

# STRENGTHENING ECONOMIC RELATIONS BETWEEN AUSTRALIA AND NEW ZEALAND

SUPPLEMENTARY SUBMISSION TO AUSTRALIAN AND NEW  
ZEALAND PRODUCTIVITY COMMISSIONS JOINT STUDY

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# Membership of Tourism & Transport Forum

The Tourism & Transport Forum (TTF) is the national peak advocacy body for the tourism, transport, and aviation sectors. It is a CEO forum representing the interests of 200 leading Australian institutions and corporations in the private and public sectors.

TTF uses its experience, and networks to influence public policy outcomes and business practices and to assist the delivery of major tourism, aviation and transport-related infrastructure projects. Our members' interests include tourism, major events, aviation, investment, hotel, property development, land and maritime transport, finance, retail, hospitality and education.

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# Contents

<b>INTRODUCTION</b>	<b>4</b>
<b>KEY OBSERVATIONS</b>	<b>5</b>
DR4.10 Reconfigure the Passenger Movement Charge in Australia as a genuine user charge for border services.	5
a. Australia is in breach of its international treaty obligations under the Chicago Convention	6
b. The PMC runs contrary to cost recovery guidelines	7
DR4.15 Progress roll-out of SmartGate and associated systems where cost effective.	10
DR4.16 Scope a trans-Tasman tourist visa for foreigners visiting both countries	11
Case study – Caricom Cricket World Cup visa	11
2. Norfolk Island	12
3. Conclusion	12

# Introduction

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Tourism & Transport Forum (TTF) is an Australian member-funded CEO forum, advocating the public policy interests of the 200 leading corporations and institutions in the Australian tourism, transport, aviation and investment sectors. TTF develops and advocates policy for the sustainable long-term growth of tourism in Australia.

TTF submitted initial feedback on the issues paper prepared jointly by the Australian and New Zealand productivity commissions in May. This submission is logged as number 25 and is available on the joint study website.

We commend the Australian Productivity Commission and the New Zealand Productivity Commission / Te Kōmihana Whai Hua o Aotearoa for having jointly published the discussion draft of its paper on the topic of *Strengthening economic relations between Australia and New Zealand*. Many of TTF members' core concerns are correctly captured in the draft.

Further to publication of the discussion draft of the study and further to encouragement given by productivity commissioners from both sides of the Tasman at a roundtable discussion held in Melbourne on 15 October, TTF is submitting some additional details on the following recommendations:

DR4.8 Work towards removing remaining restrictions on a single trans-Tasman aviation market

DR4.10 Reconfigure the Passenger Movement Charge in Australia as a genuine user charge for border services. Review border passenger charges in New Zealand.

DR4.15 Progress roll-out of SmartGate and associated systems where cost effective.

DR4.16 Scope a trans-Tasman tourist visa for foreigners visiting both countries

Additionally, we have encouraged our counterparts, the Tourism Industry Association of New Zealand to submit its thoughts.

As previously stated, we believe that the visitor economy, both in terms of tourism and business travel, has been overlooked in previous debates into the closer economic relationship between Australia and New Zealand. The barriers to entry in this industry are not hypothetical but real frontier checks.

This can be most clearly seen in the disparity between the volume of either Australian or New Zealand domestic flights and the volume of trans-Tasman flights. Border restrictions place an artificial barrier to the tourist trade.

There is also a fiscal barrier erected by Australia that could be in breach of both ANZCERTA and International Civil Aviation Organization treaty obligations in levying a tax on travel (the passenger movement charge) that exceeds its contribution towards civil aviation costs.

There is some important work being carried out to automate passport control at our major airports through the common use of SmartGate kiosks. This is to be commended, but misses the point of the joint prime ministerial commitment of 2009 to work towards a common border. If Australia and New Zealand are to work as a single economic market, then free travel must exist.

# Key observations

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## DR4.8 Work towards removing remaining restrictions on a single trans-Tasman aviation market

As has been correctly captured in the draft discussion, the trans-Tasman aviation market place is already quite liberalised by global standards. There is still further to go, as the study makes clear.

