Submission

By

Business NZ

To

Government Administration Committee

On

Proposed 'Goods Cost Recovery' amendment of Customs & Excise Act 1996, not included in Border Security Bill as introduced

30 January 2004

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PROPOSED 'GOODS COST RECOVERY' AMENDMENT OF CUSTOMS & EXCISE ACT 1996, NOT INCLUDED IN BORDER SECURITY BILL AS INTRODUCED
SUBMISSION BY BUSINESS NEW ZEALAND
30 JANUARY 2004

1. Introduction

1.1 Encompassing five regional business organisations (Employers' & Manufacturers' Association (Northern), Employers' & Manufacturers' Association (Central), Canterbury Employers' Chamber of Commerce, Canterbury Manufacturers' Association, and the Otago-Southland Employers' Association), Business New Zealand is New Zealand's largest business advocacy body. Together with its 53-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 The health 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.

1.5 New Zealand is a small, open economy and overseas trade and travel are therefore significant contributors to economic growth and development. For the year ended September 2003, New Zealand exports of goods were valued at $28.7 billion and imports of goods were valued at $31.9 billion. For the same period, exports of services were valued at $10.8 billion and imports of services imports were valued at $9.8 billion[1].

1.6 Business New Zealand recognises that heightened international awareness of security issues since September 2001 means that the movement of goods and people is coming under increased scrutiny by many countries. We accept that even countries with a history of perceived low-risk can no longer rely on such a reputation. We agree therefore that New Zealand must have credible and robust systems in place to provide its trading partners with concrete

[1] *Balance of Payments and International Investment Position: September 2003 Quarter*, Statistics NZ.

assurances that it is low-risk and so minimise potential costs and delays to New Zealand exports and travellers.

1.7 Committee members will recall that Business New Zealand's original submission on the Border Security Bill (dated 22 August 2003) supported the principles underpinning the Bill and also endorsed developments such as the Secure Exports Partnership, x-ray screening at ports, and the negotiation of a bilateral border security agreement with the United States.

1.8 However, Business New Zealand's support for the Bill was and remains contingent on ensuring that the various government agencies work together to eliminate duplication and contradictory requirements and ensure that business compliance costs are minimised to the greatest extent possible. We also made it clear (both in our original submission and a supplementary submission dated 17 November 2003) that there should be appropriate recognition of the high public benefit of a secure border when the Government considers funding for border security initiatives. It is this issue that has come to prominence with the Government's proposed 'border security fee'.

1.9 Business New Zealand welcomes the opportunity to comment on the proposed goods cost recovery amendment to the Customs and Excise Act 1996 that was not included in the Border Security Bill as introduced. Business New Zealand is strongly opposed to the border security fee on the grounds that border security is a public good that should be funded out of general taxation. We submit that imposing a tax on trade would severely damage New Zealand's international competitiveness.

1.10 Business New Zealand is a member of the Travel and Trade Industry Coalition and we endorse its submission to the Committee.

2. Summary of Recommendations

2.1 Business New Zealand recommends that the Committee should:

(a) Agree that border security is public good that should be funded out of general taxation;

(b) Agree that all New Zealanders benefit from international trade and therefore border/supply chain security;

(c) Agree that the border security fee has the characteristics of a tax;

(d) Agree that the border security fee would be inconsistent with New Zealand's international obligations;

(e) Agree that the border security fee would damage New Zealand's international competitiveness;

(f) Agree that the business community is already meeting its security-related costs;

(g) Ask the Government to focus on reducing compliance costs and to take a whole-of-government approach to improve the effectiveness and efficiency of border security;

(h) Agree that the process undertaken to implement the border security fee has been highly unsatisfactory;

(i) Reject the goods cost recovery amendment; and

(j) Report the Border Security Bill back to the House without the goods cost recovery amendment clauses 7B and 8C.

2.2 The remainder of this submission discusses the issues raised above in greater detail.

3. The Proposed Border Security Fee

3.1 On 5 November 2003 the Minister of Customs, Hon Rick Barker, announced that the Government intends to collect $20 million per annum from 1 July 2004 to recover additional costs for the New Zealand Customs Service (NZCS) to increase goods security. These costs relate to 130 extra Customs officers and the operating costs of new x-ray equipment.

3.2 The Minister stated that the $20 million cost would be apportioned as follows:

- $8 million for trans-shipped goods.
- $8 million for exports.
- $4 million for imports.

