

# **Submission**

By

**Business|NZ**

To

**New Zealand Customs Service**

On

## **Goods Cost Recovery Proposal to Make Regulations to Recover the Costs of Goods Clearance**

**12 August 2004**

PO Box 1925  
Wellington  
Ph: 04 496 6555  
Fax: 04 496 6550

**GOODS COST RECOVERY  
PROPOSAL TO MAKE REGULATIONS TO RECOVER THE COSTS OF GOODS  
CLEARANCES**

**SUBMISSION BY BUSINESS NEW ZEALAND  
12 AUGUST 2004**

**1. INTRODUCTION**

- 1.1 Encompassing four regional business organisations (Employers' & Manufacturers' Association (Northern), Employers' & Manufacturers' Association (Central), Canterbury Employers' Chamber of Commerce, and the Otago-Southland Employers' Association), Business New Zealand is New Zealand's largest business advocacy body. Together with its 56-member Affiliated Industries Group (AIG), which comprises most of New Zealand's national industry associations, Business New Zealand is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.
- 1.2 In addition to advocacy on behalf of enterprise, Business New Zealand contributes to Governmental and tripartite working parties and international bodies including the ILO, the International Organisation of Employers and the Business and Industry Advisory Council to the OECD.
- 1.3 Business New Zealand's key goal is the implementation of policies that would see New Zealand retain a first world national income and regain a place in the top ten of the OECD (a high comparative OECD growth ranking is the most robust indicator of a country's ability to deliver quality health, education, superannuation and other social services). It is widely acknowledged that consistent, sustainable growth well in excess of 4% per capita per year would be required to achieve this goal in the medium term.
- 1.4 Overseas trade is a significant contributor to New Zealand's economic growth and development. A safe, secure and internationally competitive trading environment is critical for achieving a higher rate of sustainable economic growth.
- 1.5 The strength of the economy also determines the ability of a nation to deliver on the social and environmental outcomes desired by all. First class social services and a clean and healthy environment are possible only in prosperous, first world economies.
- 1.6 Business New Zealand welcomes the opportunity to comment on the New Zealand Customs Service's consultation paper *Goods Cost Recovery Proposal to Make Regulations to Recover the Costs of Goods Clearance*. Although we welcomed Customs agreeing to extend the closing date for submissions by nine days, there remained insufficient time us to extensively consult with members and make a fully considered submission on the detail in the discussion paper.

- 1.7 Although we appreciate that the consultation paper is seeking views on a specific cost recovery mechanism, Business New Zealand remains strongly opposed to the policy of the Government to recover its border security costs from the business community. Customs' border security activities are of public benefit and should therefore be funded out of general tax revenue.
- 1.8 Business New Zealand is looking forward to finally getting the opportunity to have a conversation on the funding principles through the Government's promised review on Customs funding for goods clearance.
- 1.9 In the meantime, Business New Zealand's comments on the discussion paper's proposed cost recovery mechanism are made on a 'without prejudice' basis.

## **2. Summary of Recommendations**

- 2.1 Business New Zealand recommends that the New Zealand Customs Service should:
  - (a) Accept that border security activities are of public benefit and should therefore be funded out of general tax revenue;
- 2.2 Without prejudice to recommendation (a), the New Zealand Customs Service should:
  - (b) Note that Business New Zealand prefers the cost recovery proposal contained in the discussion paper;
  - (c) Do more work on the 'fees for craft' option contained on page 32 of the consultation paper;
  - (d) Consult key industry representatives over the drafting of the regulations to reduce the likelihood of unintended consequences;
  - (e) Carefully monitor the implementation of cost recovery to ensure that any unforeseen effects can be promptly addressed to preserve efficiency and equity; and
- 2.3 Business New Zealand also recommends that the Government should:
  - (e) Commence a first-principles review of goods clearance funding at an early date under a Chair acceptable to both sides.

## **3. Process to Date**

- 3.1 Pages 1 and 2 of the discussion paper contain a table setting out the timetable of previous Government decisions leading to the cost recovery proposal. It is striking that over a year elapsed between the Government's initial decision in October 2002 to amend the Customs and Excise Act 1996 and the Minister of Customs' announcement in November 2003 to cost recover from the business community. Over that 13-month period there had been no consultation with

the business community on cost recovery and nor was there the slightest hint that the Government would not be meeting its own costs.

