

The Treaty was
previously published as
France No. 1 (2003)
Cm 5832

POLITICAL AND
MILITARY



Treaty Series No. 18 (2004)

Treaty

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the French Republic

concerning the

Implementation of Frontier Controls at the Sea Ports of both Countries on the Channel and North Sea

Le Touquet, 4 February 2003

[The Treaty entered into force on 1 February 2004]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
April 2004*

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**TREATY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE FRENCH REPUBLIC CONCERNING THE
IMPLEMENTATION OF FRONTIER CONTROLS AT THE SEA PORTS
OF BOTH COUNTRIES ON THE CHANNEL AND NORTH SEA**

The Government of the United Kingdom of Great Britain and Northern
Ireland and the Government of the French Republic;

Have agreed as follows:

TITLE 1

General Provisions

ARTICLE 1

1. The Contracting Parties shall, within the framework of this Treaty, take the necessary measures to facilitate the exercise of Frontier Controls in the territory of the other Party at the Sea ports of both countries on the Channel and North Sea.

2. To this end, they may create juxtaposed national control bureaux within the Control Zones in the Sea ports of both countries on the Channel and North Sea. They consequently authorise the Responsible Officers of each State to carry out their duties on the territory of the other State, within the framework of this Treaty.

3. The designation of Sea ports under this Treaty and the establishment, modification or removal of the Bureaux, Control Zones and Restricted Zones in the Sea ports of each State shall be determined by the competent authorities of the two States.

4. The arrangements provided for in paragraph 3 of this Article shall initially be limited to the exercise of Frontier Controls by the immigration authorities of either State in the Sea ports in question.

5. The arrangements provided for in paragraph 3 of this Article, in so far as they concern Frontier Control agencies expressly permitted to undertake juxtaposed control functions by international agreement, will be confirmed through the exchange of diplomatic notes except where there is an immediate operational need. They shall come into effect following, where appropriate, the completion of the formalities provided for under the national law of each State. Where there is an operational need the local representatives of the authorities concerned may by mutual agreement temporarily bring into effect any alterations to the delimitation of the Control Zones which may prove necessary. Any

arrangement so reached shall come into effect immediately and be recorded in writing.

ARTICLE 2

In this Treaty, the term:

a. "Frontier Control" means the application in the Control Zone of all the laws and regulations of the Contracting Parties concerning immigration controls and the investigation of offences relating to immigration;

b. "State of Departure" means the State upon whose territory the control of the other State is carried out;

c. "State of Arrival" means the other State;

d. "Control Zone" means the part of the territory of the State of Departure within which the Responsible Officers of the State of Arrival are authorised to carry out the controls;

e. "Restricted Zone" means that part of the Sea port of either country on the Channel and North Sea that is subject to special protective security measures;

f. "Responsible Officers" means the officers given responsibility by each Government for the exercise of Frontier Controls;

g. "Bureaux" means the juxtaposed national control bureaux including their control booths and any other facilities directly supporting their control functions;

h. "Sea ports" means the commercial ports of both countries on the Channel and North Sea from which persons travel by sea to the other State.

ARTICLE 3

1. Within the Control Zone each Government shall permit Responsible Officers of the other State to carry out their functions in their own territory in application of their powers relating to Frontier Controls.

2. The laws and regulations relating to Frontier Controls of the State of Arrival shall be applicable in the Control Zone in the same way as they are applicable within their own territory. These shall be applied by the officers of the State of Arrival in the same manner and with the same consequences as in their own territory.

3. Breaches of laws and regulations relating to Frontier Controls of the State of Arrival which are detected in the Control Zone of the State of Departure shall be subject to the laws and regulations of the State of Arrival, as if the breaches had occurred there.

4. When an offence of any other kind is committed in the Control Zone of the State of Departure that State shall have jurisdiction.

ARTICLE 4

1. The purpose of the immigration controls carried out by the authorities of the State of Departure is to verify that the person may leave the territory of this State.

2. The purpose of the immigration controls carried out by the authorities of the State of Arrival is to verify whether the persons leaving the State of Departure fulfil the Frontier Control conditions and requirements laid down by the State of Arrival and can be allowed to travel to the State of Arrival.

3. The authorities of the State of Departure and the authorities of the State of Arrival shall carry out their controls pursuant to this Treaty, their laws and regulations and their international commitments.

4. The controls covered in the previous paragraphs of this Article shall be without prejudice to customs or security checks carried out by the State of Departure.

ARTICLE 5

1. The Responsible Officers of the State of Arrival may arrest and hold for questioning in the Control Zone those who are being examined for the purposes of immigration control or those who, there are reasonable grounds to suspect, have committed an act that infringes the laws and regulations relating to Frontier Controls. For this purpose, the officers of the State of Arrival responsible for immigration control may call upon the assistance of officers of the State of Arrival responsible for investigations. Officers shall also be permitted to conduct such persons to the territory of the State of Arrival.