3.3 The amounts are likely to be recovered from trans-shipments and exports through a $450-$650 fee per departing cargo ship or aircraft carrying cargo, and from imports through increasing the existing Import Transaction Fee from $18 to $22.

3.4 This announcement came as a complete surprise to the business community, as there was no prior consultation that we are aware of. Business New Zealand therefore respectfully takes exception to the comment made in the letter inviting this submission from the Select Committee clerk dated 9 December 2003 that "the Customs Service may have already consulted with you over the issue of recovering the costs of exercising its goods clearance functions over exported and transhipped goods".

4. Border Security as a Public Good

4.1 Business New Zealand strongly submits that border security is a public good and that the Government's costs in providing a secure border should be met out of general taxation. Equally strongly, we dispute the Minister's assertion that the enhanced security requirements are a 'private good' because exporters will benefit from having easier access to markets such as the United States.

4.2 The papers released by the NZCS to interested parties following the Minister's announcement[2] stated that the proposed fee was assessed against the Treasury's *Guidelines for Setting Charges in the Public Sector*[3]. However, Business New Zealand considers the discussion in these papers to be based on a flawed premise that exporters and importers are 'beneficiaries' of a *private good*, namely border/supply chain security.

4.3 This premise runs contrary to the *Guidelines*, which states that a good or a service is considered to be a 'public good' when:

Excluding people from consuming or benefiting from it is difficult or costly, and its use by one person does not preclude its use by another.

4.4 The most widely accepted example of a public good is national defence where the Government seeks to protect its citizens from acts of war or terrorism. All will benefit from a reduced risk of an act of war or terrorism and none can be excluded from that benefit if they refuse to pay.

4.5 Taking the *Guidelines*' definition of a public good, there is an incontrovertible argument that security initiatives aimed at incoming cargo and travellers are a public good and that expenses incurred by the Government in this respect should therefore be met out of general taxation (yet the Government still intends to charge importers $4 million per annum for enhanced border/supply chain security through the proposed increase in the Import Transaction Fee).

4.6 There is also a very plausible public good argument for security initiatives aimed at outgoing cargo and travellers. Improved security for the public (both in New Zealand and overseas) and an enhanced reputation for New Zealand ('clean, green, and secure') make these initiatives 'public goods'. The Government also makes a strong public good argument when it suggests that initiatives to enhance border/supply chain security would protect New Zealand exports and the wider economy from the adverse impacts of trade and travel disruptions.

4.7 The papers released also state that improved border/supply chain security will assist in traditional risk management areas such as drugs trafficking, illegal immigration and non-payment of taxes due. Customs' work in these areas is funded out of general taxation on the basis that there is a strong public good in managing these risks.

4.8 The Ministerial Committee discussion paper also cites a paper by the World Customs Organisation that considers each country's level of supply chain security as contributing to a 'global public good' of security around international trade[4]. Consistent with this view is a recent report from the Controller and Auditor General, which makes it clear that New Zealand has an

[2] *Discussion Paper Customs' Supply Chain Security Initiative: Funding Issues*, Ministerial Committee on Border-Related Cost Recovery Issues; *Cost Recovery: Customs' Border and Trade Security*, Cabinet Policy Committee; and *Cost Recovery: Customs' Border and Trade Security*, Cabinet Policy Committee Minute of Decision.

[3] *Guidelines for Setting Charges in the Public Sector*, The Treasury, December 2002.

[4] *How to Finance the Security of the International Supply Chain? A Global Public Good Approach.* World Customs Organisation, April 2003.

obligation, as a member of the international community, to put in place measures to enhance supply chain security[5].

4.9 Meanwhile, recent reports undertaken for the Travel and Trade Industry Coalition by NZIER[6] and Capital Economics[7] have also reached the conclusion that border and supply chain security is a public good and that the Government's proposed approach to cost-recover is both inappropriate and unjustified. We understand that the Coalition submission has attached copies of the two reports for the consideration of Committee members.

4.10 *Recommendation: Business New Zealand recommends that the Committee should agree that border security is public good that should be funded out of general taxation.*

5. Who Benefits?

5.1 The papers released take the position that because it is impractical to recover costs from 'exacerbators' (i.e., terrorists, criminals, etc) the 'beneficiaries' should pay. Because Business New Zealand considers border/supply chain security to be a public good we do not accept that the 'beneficiaries' should be charged – the Government should meet its own costs out of general taxation.