- 3.2 Business New Zealand contrasts the unsatisfactory process for goods clearance with the process currently being used for reviewing the funding of Customs' passenger clearance services, where cost recovery principles have been considered before there has been any discussion on mechanisms. This has enabled a full exchange of views between Government and industry on important issues such as 'who benefits' (i.e., public versus private benefit), 'who should pay for what', and 'how much'.
- 3.3 However, the process adopted for goods clearance costs has prevented any opportunity to discuss high-level principles. As a result, the business community must wait until after the conclusion of the current process to determine and implement a cost recovery mechanism before there can be any principled review of funding. We have been most frustrated by the lack of engagement on the issues of 'who benefits', 'who should pay for what', and 'how much'.
- 3.4 Business New Zealand submits that much of the business community's frustration and anger over goods cost recovery could have been avoided had the model for reviewing the passenger clearance funding been adopted for goods clearance funding prior to the introduction of the Border Security Bill.

#### **4. The Proposal**

- 4.1 Business New Zealand's comments on the content of the discussion paper are without prejudice to our overall position that Customs' border security activities are of public benefit and should be funded out of general tax revenue. We also wish to make it clear that we remain dissatisfied with the Government's unwillingness to engage on whether there should be cost recovery, either during the debate on the Border Security Bill or during the consultation meetings that led to the proposal now under consideration.
- 4.2 *Recommendation: Business New Zealand recommends that Customs should accept that border security activities are of public benefit and should therefore be funded out of general tax revenue.*
- 4.3 Almost all members of the industry consultation group called by Customs to consider options for a goods cost recovery mechanism wanted first and foremost to resolve the public versus private benefit debate. Customs ruled out any discussion on this point.
- 4.4 The discussion paper's preferred proposal arose out of the industry consultation group meetings. It provides for separate fees for inward and outward cargo reports (with different levels of fee for ships and aircraft to address concerns about a flat fee leading to cross-subsidisation of sea by air) and separate fees for import and export entries. The proposed export entry fee would also provide for a lower level of fee for those exporters in the Secure Export Partnership, to reflect the lower risk of participating companies and to act as an incentive for companies to join the Partnership.

- 4.5 Business New Zealand participated in the industry consultation meetings. We agree that the discussion paper's proposal did represent the group's preferred approach developed after consideration of a number of alternatives. The proposal appeared to be the most equitable and efficient of the options considered, although it must be said that none of them were particularly appealing.
- 4.6 For, example the preferred proposal is a significant improvement on the initial Customs proposal for a flat fee per vessel across all sectors levied only on transport operators. Although some 99% of cargo by volume is transported to and from New Zealand by sea, around 80% of vessel movements are by air. Therefore, the \$450-\$650 flat fee per shipment would have resulted in the total cost to be recovered falling disproportionately on airfreight operators. Although relatively simple to implement, this approach would have hit users of airfreight services particularly hard with huge increases in freight costs and/or reductions in services (particularly short haul services) likely.
- 4.7 Several other proposals were raised and discarded during the consultation meetings, for example:
- An inspection fee for examinations. Such a fee would have been high for those unlucky enough to be inspected (\$170 for airfreight and \$1,300 for sea freight) and it would have been open to criticism, as Customs would have dictated the level of 'random' sampling.
  - A fee based on an average cost for all entries or manifests. Like the initial proposal for a flat fee per shipment, this approach would have been relatively simple but would have resulted in significant cross-subsidisation between imports and exports and between air and sea.
  - A fee according to the cost of activities by line or consignment level. This approach would have resulted in high administration and compliance costs. Nor would the further breakdown to a finer level of detail reflect the source of risk or driver of cost.
  - A fee linked to the value of goods. The amount collected in this case would bear no resemblance to the workload of Customs. Costing information would be difficult to calculate, resulting in high administration and compliance costs.
  - A fee on containers or packages. This option was considered difficult and costly for Customs to administer as it works on a transactions-basis rather than a container-basis. Compliance costs would also be likely to be high.
- 4.8 As noted above, Business New Zealand accepts that the consultation paper's proposed mechanism was the preferred mechanism at the conclusion of the consultation meetings. However, the discussion paper contains detailed information on the likely charges under several alternative options (set out on pages 32-38), information that was not available during the period of consultation meetings. In the light of this new information it is timely to reconsider whether the preferred proposal remains the most equitable and efficient.