One area missing from the study, however, is the possibility to negotiated air services bilaterals as a bloc. Talks with the European Union have stalled in recent years, leaving Australia and New Zealand to sign deals with individual European countries. However, the world is moving towards free trade bloc by bloc negotiations.

The free trade area with most significance to Australia and New Zealand is the Association of South East Nations (ASEAN). The 10-nation bloc includes many markets identified by both Australia and New Zealand as target growth tourism source markets. Specifically, ASEAN members states are: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar (Burma), Philippines, Singapore, Thailand and Vietnam.

There is a stated ambition to establish an ASEAN single aviation market (ASAM) by 2015, to support the development of the ASEAN economic community. As they move towards this, each country is committed to liberalising its international aviation market rules and minimising government intervention towards air transport.

Australia and New Zealand should aim to jointly negotiate Open Skies access to their two markets in exchange for Open Skies to ASEAN. This could then pave the way for future negotiations with other economic blocs.

## DR4.10 Reconfigure the Passenger Movement Charge in Australia as a genuine user charge for border services.

It is the TTF's firm belief that the Passenger Movement Charge is a tax on trade and as such incompatible with the aims of the Australia-New Zealand Closer Economic Relations Trade Agreement.

We have held discussions with the tourism committee of the Organisation for Economic Co-operation and Development, whose study into departure taxes is due to be released in 2013. Through these discussions we were able to establish that Australia already levies the highest departure tax in the OECD on shorthaul travel.

Further to our earlier submission in which we outlined how mature a market the trans-Tasman already is and how the departure tax hindered further price reductions; we will take this opportunity to outline two themes explored in the Melbourne roundtable.

### a. Australia is in breach of its international treaty obligations under the Chicago Convention

The 1944 Convention on International Civil Aviation (the Chicago Convention), established the International Civil Aviation Organization (ICAO), as the United Nations agency charged with coordinating and regulating international air travel.

As a member of ICAO Council, Australia has a duty to ensure that ICAO policies are followed in letter and spirit.

Article 24 of the Chicago Convention bans the collection of fuel tax on international air transport.

Article 15 of the convention goes further in demonstrating the aim to make international air transport tax free by forbidding departure taxes, stating 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."***

ICAO also makes a distinction between a charge and a tax.

A charge is "levied to defray the costs of providing facilities and services for civil aviation",

A tax is "levied to raise general governmental revenues that are applied for non-aviation purposes".

So in order to comply with this, the Australian government changed its departure tax into the Passenger Movement Charge in 1995. This was prompted by an ICAO process started in 1984 to further define the organisation's stance on taxes, which was published in 1994.

The third (and latest) edition of the resultant annex to the Chicago Convention, "ICAO's Policies On Taxation in the Field of International Air Transport," published in 2000 states:

Clause 3: "With respect to taxes on the sale and use of international air transport: each contracting state shall reduce to the fullest practicable extent and **make plans to eliminate** as soon as its economic conditions permit all forms of taxation on the sale or use of international transport by air, including taxes on gross receipts of operators and **taxes levied directly on passengers** or shippers";

Clause 4: "Each Contracting State shall notify the organisation of the extent to which it currently levies taxes on international air transport and of the extent to which it is prepared to take action in accordance with the principles of this resolution, and thereafter keep the organisation informed of any subsequent changes in its position vis-à-vis the resolution"

In 2009, as a response to this request, Australia clarified its position on the PMC thus:

Clauses 3 and 4: "The Passenger Movement Charge (PMC) is a non-hypothecated tax levied on international passengers departing from Australian airports and is usually collected by the international airline as part of the ticketing/airfares process. It contributes to recovering the costs of a range of aviation security initiatives, processing international passengers at international airports and maritime ports, and issuing short-term visas overseas. The PMC is remitted to the Australian Customs Service by the airline following the departure of the aircraft from Australia."

So if the PMC is truly a tax, not a charge, it is in breach of article 15. Even if it were a charge, only the cost of passenger facilitation would be legally permitted to be recovered.

