

Post Implementation Review of The Channel Tunnel (International Arrangements) (Amendment) Order 2012

By the Secretary of State for the Home Department

July 2017

Introduction

1. This Post Implementation Review (PIR) relates to the operation of Cyclamen, the UK's Radiological and Nuclear (RN) border detection capability at the port of Coquelles, and the Channel Tunnel (International Arrangements) (Amendment) Order 2012 ("the 2012 Order").
2. This paper evaluates the effectiveness of that operation, including:
 - a. The objectives intended to be achieved by the 2012 Order;
 - b. The extent to which those objectives are achieved;
 - c. Whether those objectives remain appropriate; and, if so,
 - d. The extent to which they could be achieved with a system that imposes less regulation.

Background

3. The 2012 Order amended the Channel Tunnel (International Arrangements) Order 1993 ("the 1993 Order") to implement the 2012 Agreement ("the Agreement") between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of France that enables the UK Home Office to conduct screening for illicit RN materials using the Cyclamen equipment sited in the French Terminal of the Channel Tunnel in Coquelles. The Agreement was signed in London on 10th May 2012 and authorised the commissioning and operation of Cyclamen portals as well as providing the framework for the procedures that the UK and France should adopt in response to the detection of RN materials.
4. The 2012 Order enables the screening of vehicles, freight, people and their effects in order to detect illicit RN materials that would otherwise enter the UK by travelling through the Channel Tunnel fixed link, and sets out the respective roles and responsibilities for investigating alarms and taking further

action where required. The screening point is based at the French Channel Tunnel port of Coquelles in accordance with the provisions of the Agreement.

5. Article 4 of the 2012 Order amended article 4 of the 1993 Order to provide that security control enactments shall extend to France within the tunnel system for the purpose of enabling officers belonging to the United Kingdom to carry out security controls (the “tunnel system” is defined in section 1(7) of the Channel Tunnel Act 1987). Article 5 inserts the necessary new definitions, including definitions of “security controls” and “security control enactment”, into Schedule 1 to the 1993 Order.
6. Article 6 of the 2012 Order amended Schedule 3 to the 1993 Order to provide that a customs officer may, within the tunnel system, exercise any power of arrest conferred by a security control enactment in connection with the carrying out of security controls.
7. Article 7 of the 2012 Order requires the Secretary of State to review the operation and effect of the 2012 Order (and to publish a report) within five years of it coming into force, and within every five years after that.
8. Following a review it falls to the Secretary of State to consider whether the Order should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the Order or to amend it.
9. This document details the first review carried out by the Secretary of State into the operation and effect of the 2012 Order.

Requirement for Cyclamen

10. The Cyclamen capability is a key feature of CONTEST, the UK’s counter-terrorism strategy. Cyclamen is a joint Border Force and Office for Security and Counter-Terrorism (OSCT) initiative that uses a combination of equipment to screen vehicles, containers, freight and pedestrians for the presence of RN materials at UK points of entry. Cyclamen screening supports the facilitation of travellers and trade by only stopping those who have activated an alarm.
11. Cyclamen screening equipment does not emit radiation and is non-invasive; it is designed to detect and locate radiation and poses no harm to people or their possessions. Cyclamen equipment detects many sources of radiation, most of which are being carried legitimately. The operation of the capability is supported by the Atomic Weapons Establishment (AWE) and Border Force has agreed protocols with relevant police bodies and with French nuclear

bodies on the removal and safe disposal of any RN material not allowed to proceed to the UK.

What were the original objectives?

12. In 2012 the Prime Minister-chaired National Security Council (Nuclear) determined that the installation of Cyclamen at the French Terminal of the Channel Tunnel in Coquelles was a national security priority. The objectives intended to be achieved by the installation were to:

- a. Deter terrorists or criminals from attempting to import illicit nuclear and radiological materials by operating a highly visible and credible detection capability, operating in an unpredictable way; and
- b. Detect and intercept the illicit importation of nuclear and radiological materials through detection at UK points of entry.

To what extent have the original objectives been achieved?

13. The Cyclamen equipment at Coquelles is used on both freight and tourist road traffic, all of which passes through Cyclamen portals as it enters the UK control zone to queue for embarkation onto shuttle trains. Both freight and tourist sites at Coquelles include dedicated secondary examination areas for vehicles that have activated a Cyclamen alarm.