2. However, except in exceptional circumstances, no person may be held more than twenty-four hours in the areas reserved, in the State of Departure, for the Frontier Controls of the State of Arrival. Any such detention shall be subject to the requirements and procedures laid down by the legislation of the State of Arrival.

3. In exceptional circumstances, the twenty-four hour period of detention may be extended for a further period of twenty-four hours in accordance with the

legislation of the State of Arrival. The extension of the period of detention shall be notified to the authorities of the State of Departure.

ARTICLE 6

1. All the Frontier Controls of the State of Departure must normally be carried out before the controls of the State of Arrival.

2. The Responsible Officers of the State of Arrival are not authorised to begin such controls before the end of the controls of the State of Departure. Any form of relinquishment of such controls shall be considered as a control.

3. The authorities of the State of Departure can no longer carry out their controls once the Responsible Officers of the State of Arrival have begun their control operations. Exceptionally, operations concerning the departure control can be resumed with the consent of the Responsible Officers of the State of Arrival.

4. If, in the course of the controls, the order provided for under paragraphs 1 to 3 of this Article is modified for practical reasons, the Responsible Officers of the State of Arrival cannot carry out any arrests until the controls by the State of Departure are completed. If they wish to undertake such a measure, they must bring the persons for whom the departure control has not yet been completed to the Responsible Officers of the State of Departure for those officers to carry out the departure controls. If these wish to proceed with arrests, they have priority.

5. Exceptionally, Frontier Controls may be exercised by the State of Arrival at the Sea port in its own territory when such controls have not been possible in the State of Departure.

ARTICLE 7

If the State of Arrival refuses admission to persons or if persons decide not to pass through the Frontier Controls of the State of Arrival, the authorities of the State of Departure may not refuse to accept back such persons. However, the authorities of the State of Departure may take any measures to deal with them in accordance with national law and in a way which does not impose obligations on the other State.

ARTICLE 8

1. Without prejudice to the application of other international agreements, and in accordance with applicable national law, the authorities of the two States shall to the fullest possible extent co-operate, assist one another and co-ordinate

their activities in discharging their duties in relation to the functioning of the Bureaux, particularly as regards:

- a. their respective Frontier Controls;
- b. the prevention and detection of offences against the laws and regulations of either State relating to Frontier Controls;
- c. the exchange of information which may be of use in the performance of their duties.
- d. the investigations of offences relating to immigration.

2. At the request of the Responsible Officers of the State of Arrival, the competent authorities of the State of Departure will interview witnesses and experts, as well as carry out investigations and pass on the results of these enquiries. This assistance is limited to offences relating to Frontier Controls which are committed and take place in the Control Zone and which are discovered during or immediately after they have been committed.

ARTICLE 9

1. Where a person makes an asylum claim, or claims any other form of protection provided for under international law or under the national law of the State of Departure, during a control carried out in the State of Departure by the responsible officers of the State of Arrival, this application shall be examined by the authorities of the State of Departure in accordance with its national procedures.

2. The same provisions shall be applicable when the application is made after completion of the formalities of the control and before the departure of the vessel. In the event that such an application is made after the departure of the vessel, it shall be dealt with by the State of Arrival, in accordance with its national law.

TITLE II

Officers

ARTICLE 10

1. Each of the Governments shall designate the authorities or the persons having responsibility for the exercise of Frontier Controls.

2. Each of the Governments shall notify the other of these appointments as well as any modification to these.

3. The authorities of the State of Departure shall grant the Responsible Officers of the State of Arrival, in the exercise of their functions, the same protection and assistance as that granted to their own officers.

4. The provisions of the criminal law in force in the State of Departure for the protection of officers in the exercise of their functions shall be equally applicable to the punishment of offences committed against Responsible Officers of the State of Arrival in the exercise of their functions.

5. Any provision of the criminal law in force in the State of Arrival for the protection of its Responsible Officers and their property shall be applicable in the Control Zone.

ARTICLE 11

Subject to paragraphs 2 and 3 of Article 14, the same regimes of civil and criminal law provided for under the legislation of the State of Departure shall apply to the Responsible Officers of the State of Arrival.

ARTICLE 12

1. The Responsible Officers of the State of Arrival who, in application of this Treaty, are called upon to carry out their duties in the Control Zone, are authorised to cross the frontier and travel to their place of work upon confirmation of their identity and their position by production of official documents.

2. The competent authorities of the State of Departure reserve the right to request from the authorities of the State of Arrival the recall of particular officers.

ARTICLE 13

1. The Responsible Officers of the State of Arrival who are called upon, in application of this Treaty, to carry out their duties in the State of Departure, can wear their national uniform there or a visible distinctive symbol.