Finally, the government is in breach of the ICAO principles for charges for airports and air navigation services agreed in 1995, which states:

“There should be no fiscal aims behind the charges; the charges should be related to costs; and that the charges should not discriminate against air transport”

#### **b. The PMC runs contrary to cost recovery guidelines**

Australia's passenger movement charge was introduced in 1995 to replace the previous departure tax to recover the cost associated with customs processing at airports.

TTF appreciates that there are costs in processing international passengers – providing a legitimate case for some form of cost recovery to remain in place. However any cost recovery measures should be transparent and hypothecated against the services the PMC is intended to fund – i.e. customs, immigration and quarantine processing of international passengers.

There is some evidence that the PMC has over-collected against its stated aim since its inception. On 1 August 1996 the Auditor-General published a report conducted by the Australian National Audit Office into the PMC, after its first year, which found:

*21. Legal advice provided to ACS [Australian Customs Service] and the ANAO indicates that in legal terms, PMC is a tax. Based on estimates provided by agencies, the ANAO assessed that PMC collections for 1995-96 exceeded by approximately \$19.1 million Customs, Immigration and Quarantine processing costs and short-term visa issuing costs. The elements of the charge should be identified and relevant costs monitored so that agencies can collectively provide an assurance that these costs are fully offset, consistent with the PMC policy objective.*

Since this date no thorough review has ever been conducted into the tax and the associated costs of border processing.

However, the government admitted as far back as 2000 that the PMC was not directly linked to its original stated aim. In that year the Australian National Audit Office noted that:

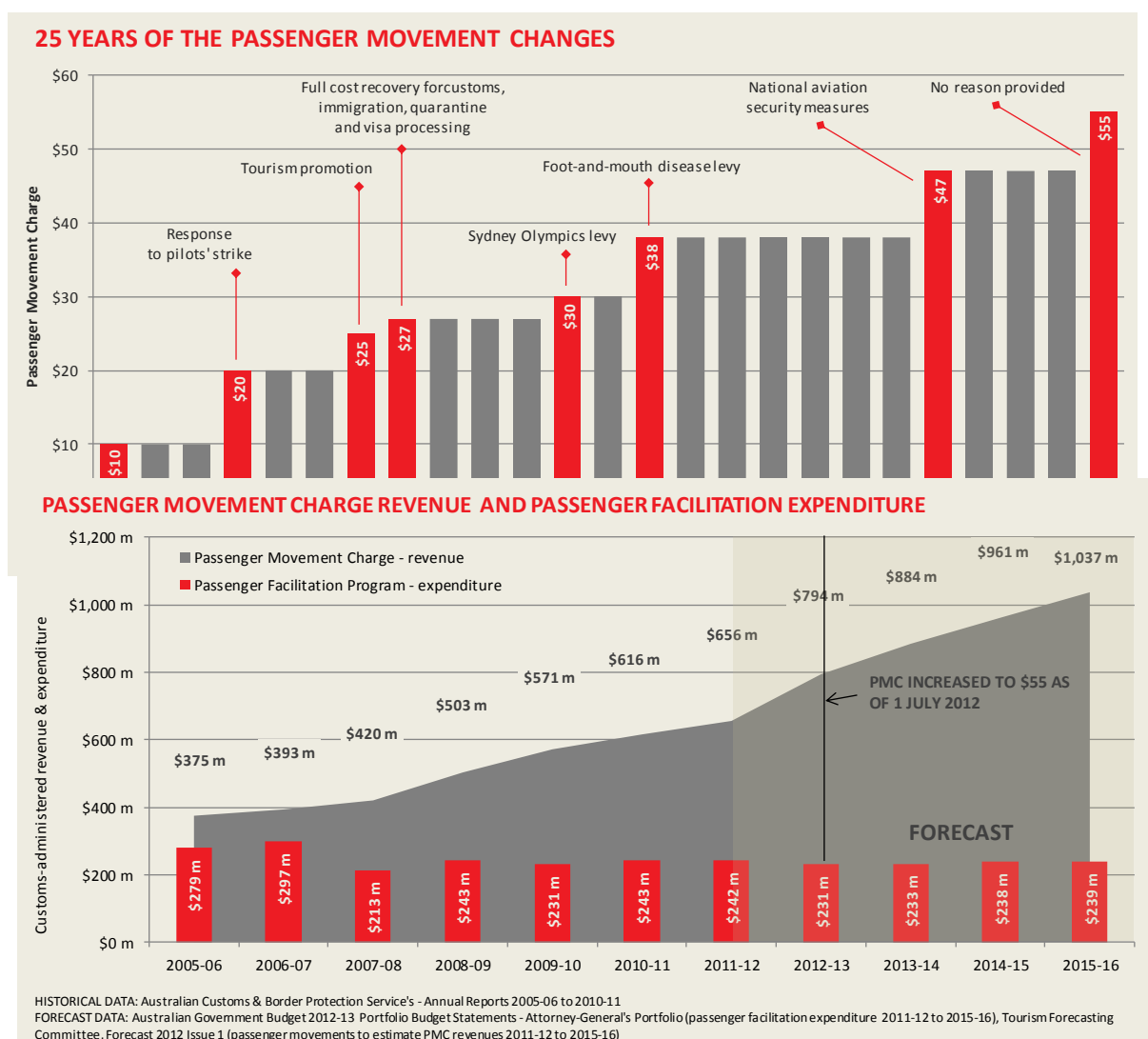
*The PMC is levied under Commonwealth taxing powers and is now applied partly as a general revenue raising source. As a consequence, the PMC is no longer solely linked to cost recovery of Customs, Immigration and Quarantine services.*