- 4.9 Business New Zealand's view is that the alternative options are mostly undesirable, although an exception might be page 32's 'fees per craft' option. This approach differs from the initial Customs flat fee proposal in that there would be different levels of fee for ships and aircraft and for inward and outward movements, so reducing the degree of cross-subsidisation. By not (at least of the face of it) requiring the establishment of new systems and relationships, it would contain administration and compliance costs.
- 4.10 However, the main problem we see with the 'fees per craft' option is that the costs would still fall disproportionately on smaller aircraft and ships, and that this could impact upon freight rates and/or service levels. Nor is the craft necessarily the source of risk or the driver of cost.
- 4.11 On balance, the discussion paper's proposal remains our preferred approach, but we believe the 'fee for craft' option deserves further consideration.
- 4.12 *Recommendation: Business New Zealand recommends that Customs should note that we continue to prefer the cost recovery proposal contained in the discussion paper.*
- 4.13 *Recommendation: Business New Zealand recommends that Customs should also do more work on the 'fees for craft' option contained on page 32 of the consultation paper.*

## **5. Assumptions and Issues for Consideration**

- 5.1 The discussion paper asks a number of questions testing Customs' assumptions on impacts and costs for members and non-members of the secure export partnership, importers, transport operators, and consolidators, as well as small and private exporters and importers.
- 5.2 These are important considerations, but Business New Zealand is in no position to pass judgment on Customs' assumptions. We might have been able to consult more widely with our stakeholders and answer these questions had more time been made available to make submissions. On this occasion Business New Zealand will defer to the judgment of industry representatives and others that have had a closer and more detailed involvement in these issues.

## **6. Consultation on Draft Regulations**

- 6.1 Business New Zealand considers it important for the draft regulations themselves to be the subject of consultation with key industry players. This would not to be add a further opportunity for re-litigation on the policy, but would provide those who have to work with the regulations the opportunity to pick up technical issues or drafting errors. This would reduce the likelihood of Customs having to amend the regulations after their implementation to address 'unintended consequences'.

- 6.2 *Recommendation: Business New Zealand recommends that Customs should consult key industry representatives over the drafting of the regulations to reduce the likelihood of unintended consequences.*

## **7. Implementation**

- 7.1 Even if the regulations prove to be sound there are likely to be complications and complexities arising from the implementation of cost recovery. For example, cost recovery might prompt changes in industry practices, such as encouraging a greater consolidation of clearances, and these might impact upon Customs' revenue assumptions. There may also be issues around the whether cost recovery will impact upon practices for repositioning empty containers around the country (e.g., from ports with high import volumes to those with high export volumes). Implementation of cost recovery will need to be carefully monitored to ensure that any unforeseen effects can be promptly addressed to preserve efficiency and equity.
- 7.2 *Recommendation: Business New Zealand recommends that Customs should carefully monitor the implementation of cost recovery to ensure that any unforeseen effects can be promptly addressed to preserve efficiency and equity.*

## **8. Review of Funding Arrangements for Goods Clearance**

- 8.1 Business New Zealand will look forward to participating in the Government's promised review of funding arrangements for goods clearance, scheduled to commence after implementation of the cost recovery regulations and to be completed no later than the first half of 2006.
- 8.2 As discussed above, Business New Zealand is disappointed that this review did not take place in 2003, prior to the introduction of the Border Security Bill. We are disappointed that the review is unlikely to commence until early 2005. While it is important for the review to be robust, the business community has been ready to engage on this issue for many months and is frustrated by the delay.
- 8.4 We also consider it to be very important for such a review to be undertaken on a first-principles basis and be chaired by a respected, independent person acceptable to both sides. We understand that this has been the case for the current review of funding for passenger clearance services.
- 8.5 *Recommendation: Business New Zealand recommends that the Government should commence a first-principles review of goods clearance funding at an early date under a Chair acceptable to both sides.*

## **9. Conclusion**

- 9.1 Business New Zealand continues to submit that Customs' border security activities are of high public benefit and should therefore be funded out of general tax revenue.

- 9.2 However, without prejudice to our overall view, we prefer the proposed cost recovery mechanism set out in the discussion paper as being superior to the other options that had been canvassed during the recent series of consultation meetings (although page 32's 'fees per craft' option also deserves further consideration).
- 9.3 Business New Zealand considers that Customs should consult further with industry to ensure its draft regulations do not contain technical issues or drafting errors that would result in unintended consequences.
- 9.4 We also look forward to the forthcoming review of goods clearance funding, but remain frustrated that this review did not take place in 2003.