

**Private freight searching and fingerprinting at
Juxtaposed Controls**

Consultation Document

April 2006



Home Office

**BUILDING A SAFE, JUST
AND TOLERANT SOCIETY**

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1. Introduction

This consultation paper provides information on the Government's emerging plans for the implementation of two legislative provisions.

(a) First, we propose to contract out freight searching as set out in clauses 40 and 41 of the Immigration Asylum and Nationality Act 2006 [IAN ACT 2006]; this will be implemented within the freight searching operation at the juxtaposed controls in Calais Port.

(b) Second, we intend to apply Section 141 of the Immigration and Asylum Act 1999 to UK control zones in France and Belgium [Calais Port, Calais-Frethun, Coquelles, Dunkerque, Boulogne, Lille Europe, Paris Gare Du Nord and Brussels] which will enable us to fingerprint certain categories of passengers. In this regard we will be focusing on persons who have presented forged travel documents or who have attempted to circumvent the controls by concealment or deception. In addition, other detained persons may be fingerprinted where an operational need arises. Copies of the legislation may be found on the www.opsi.gov.uk/acts website.

(c) In order to implement these provisions within the Northern French ports of Calais, Dunkerque and Boulogne, the Secretary of State is required to consult in accordance with Section 141(5) of the Nationality, Immigration and Asylum Act 2002. Juxtaposed controls at Coquelles, Calais-Frethun, Lille Europe, Paris Gare Du Nord and Brussels are not covered by section 141(5) and, therefore, consultation is not a legal requirement. However, as they are affected by the proposals, we consider it appropriate to include them in this consultation process.

(d) The Home Office would now value comments from consultees (a full list of consultees may be found at Appendix A attached) to help us develop the

processes and arrangements required before these provisions may be fully implemented.

(e) Feedback on issues relating to the content of the secondary legislation is required by 1200hrs 28th July 2006. This allows for a truncated consultation period of 8 weeks in order to meet Parliamentary timescales. Responses should be sent to Barbara Wilson, UK Immigration Service (“UKIS”) who is acting on behalf of the Secretary of State. The UK Immigration Service is part of the Immigration and Nationality Directorate (IND) which is part of the Home Office. The address may be found at the back of this document.

Responses may be made public unless confidentiality is specifically requested.

(f) This consultation is being conducted according to the Code of Practice on Written Consultation issued by the Cabinet Office. A copy of the criteria may be found at Annex B.

2 Scope of the proposals

Private Freight Searching

2(a) Immigration officers have the power to search vehicles, vessels, and trains in both the UK and juxtaposed control zones in Northern French Sea Ports and at the French end of the Channel Tunnel. Sections 40 and 41 of the IAN Act 2006 extend these powers to private contractors, who will be known as Authorised Search Officers [ASO], and will operate under individual certification of the Secretary of State. It is envisaged that private freight searching will commence in August 2006 at Calais Port.

(b) Since August 2005 we have implemented an interim measure where private contractors (employed by UKIS) work alongside immigration officers. Using detection technology in the berth side area of Calais port, they identify clandestine activity immediately prior to boarding. This has been hugely successful and, in co-operation with the French police and the authorities for Calais port, we have reduced significantly the penetration by illegal entrants.

(c) The new legislation will allow for a firm of private contractors to act independently – to search vehicles and any person they detect, and to detain and escort such persons to the nearest immigration detention facility. There are strict limitations to the powers, particularly regarding length of detention; Clauses 40(c) and (d) IAN Act 2006 state; “to detain the individual, for a period which is as short as is reasonably necessary and which does not exceed three hours, pending the arrival of an immigration officer to who the individual is to be delivered” and (d) “take the individual, as speedily as is reasonably practicable, to a place for the purpose of delivering him to an immigration officer there”.

(d) The ASOs will be directed and supervised by the UK Immigration Service on site .The use of private contractors to undertake this valuable work will provide us with a flexible solution to meet a pressing resource demand. Warranted immigration officers receive extensive training which enables them to be directed to other equally important areas such as forgery detection, debriefing and the application of civil penalty. Searching in the United Kingdom control zones abroad [juxtaposed controls] in Calais Port, Coquelles and Dunkerque is already being undertaken by Immigration officers; the installation of ASO searching activity in Calais Port will thus support existing measures and ensure that we maintain the integrity and security of our borders.

(e) The impact of this measure will be upon traffic, mainly freight, located at the berth side embarkation area in the Port of Calais. The impact will be

minimal as vehicle searches already take place – the only change will be the replacement of immigration Officers with private contractors.

(f) When the immigration controls at the juxtaposed controls in France were initially established, no provision was made for the application of Section 141 of the IAN Act 1999 - fingerprinting. At the time it was felt that it would not be necessary to fingerprint, as all persons refused entry to the United Kingdom at a UK control zone are handed over to the French authorities. However it has become apparent that there is a real need for officers operating at juxtaposed controls [Calais Port, Calais Frethun Lille Europe, Paris Gare Du Nord, Dunkerque, Coquelles Boulogne and Brussels] to have the power to take fingerprints as they have at all UK mainland ports, especially of all persons seeking to enter the UK clandestinely or through the use of false passports or ID cards.

(g) We also intend to reserve the power to fingerprint other categories of detained persons where an operational need arises. Fingerprinting will assist with the identification of those seeking to enter the UK clandestinely; it will highlight repeat offenders or those who have been removed from the UK previously. Fingerprinting will support an intelligence led approach to border security, providing information regarding its efficiency and the level of displacement between ports.