This has not stopped successive governments appropriating various border agency functions to the PMC. Indeed, there have been three increases in the rate levied since 2000, justified for various reasons, which are captured in the table overleaf.

**TABLE 1. AUSTRALIAN DEPARTURE TAX RATES AND RATIONALE**

Date commenced	Rate	Relevant legislation	Stated rationale
24-October-1978	\$10	Departure Tax Act 1978	Introduction of tax
01-October-1981	\$20	Departure Tax Amendment Act 1981	Apparent inflation indexing. "Honourable members will recall that the rate of departure tax has not been varied since 1978".
01-July-1988	\$10	Departure Tax Amendment Act 1988	Reduced to stimulate inward tourism.
01-August-1991	\$20	Departure Tax Amendment Act 1991	A \$20 million tourism promotion package announced in December 1990. A \$31.25 million airline industry package was implemented early in 1990
01-January-1994	\$25	Departure Tax Amendment Act 1993	An additional \$80 million was allocated to boost the development of new tourism products and for tourism promotion over the next four years.
01-January-1995	\$27	Departure Tax Amendment Act 1994	To fully offset the cost of customs, immigration and quarantine processing at Australia's borders and the cost of issuing short-term visitor visas.
01-January-1999	\$30	PMC Amendment Act 1998	To meet the additional costs associated with the transit of people and goods for the Sydney 2000 Olympic Games.
01-July-2001	\$38	PMC Amendment Act 2001	To fund increased passenger processing costs as part of Australia's response to the threat of the introduction of Foot and Mouth Disease.
01-July-2008	\$47	PMC Amendment Bill 2008	The Department of Finance and Deregulation advised that the Passenger Movement Charge increase "partially offsets the costs of about 100 aviation security measures, including",: <ul style="list-style-type: none"> <li>a. Explosive detector dogs at Australian Airports</li> <li>e. Improved data access for border control agencies</li> <li>f. Enhanced travel document screening system</li> <li>g. Airline Liaison Officers</li> <li>h. Auscheck validation of aviation security identification card holders</li> <li>i. Air Security Officer programme</li> <li>j. Counterterrorism first response regional rapid deployment teams</li> <li>k. International airport security</li> <li>l. Aviation Security - Public Awareness Campaign</li> <li>m. Police and aviation security joint training exercise</li> <li>n. Hardening Cockpit doors</li> <li>o. 24hour CCTV monitoring</li> <li>p. Regional Passenger Screening</li> <li>q. Improved security and crime information exchange arrangements for aviation</li> <li>r. National Aviation Security Training framework</li> <li>s. Study of CCTV at CTFR Airports</li> <li>t. Airport Police Commanders establishment</li> <li>u. Airport Security - Joint airport investigation teams</li> <li>v. Examination of legislation relating to aviation security threats</li> <li>w. Airport Security - airside border patrols</li> <li>x. Airport Security - CCTV Systems</li> <li>y. Aviation Security - MANPADS</li> <li>z. Strengthening international air cargo security arrangements</li> <li>aa. Aviation security – funding CTFR teams at airports</li> <li>bb. Joint Airport Intelligence Group</li> <li>cc. Community policing at airports (Unified Policing Model - Phase 1)</li> <li>dd. Community policing at airports (Unified Policing Model - Phase 2)</li> <li>ee. Enhancing CCTV Monitoring and Analysis Capability at International Airports</li> <li>ff. Renewal of lapsing programme - Maintaining Improved Data Access for Border Control agencies</li> <li>gg. Aviation security - increased air cargo security</li> <li>hh. Airport/maritime security identification cards</li> <li>ii. Regional airport security</li> <li>jj. Enhancing aviation security - screening for liquids, aerosols and gels</li> <li>kk. Airport Accommodation for the Unified Policing Model (Phase 3)</li> <li>ll. Accredited Air Cargo Agent Scheme</li> <li>mm. Assisting airports acquire checked baggage screening capability</li> <li>nn. Enhanced aviation security audit and compliance</li> <li>oo. International aviation security liaison</li> </ul>
01-July-2012	\$55	PMC Amendment Bill 2012	Creation of the Asian Marketing Fund and the Tourism Industry Regional Development Grants, both programs worth \$48.5 million over 5 years
01-July-2013	-		Government has announced it will separately seek options for cost recovery of community policing at international airports