14. The Home Office regard the Cyclamen operation at Coquelles as a success as a significant traffic flow of freight and tourist vehicles is now routinely screened for RN materials before it enters the UK. The capability also detects goods that are being imported legitimately but have become inadvertently contaminated in the supply chain. While this is not the primary purpose of Cyclamen these detections mean that potentially harmful imports can be removed before they enter the UK market.

Why are these objectives still relevant?

15. The impact of a radiological or nuclear attack on British soil could be catastrophic, potentially causing hundreds of thousands of deaths and a cost to the UK economy of billions of pounds. The ongoing threat of a terrorist attack using RN materials is outlined in the National Security Strategy and Strategic Defence and Security Review (NSS) (2015).¹ The NSS states that

¹ National Security Strategy and Strategic Defence and Security Review (2015)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478933/52309_Cm_9161_NSS_SD_Review_web_only.pdf

while radiological and nuclear threats are unlikely to occur, some groups will try to acquire chemical, biological and radiological (CBRN) capabilities. Maintaining an effective detection capability remains an important component of the UK's armoury at the border as the RN threat could escalate quickly and without warning.

16. Cyclamen must also be viewed as part of a wider end-to-end Government programme to protect the UK from a CBRN attack. This includes preventing terrorists from gaining access to the technical expertise and specialist materials they need to deliver attacks of this nature in the first instance, and ensuring the police and other emergency services have the necessary capabilities to mitigate the impact of such an attack were it to occur. The Home Office funds capabilities to ensure that police across the UK have access to RN detection capabilities and 24/7 technical and scientific advice. In this context Cyclamen acts as an effective first line of defence and removing it would undermine the Government's wider counter-terrorism effort in this area.
17. In conducting this review the Home Office has considered the financial impact of Cyclamen on UK business and the voluntary sector. Overall, we believe these costs to be negligible. The capability is fully-funded by the Home Office and operated locally by Border Force officers who monitor the Cyclamen controls and conduct secondary examinations alongside other border control duties. If Border Force are required to carry-out a follow-up examination in response to an alarm any cost to business caused by this short delay is insignificant when compared to the devastation of a terrorist attack using a radiological or nuclear device.

To what extent could the objectives be achieved with less regulation?

18. Reducing the scope of the 2012 Order would not provide a discernible benefit to business and would undermine the ability of Border Force to operate Cyclamen and respond to an RN incident at this location. There is also no viable alternative to Cyclamen; the underlying technology remains among the best in the world and the Home Office remains committed to investing in the system to enhance and drive efficiencies via a dedicated programme.
 19. However, the Home Office acknowledges the importance of striking the correct balance between protecting the public from terrorism while facilitating legitimate trade. This is why the Home Office conducts regular risk assessments to ensure the security control arrangements are proportionate to the threat. In addition, while any enhancements to the system are driven primarily by national security concerns, the Home Office also considers how
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these technologies can be deployed to minimise their potential impact on legitimate travellers and trade.

Stakeholder Engagement

20. The Home Office conducted an internal review of the Cyclamen capability and consulted with AWE, the Government's threat and scientific advisor on RN matters, as well as the Department for Business, Energy and Industrial Strategy which leads on radiological and nuclear safety and security. The Home Office also consults regularly with the French port operator at Coquelles, EuroTunnel, on all Cyclamen-related issues. Any enhancements to the capability or changes in the operating procedures are agreed in advance with the port operator as well as the relevant French authorities.
21. The Home Office sought the views of the Better Regulation Executive (BRE) as to whether this review falls within the requirements of the Regulatory Framework. The BRE took the view that this review does not come into the scope of the Framework because this is neither a new nor amended regulation. Similarly, when the Order was originally implemented a full impact assessment was not required on the grounds that only a minimal impact on business and the voluntary sector was foreseen. This has not changed in the intervening years.

Next steps and conclusion

22. The review confirmed that maintaining the operation of Cyclamen at Coquelles remains a national security priority. The Secretary of State for the Home Department has therefore concluded that the 2012 Order should remain in force at this location without amendment.
23. These arrangements shall be reviewed again within the next five years as required under Article 7 of the 2012 Order.