(h) The impact of this measure will be upon the immigration staff who will take the fingerprints and the detainees whose prints are taken. There will be minor alterations to the use of office space at the juxtaposed controls in order to accommodate the fingerprinting processes. This will have minimal impact upon the respective port authorities.

3 Legislation

The IAN Act 2006 received Royal Assent on 30 March 2006 and will be implemented in the juxtaposed controls at Calais Port by an Order made under powers set out in Section 141 of the Nationality, Immigration and Asylum Act 2002. The Order will specify in detail the provisions of English law which will have effect within the control zones at the relevant juxtaposed controls, together with any modifications in their application. The Order will be subject to approval by affirmative resolution of each House of Parliament. We would like to implement the relevant s141 of the Immigration and Asylum Act 1999, sections 40 and 41 IAN Act 2006 as soon as is statutorily possible.

4. Race Equality Impact

The Home Office values diversity, and seeks to promote equal opportunities and eliminate racial discrimination. We do not believe that the proposals in this document discriminate between any particular groups whether by geographical region, age, race, disability or gender. We would be grateful for comments on how the proposals in this document may affect any minority group. If it is considered that they may be disadvantaged in any way, comments on how these difficulties might be resolved would be helpful and welcome.

5 Practical arrangements

(a) For freight searching operations an Invitation to Tender document was issued on 3 April 2006 to invite bids from a number of private contractors with relevant experience in the field of searching. We are looking to award a contract shortly, following which personnel will receive comprehensive training to meet a standard which will satisfy the Secretary of State that they are competent to undertake the role. Each individual will be authorised by the

Secretary of State to perform searching operations but this authorisation may be revoked if there is evidence of any failing in performance.

(b) Fingerprinting will be effected when we have adequate facilities at each location; in Calais port we expect this to be by the end of August 2006.

6 Costings

(a) All costs relating to the implementation of freight searching operations will fall to the UK Immigration Service. The proposals are expected to have little or no impact upon the business or charitable/voluntary sectors and, therefore, a full regulatory impact assessment was not required.

(b) Technical fingerprinting equipment will be provided by UKIS. Fingerprinting areas are contained within holding rooms provided by the port authorities. The holding facility at Calais freight zone is being redeveloped with a short term solution to deliver at the end of May 2006 and a new-build at the end of 2006. The re-developments concerned are required for reasons other than the introduction of fingerprinting. Fingerprinting will be undertaken at minimal impact upon the accommodation.

7 Questions

While views are welcome on all aspects of the proposals, we would appreciate specific comments on the issues set out below:-

(a) Private freight Searching in Calais

[Here we are asking about berth side searching at Calais port]

Q1 In what way will the proposal to search freight impact upon your business?

Q2 Will the proposed activity lead you to incur additional costs?

Q3 Will the proposed activity mean that you have to change your working practices in any way, if so how and why?

Q4 Do you need any additional support to assist you to prepare for the implementation of this proposal, if yes what help will you need and why?

Q5 Are the new powers an effective tool to combat clandestine entry through Calais Port?

Q6 What other measures would you prefer in addition to or instead of, private searching?

(b) Fingerprinting

[At; Calais Port, Calais Frethun Lille Europe, Paris Gare Du Nord, Dunkerque, Coquelles Boulogne and Brussels]

Q7 What are your concerns regarding the introduction of the routine fingerprinting of holders those holding false documents or attempting clandestine entry at a UK Immigration juxtaposed control?

Q8 Will this new development lead you to introduce changes in your procedures or involve you in any additional costs?

Q9 Will this process have a negative impact upon your activities, if so how and why?

(c) Both activities

Q10 Will either proposal disadvantage minority groups in any way? If so in what ways can this be avoided?

Please provide details of the people or organisation you represent as per the box below:-

Company or Organisation	
Your name	
Contact tel no.	
Email address	
Postal address	

8 How to Submit Comments

(a) This consultation document aims to provide information on the practical implications of imposing new legislation to existing juxtaposed controls.

(b) The Home Office will conduct the consultation process in an atmosphere of co-operation with consultees and intends to proceed by agreement wherever possible. The need to reinforce business partnerships and to be flexible and transparent in its approach to policy making is recognised.

(c) Any comments or queries you might have in relation to this document should be directed to the following address by 28th July 2006.

Barbara Wilson
UK Immigration Service
No 1 Control Building
Eastern Docks
Dover
CT16 1JD

Alternatively, you may e-mail your responses to:

Chris.Barnett@homeoffice.gsi.gov.uk.

(d) The information you send us may be passed to colleagues within the Home Office, the Government or related agencies. Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

(e) If you would like the information you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the

information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding by the Department.

Please ensure that your response is marked clearly if you wish your response and name to be kept confidential. Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

(f) The Department will process your personal data in accordance with the DPA – in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Coordinator

(g) If you have any complaints or comments about the consultation process, you should contact the Home Office consultation coordinator by email at:

Christopher.Brain2@homeoffice.gsi.gov.uk

Alternatively, you may wish to write him:

Christopher Brain

Consultation Coordinator

Performance and Delivery Unit

Home Office

3rd Floor Seacole

2 Marsham Street

London SW1P 4DF

9 Ministerial Declaration

I have read the consultancy document and am satisfied that the proposals are proportionate, necessary and that the benefits justify the costs.

Signed by the responsible Minister

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Date.....

Home Office

2 Marsham Street

London

SW1P4DF