5.2 However, even if a 'beneficiary pays' argument could be sustained, Business New Zealand considers that the beneficiaries of international trade are far wider than just the exporters, importers and transport operators. We submit that all New Zealanders benefit from international trade, for example through increased incomes, employment opportunities and tax revenues for the Government.

5.3 The Government recognises that New Zealand as a whole benefits from international trade and as a result it dedicates significant resources to trade negotiations and export promotion. While individual businesses certainly receive benefits from these activities the Government undertakes them to benefit the country as a whole. The same argument also holds for border and supply chain security. In fact, NZCS explicitly stated in a recent publication promoting the Secure Exports Partnership that:

> *New Zealand has a reputation as a safe and secure trading partner. That reputation is an important advantage to all New Zealanders. Being seen internationally to take security seriously will reduce the likelihood of those with evil intent seeking to use this country as a staging post.*
>
> *New Zealand will be contributing to creating a more secure international environment.* [8]

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[5] *Managing Threats to Domestic Security*, Controller and Auditor General, October 2003.
[6] *Supply Chain Security – Is Cost Recovery Justified?* New Zealand Institute of Economic Research, December 2003.
[7] *Assessment of Beneficiaries and Public Good Issues Relating to Cost Recovery for Supply Chain Security and Border Security*, Bryce Wilkinson, Capital Economics, January 2004.
[8] *Secure Exports Partnership*, New Zealand Customs Service, December 2003.

5.4 Business New Zealand submits that it is very poor public policy to argue on the one hand that the beneficiaries of border and supply chain security include all New Zealanders while attempting on the other hand to cost recover 100% of the additional NZCS expenses on the supposed grounds that such security is a private benefit to traders.

5.5 *Recommendation: Business New Zealand recommends that the Committee should agree that all New Zealanders benefit from international trade and therefore border/supply chain security.*

6. A User Charge or a Tax?

6.1 The *Guidelines* make it clear that any charges should relate to the cost of the service provided. However, the proposed border security fee has been announced as being a flat amount regardless of the:

- Mode of transport. The fee will be the same whether the shipment is by aircraft or ship.
- Volume of cargo in a shipment. The fee will be the same whether the shipment is one tonne or 20,000 tonnes.
- Nature of the cargo. The fee will be the same whether the cargo is transported by pallet, container, or in bulk.
- Source of the cargo. The fee will be the same even for cargo from those exporters in the Secure Export Partnership (SEP), even though the SEP is designed to be an *alternative* for having containers x-rayed at ports.
- Destination of the cargo – the enhanced security initiatives are designed to meet the needs of the United States, but exports to *all trading partners* (including those that have made no pronouncements about border security) will be subject to the same flat fee.

6.2 All of these factors should impact significantly upon the amount of resources NZCS would require to undertake its responsibilities for any given shipment of cargo. However, the flat fee takes absolutely no account of the level of service provided by NZCS and will therefore over-recover in many instances. We therefore submit that the fee is actually equivalent to a tax on trade.

6.3 *Recommendation: Business New Zealand recommends that the Committee should agree that the proposed border security fee has the characteristics of a tax.*

7. International Obligations

7.1 The World Trade Organisation (WTO) requires that if a fee or charge is to be imposed on imports or exports that it must be commensurate with the cost of services rendered and not amount to indirect protection to domestic products or a tax on imports or exports[9]. It is clear in our view that a flat fee as proposed does indeed amount to a tax on imports and exports and we submit therefore that the border security fee would be inconsistent with New Zealand's WTO obligations.

[9] See Articles II.2(c) and VIII of the General Agreement on Trade and Tariffs 1994.

7.2 We also consider that the border security fee would be inconsistent with New Zealand's obligations as a member of the International Civil Aviation Organisation (ICAO)[10].

7.3 *Recommendation: Business New Zealand recommends that the Committee should agree that the proposed border security fee would be inconsistent with New Zealand's international obligations.*

8. Economic Implications

8.1 It is very important to fully explore issues of public policy around whether border/supply chain security is a public or a private good, who benefits from international trade and therefore border/supply chain security, whether the border security fee would actually be a tax, and whether it would be consistent with our international obligations. We have submitted above that the border security fee fails to meet any of these tests.

8.2 However, the wider economic implications of the proposed Border Security Fee must also be considered, particularly in light of the Government's goal of returning New Zealand to the top half of the OECD. In particular, the Government's Growth and Innovation Framework[11] makes a strong case that New Zealand must produce and export more high value added products and services.