TTF has long been against charging for biosecurity and antiterrorism measures at airports, since it could reasonably be argued that these arrangements and benefits are akin to national defence in the military, anti-terrorism and intelligence spheres. Indeed, there can be strong overlaps between them.



On this logic, the natural funding mechanism is subventions from consolidated revenue through the normal budget appropriation processes. Because the benefits are community-wide (and to a large degree non-excludable), the natural instrument to pay for their delivery is general taxation revenue.

In 2009, the view of Geoff Carmody, a co-founder of Access Economics, and former that was a senior officer in the federal treasury was:

If the PMC is justified on biosecurity or 'border protection' grounds, can those paying it be said to 'consume' the services it finances? Clearly, the answer is 'no'. The beneficiaries of these services are the Australian community, and none of this community can be excluded from those benefits (whether or not they travel internationally, or travel at all). Those paying the PMC are to some extent inconvenienced by these 'services' (in the interests of the Australian community at large). Some are not even Australian residents.

The PMC should also account for the fact that biosecurity, border control, aviation security and national security are all responsibilities of the federal government, the beneficiaries of which are the wider-Australian public, and particularly the agriculture sector.

We hold this view to be true and are alarmed at new initiatives such as the airport police tax, announced in the 2012 budget, which will (if enacted) effectively charge for police presence at commercial areas of airports, despite policing being a national good and airport community policing having been a justification for the 2008 increase in PMC.

Finally, it is worth noting that staffing at the Australian Customs and Border Protection Service is being reduced every year, despite rising PMC revenues. Even before the \$8 hike, the PMC was already a fast-growing source of tax, with revenue to Treasury rising by \$100 million, or 20%, in the two years to 2011. However, Customs was hit by the cross-portfolio efficiency dividend of 4% in the 2012 budget, which equates to a further \$9.3 million per year taken out of passenger facilitation.

Most of this will come from staff. Average staffing levels for Customs officers will fall by 3.6% (or 190 staff) in the 2012-13 year to 5,035 full-time equivalent officers nationwide. This is a combination of a 2.5% cut together with the efficiency dividend. This is on top of the 77 frontline staff lost last year.

## DR4.15 Progress roll-out of SmartGate and associated systems where cost effective.

TTF fully supports moves to further automate passport checks for incoming passengers. SmartGate has been effective in this regard and TTF welcomed the additional funding the program received in the 2012 budget.

