not justified. The New Zealand Airports Association suggested that the changes to the Act did not mean the Levy was a fait accompli – Government still needs to establish evidential basis to justify any Levy as cost recovery, and not an unauthorised tax. NZ Airports submits that simply taking existing Crown appropriations as evidence of the costs of the activities to be funded by the Levy does not establish the necessary evidential foundation. A number of submitters recognised that there was potentially a case for sharing the costs. These views were countered by the primary industries and New Zealand Māori Tourism (who saw it as fair that travellers should meet these costs). The International Air Transport Association (IATA) and other aviation submitters have also suggested that the Levy contradicts ICAO conventions, which prohibit charges on travel.	We consider that the case for cost recovery has been made, but we must ensure that it is appropriately re-stated in the Cabinet Paper, Regulatory Impact Statement and future communications. s 9(2)(h)
Unanticipated impacts	Submitters are not convinced that the Government has fully taken the impacts of this decision into account. Five submitters recommended that the Government delay implementation until 1 January 2017 to fully assess the overall impacts of the Levy. Key matters raised: • IATA provided figures stating the Levy would cost the tourism industry between \$183m and \$196m, and between 1,591 and 1,702 jobs • the Levy will further weaken airlines' already fragile profitability, and it will make the trans-Tasman route one of the most heavily taxed in the world • cruise lines will make commercial decisions – New Zealand is already a costly choice, and if they can generate a larger profit elsewhere they will shift schedules from the 2017/18 season – this could result in a loss of around 20 voyages by 2018/19 – at an estimated economic impact of \$85.2 million.	We are comfortable that the overall impact of the Levy will have a minimal impact. Independent analysis by Sapere Research Group has confirmed the Levy is not expected to have a significant impact. With that said, there remains a risk that both travellers and operators will decide that the Levy is the reason to change their plans. Communication on the implementation of the Levy will continue to be key. Both New Zealand Māori Tourism and NZ Marine have offered to assist with this in their respective sectors. We are not in a position to comment on the analysis conducted by submitters. We have sought, but have not been provided with, sufficient information on how the stated economic impacts have been calculated.
GST treatment	Seven submitters[5] suggested that because the Levy is directly associated with international transportation services, it should not be subject to GST, in line with the zero-rating of transport services under section 11(a) of the Goods and Services Act 1985.	We have sought advice from Inland Revenue on how this should be treated. We are operating on the assumption that the Levy will be subject to GST which is consistent with other Customs and MPI goods clearance fees and CAA charges.

[5] IATA, CLIA, Carnival Australia, Coalition Against Travel Tax, Export Tourism Council of New Zealand, Virgin Australia and Air New Zealand