8.3 The OECD's recent survey of New Zealand noted that high and medium-high technology manufactured exports made up only 16% of total exports in 2001. This compared to 33% for Australia and 67% for the OECD as a whole. New Zealand also had the highest proportion of low technology manufactured exports (73% compared to the OECD average of 19%)[12]. We consider that this is one issue that needs to be addressed if New Zealand is to make progress up the OECD rankings – not by abandoning primary products, rather by diversifying the commodity mix and adding value to commodities.

8.4 Unfortunately, the Government's ambition for high valued added export-led growth has been impeded by the emergence of a distinct two-speed economy. While exporters have struggled due to weak economies in most of our major trading partners and a rapidly appreciating currency, the domestic economy has been booming due to large migration inflows, a buoyant housing market, and high levels of consumer confidence.

8.5 To date the strong domestic economy has masked the problems faced by exporters, but with migration inflows now falling quite rapidly and interest rates likely to rise in 2004, the gloss is likely to come off the housing market and

[10] Article 15 of the Chicago Convention 1944 states that "No fees, dues or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon". Section 6.62 of Article 9 of the Convention also makes it clear that customs, immigration, and biosecurity services should be provided free of charge during working hours.

[11] *Growing an Innovative New Zealand*, New Zealand Government, February 2002.

[12] *OECD Economic Surveys* – New Zealand, OECD, December 2003, page 39.

consumer confidence over the next 12-18 months. The export sector will need to be in a position to drive economic growth in 2004 and 2005.

8.6 In order for this to happen New Zealand must maintain a business-friendly macro and micro economic policy environment that is conducive to growth and innovation. This includes ensuring that New Zealand's international competitiveness is protected and enhanced wherever possible.

8.7 Business New Zealand submits that the border security fee is inconsistent with the Government's goals for growth and innovation and will harm New Zealand's international competitiveness. We accept that the $20 million to be recovered would be a very small proportion of total export and import merchandise trade, but the fee would nevertheless erode overall competitive advantage and it would impact on some exporters far more than it would on others. Clearly, the fee would be particularly damaging to exporters of high value products relying on airfreight, including manufactured products, chilled food products, cut flowers, etc.

8.8 Business New Zealand understands that a $450 or $650 fee would be a very high proportion of the total cargo revenue for the B737 and A320 aircraft commonly used for Trans-Tasman and Pacific services. Imposing a border security fee would mean that either freight rates would have to rise dramatically to cover the cost increase or carriers will simply refuse to carry cargo[13]. Either way, the real economic losers will be the high value sectors the Government says it wants to encourage.

8.9 More generally, New Zealand is moving against OECD trends in a number of areas and now has the highest tax burden of any non European OECD country[14]. The OECD also observed in its report on New Zealand that there has been a clear trend towards a more rigid labour market that 'is not consistent with the Government's goal of raising per capita incomes'[15]. The addition of a border security fee to the existing tax burden and other compliance and regulatory requirements will be yet another cost for the New Zealand economy to bear at a time when exporters need to be encouraged, not punished.

8.10 *Recommendation: Business New Zealand recommends that the Committee should agree that the border security fee would damage New Zealand's international competitiveness.*

9. Business Community Already Meeting Costs

9.1 In the Minister of Customs' media statement of 5 November, the Government asks *'New Zealand traders to help meet the costs of securing their cargo'*.

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[13] According to the Board of Airline Representatives in New Zealand, the current Trans-Tasman airfreight rate is around $600 per tonne. For a B737 or A320 aircraft carrying its payload of one tonne of freight, a $650 clearance fee would more than double the freight rate if it was passed on to the shipper.

[14] *Tax Policy: Recent Trends and Reforms in OECD Countries*, OECD, November 2003. New Zealand's tax revenue as a percent of GDP grew from 33.8% in 2000 to 34.9% in 2002, and has overtaken Canada as the non-European OECD country with the highest tax burden.

[15] *OECD Economic Surveys – New Zealand*, page 12.

The implication is that the business community has escaped additional costs and has been free-riding off the Government's security initiatives, such as the Secure Exports Partnership and the possible bilateral agreement between the New Zealand and United States Customs Services.

9.2 This implication fails to take account of significant compliance costs for transport operators (i.e., airlines and shipping companies) and facilities operators (i.e., ports and airports) in meeting the requirements of the various border agencies – including having to provide space to these agencies free of charge.