Just to add some further detail, the productivity commissions might like to consider the digital efficiency dividend placed upon the Australian Customs and Border Protection Services that effectively dissuades the service from prioritising SmartGate, as it enshrines staff cuts as SmartGate numbers rise. We would recommend that the dividend be removed. Furthermore, as our arrivals change to more Asian nations, effective staff at borders is more crucial than ever, so we would counter any increase in SmartGate use if it came at the expense of staffing levels.

Also, roll-out to passport holders of other countries has been postponed due to lack of funds for translation and requisite additional machines. This is now a priority for the Australian government and we would like to see it continue. But we would like the Australian government to reassess its stated first priority of United States citizens towards British and other nationalities with large populations of permanent residents in Australia and New Zealand. We believe there should be, coupled to this, Inclusion into SmartGate of pre-screened Australian permanent residents

Furthermore, we would like SmartGate integration into departures check-in pursued with vigour. The airlines, however, should not be expected to absorb the cost.

## DR4.16 Scope a trans-Tasman tourist visa for foreigners visiting both countries

As outlined in the roundtable discussion, TTF believes the impetus for such a common visa to be higher than assessed in the overview document. This is primarily due to the planning required now for the 2015 ICC Cricket World Cup.

Given the focus in both Australia and New Zealand on growing the tourist market from India, there is good reason to ensure the one event guaranteed to interest Indians to travel to both countries should be exploited.

Venues have yet to be determined, but based on the format from previous world cups, it is likely that any team progressing beyond the group stage will play games on both sides of the Tasman Sea.

Aside from British and New Zealanders, citizens of many of the international test playing countries require visas to visit Australia. There is also a lower disposable income in many of the Indian sub continental countries.

The tourism industry on both sides of the Tasman is concerned that too few fans from developing nations will be able to fully embrace the tournament by visiting both countries, due to the complexity and cost of applying for both Australian and New Zealand visas. This fear is compounded by the fact that fans will be unable to apply in situ at short notice, as will be required as teams progress through to the finals stage.

We believe both governments should commit to issuing common special event visitor visas for the 2015 Cricket World Cup. This needs to include India as a priority. To allow for fans following teams that make the semi-final and then the final, a re-entry visa will be required.

Additionally, since those countries requiring non-electronic visas are often developing nations, in order to stimulate visitation from these nations, a lower visa processing fee should apply.

Finally, as match tickets will be sold in overseas markets through official distributors, the option for these agents to act as visa processing agents needs to be in place to facilitate package tour operators.

### **Case study – Caricom Cricket World Cup visa**

The 2007 Cricket World Cup was jointly hosted by Games were hosted in eight of the 15 nations of the West Indies test side. Games were played in Barbados, Jamaica, Saint Lucia, Trinidad & Tobago, Guyana, Antigua & Barbuda, Grenada and St. Kitts & Nevis.

For the period of 1 February 2007 – 15 May 2007, the eight countries (together with Dominica) created a common customs and migratory zone known as the Caribbean Single Domestic Space. The countries jointly issued and recognised a common Cricket World Cup visitor visa, issued by the Caribbean Community (Caricom).

The nine countries possess different geographical, criminal and migratory challenges and operate under different immigration regimes. For example, many had visa waiver schemes in place for European and North American countries. These waiver schemes were suspended for the world cup, with all visitors required to possess a Caricom Cricket World Cup Visa, including citizens of each host nation travelling inter-islands.

The Australasian Cricket World Cup visa would not need to be as complex as the Caricom example. Data sharing already allows for pre-screening of passengers.

## 2. Norfolk Island

The final point raised in discussions in Melbourne was the issue of Norfolk Island.

An external territory of Australia, Norfolk Island nonetheless falls outside the Australian migratory zone, quarantine and customs controls. Its only flights are to both New Zealand and Australia.

We would ask that some effort be made by the joint panel to reach out to the island, via the Department for Regional affairs, which has embarked on a programme to reenergise the island's moribund economy. Free access to tourism and other markets is key to this.

## 3. Conclusion

TTF makes no further conclusion to its original submission. The detail contained within this submission is intended to clarify remarks made at the round table discussion and provide further detail.