9.3 Nor does this implication take account of the costs incurred by those exporters that intend participating in the Secure Exports Partnership, such as upgrading their premises' physical security, costs of training their staff, and costs of upgrading their computer systems so that they may interface with those of Customs, to name but a few examples. Furthermore, significant costs are incurred by many businesses in meeting the regulatory costs imposed by other border agencies, such as the Ministry of Agriculture and Forestry, New Zealand Food Safety Authority, New Zealand Immigration Service, etc.

9.4 *Recommendation: Business New Zealand recommends that the Committee should agree that the business community is already meeting its security-related costs.*

9.5 Business New Zealand and other submitters on the Border Security Bill expressed concerns about compliance costs, concerns which are exacerbated by poor communication between border agencies, duplication of activities and contradictory requirements. We submit that the focus should be on reducing compliance costs and taking a whole-of-government approach to improve the effectiveness and efficiency of border security rather than imposing yet more costs.

9.6 *Recommendation: Business New Zealand recommends that the Committee should ask the Government to focus on reducing compliance costs and to take a whole-of-government approach to improve the effectiveness and efficiency of border security.*

10. Concerns About Consultative Process

10.1 Business New Zealand considers the consultative process to have been deficient. In fact, consultation was non-existent up to the point when the Minister of Customs made his announcement on 5 November 2003. This was despite Cabinet making its in-principle decision in favour of the border security fee on 17 September – seven weeks prior to an announcement that took the business community and exporters by complete surprise.

10.2 According to the Minister of Customs, the starting point for consultation will be to 'determine the most efficient, equitable, and fair system of recovering costs'[16]. While the Minister has subsequently stated that the Select

[16] *Clean, Green, and Secure, Detailed information on NZ Customs Service Goods Security Cost Recovery Proposal*, Minister of Customs, Hon Rick Barker, November 2003.

Committee is the place to have a debate on the public good issue, we are concerned that NZCS has established a Goods Cost Recovery Consulting Group (GCRCG) to consider how best to implement the fee at the same time as the Select Committee considers whether or not to have a fee.

10.3 Business New Zealand does not consider being informed of a government decision to be ‘consultation’. Nor do we think it good enough to attempt to confine consultation to matters around implementation of the proposed fee. Our concerns about consultation are expanded upon below.

Predetermination

10.4 Business New Zealand considers to be most unsatisfactory the parallel process of industry consultation through the GCRCG on the implementation of the proposed fee and Select Committee deliberation of whether such a fee should be enabled in the legislation. While this is an improvement on the Government’s initial approach to table a Supplementary Order Paper once the Border Security Bill had been reported back to the House, this still feels to us like a *fait accompli*.

10.5 We consider that meaningful industry consultation through the GCRCG must start with a first-principles discussion of cost recovery, including the issue of public good. Only after that should there be any conversation on how any fee should be implemented or the quantum of such a fee and only after the entire consultative process has been completed (including the Cabinet report back) should there be any legislation introduced to enable cost recovery (if that is indeed the final decision).

Lack of Information

10.6 As discussed above, Business New Zealand has seen the papers behind the in-principle decision in favour of a border security fee. However, there is a startling lack of any detail in the papers on the costs to be recovered, the relationship between services and costs, the basis for the proposed cost recovery, the split between public and private good (despite acknowledging that there is a public good component), and any externalities arising from the charges. These are all issues laid down in the *Guidelines for Setting Charges in the Public Sector*. Any meaningful consultation requires adequate information so that those persons being consulted may assess charges against these criteria.

10.7 If consultation on the border security fee is to proceed then all relevant information must be urgently supplied. The lack of detailed information is most unsatisfactory particularly considering the lack of adequate time for consultation (see below).

Lack of Adequate Time

10.8 Business New Zealand has been invited to participate in the GCRCG and we will do so in good faith. We understand that the GCRCG will meet once at the end of January and twice in February to progress how best to implement the border security fee. However, while we welcome the opportunity to participate we are concerned that the time available for submissions and consideration has been rushed and will be inadequate for a meaningful discussion.

10.9 *Recommendation: Business New Zealand recommends that the Committee should agree that the process undertaken to implement the border security fee has been highly unsatisfactory.*

11. Goods Cost Recovery Amendment Clauses

11.1 Business New Zealand is strongly opposed to the proposed goods cost recovery amendment to the Customs and Excise Act 1996 not included in the Border Security Bill as introduced.

11.2 When Business New Zealand made its submission to the Border Security Bill, we were under the distinct impression that the Government had agreed to fund its border security initiatives out of general taxation. The 2003 Budget allocated capital expenditure for the purchase of x-ray machines and provided for additional operational funding for NZCS for 2003/04. The Bill's Regulatory Impact and Compliance Cost Statement gave no indication that the Government would not be continuing this funding arrangement in out-years.

11.3 Despite this impression, we made it clear in our submission to the Committee that there should be appropriate recognition of the high public benefit of a secure border when the Government considers funding for border security initiatives.

11.4 While the stated intention for this amendment is that it would relate only to goods cost recovery, our interpretation of proposed clause 7B inserting new section 34A ('Fees and clearances relating to granting certificate of clearance'), is that new section 34A would apply to passengers as well as cargo. This is because existing section 34 of the Customs and Excise Act 1996 relates to craft and its passengers, crew, cargo, stores and its intended voyage or journey[17].

11.5 We are also very concerned that proposed clause 8C inserting new section 50A ('Fees and charges relating to exportation of goods') would provide a very wide 'catch-all' clause that, taken to its logical extreme, would enable the Government to reduce Crown funding to zero and recover from industry 100% of export-related costs incurred by Customs – not just those relating to the new x-ray machines and the additional Customs staff.

11.6 Although new section 50A(3) would require that consultation take place prior to making the regulation, the Minister only has to be satisfied that consultation has taken place with those that are substantially affected to the *'extent reasonably practicable having regard to the circumstances of the case'*. This wording presumably gives the Minister all manner of consultation 'outs', but

[17] We understand that the Government will soon be consulting on cost recovery for passengers, although this will be through a different process and subject to a different timeframe. Business New Zealand is strongly opposed to passenger cost recovery for the same reasons we oppose goods cost recovery.

even if that weren't sufficient new section 50A(5) states that *'a failure to comply with subsection 3 does not affect the validity of any regulations of the kind described in subsection 1'*. This final subsection makes a total sham of the consultation provisions.

11.7 Meanwhile, new section 50A(4) provides further cover by enabling the Minister to consider consultation prior to the section coming into force – presumably a provision that has been designed to allow the cost recovery to be implemented without delay after the Border Security Bill is passed.

11.8 Business New Zealand remains strongly opposed to any goods (or passenger) cost recovery. We therefore submit that the proposed amendments should be rejected.

11.9 *Recommendation: Business New Zealand recommends that the Committee should reject the goods cost recovery amendment clauses 7B and 8C.*

12. A Possible Solution

12.1 Business New Zealand remains deeply concerned about the shortcomings of the entire process and we suggest in good faith the following approach to improve it:

(a) The GCRCG process should be a forum for a meaningful debate on the principles of cost recovery, including the issues around public versus private good. This forum should also provide an opportunity to properly consider all the detailed information relevant to the criteria contained in the Treasury *Guidelines*. All interested parties should be encouraged to participate in a fair and reasonable process. This is the process that should have taken place earlier in 2003, prior to the introduction of the Border Security Bill.

(b) The Border Security Bill should be reported back to the House without the goods cost recovery amendment so that the Bill (which most submitters support) may be passed as soon as possible to demonstrate to our trading partners that New Zealand is a safe and secure country with which to trade.

(c) The outcome of the GCRCG consultation process should be reported to Ministers and they should be invited to make their decision on cost-recovery once this process has been completed (recalling that the 17 September 2003 Cabinet Minute made only an 'in-principle' decision).

12.2 Put simply, what we are recommending is separation of the implementation of heightened border security requirements (through the Border Security Bill) from how it will be paid for. Business New Zealand submits that this would be a far superior process and would consequently deliver a far superior outcome that is more likely to be mutually acceptable.

12.3 *Recommendation: Business New Zealand recommends that the Committee should report the Border Security Bill back to the House without the goods cost recovery amendment.*

13. Conclusion

13.1 Business New Zealand is strongly opposed to the proposed border security fee for the following reasons:

- Border and supply chain security is a public good;
- All New Zealanders are beneficiaries of border/supply chain security;
- The proposed border security fee would be a tax on trade rather than a charge for a service;
- The proposed border security fee would be inconsistent with New Zealand's international obligations;
- The proposed border security fee would harm New Zealand's international competitiveness;
- The business community is already meeting significant border security-related costs; and
- The consultation process has been inadequate.

13.2 The Government's own costs in relation to border and supply chain security should therefore be met out of general taxation. However, Business New Zealand continues to support the remainder of the Border Security Bill and would welcome it being reported back to the House and passed, providing that the proposed goods cost recovery amendments (i.e., clauses 7B and 8C) are rejected.