2. They may, within the Control Zone, carry their service weapons. The carriage and use of these weapons shall be regulated by a separate arrangement to be agreed between the Contracting Parties.

ARTICLE 14

1. The Responsible Officers of the State of Arrival are exclusively answerable to the authorities under which they serve for all matters concerning their official activity, their service reports and discipline.

2. Claims for compensation for loss or injury caused by or to officers of the State of Arrival in the exercise of their functions in the State of Departure shall be subject to the law and jurisdiction of the State of Arrival as if the circumstances giving rise to the claim had occurred in that State.

3. The Responsible Officers of the State of Arrival may be prosecuted by the authorities of the State of Departure for any criminal acts that are not undertaken in the exercise of their functions. Criminal acts undertaken in the Control Zone in the exercise of their functions may not be prosecuted by the authorities of the State of Departure.

4. The judicial authorities or the police of the State of Departure having taken steps to record the complaint and to assemble the facts relating thereto, shall communicate all the particulars and evidence thereof to the competent authorities of the State of Arrival for the purposes of a possible prosecution according to the laws in force in the latter.

ARTICLE 15

The Responsible Officers of the State of Arrival who, in application of this Treaty, carry out their duties in the State of Departure must, with regard to the conditions relating to their residence, regularise their status with the competent authorities in accordance with the provisions relating to the stay of foreign nationals.

TITLE III

Bureaux

ARTICLE 16

1. The competent authorities shall determine by joint agreement the installations, service accommodation and equipment required for the operation within the Control Zones of the exercise of Frontier Controls. The State of Departure is to be responsible for the provision of such installations, service accommodation and equipment. Requests made by the State of Arrival for installations should be no more than is absolutely necessary to enable them to carry out their functions effectively.

2. The authorities of the State of Arrival shall be able to make use in the State of Departure of the service accommodation, installations and equipment necessary for the performance of their functions. The working hours of the service and the functions of Bureaux shall be fixed by joint agreement between the two competent administrations.

ARTICLE 17

The premises allocated for the Bureaux of the State of Arrival shall be identified with official inscriptions and insignia of that State.

ARTICLE 18

The Responsible Officers of the State of Arrival are authorised to keep order within the premises allocated for their exclusive use and to eject any disruptive person from the premises. They can, if necessary, request the assistance of the officers of the State of Departure for that purpose.

ARTICLE 19

1. Unless otherwise provided for in a joint agreement by the competent administrations, the prohibitions or restrictions on importation and exportation do not apply to the goods required for the running of the Bureaux or those which the officers of the State of Arrival require during their service in the State of Departure.

2. This also applies to private service vehicles which the Responsible Officers use in the course of their duties in the State of Departure or for travelling between their residence and their place of work.

ARTICLE 20

1 The State of Departure shall authorise the installation of telephones required for the operation of the Bureaux of the State of Arrival within the State of Departure, their connection to the corresponding installations of the State of Arrival as well as the exchange of direct communication with these Bureaux. These communications shall be considered to be internal communications of the State of Arrival.

2. The Governments of both States agree to provide all the facilities connected with the use of other communication resources for the same purposes wherever possible.

3. Moreover, the regulations of the two States in matters of construction and use of communication installations shall apply.

4. The State of Departure will also authorise the installation and use of those information technology installations required for the operation of the Bureaux of the State of Arrival within the State of Departure, their connection to the corresponding Information Technology installations of the State of Arrival as well as the exchange of direct communications between installations reserved exclusively for the service. Electronic communications are considered to be internal communications of the State of Arrival.

5. The State of Arrival is finally authorised to run any electronic encryption devices and software in the State of Departure in order to ensure the proper functioning of the installations of the State of Arrival in use there and their communication with the above mentioned installations of the State of Arrival.

ARTICLE 21

Official letters or parcels as well as goods coming from or going to the Bureaux of the State of Arrival may be transported by the Responsible Officers of this State, without going through the postal service. These dispatches must be sent under the official stamp of the service concerned.

TITLE IV

Final Provisions

ARTICLE 22

1. The procedures for the implementation of this Treaty may, as far as necessary, be the subject of technical or administrative arrangements between the competent authorities of the two States.

2. Any disputes concerning the interpretation or application of this Treaty shall be settled through negotiation between the two Governments.

ARTICLE 23

1. Each of the Contracting Parties may terminate the arrangements provided for under paragraph 3 of Article 1, within the time-scales and under the conditions agreed between the competent authorities by an exchange of letters.

2. The Contracting Parties may make, by the exchange of diplomatic notes, any modifications to this Treaty they consider necessary. However, the provisions of this paragraph do not apply to the clauses of this Treaty which, by

virtue of the constitutional provisions of the States, require the approval of the legislative authorities for their implementation.

3. Either Contracting Party may at any time request consultations with a view to revising the provisions of this Treaty in the light of new circumstances or needs.

ARTICLE 24

Each of the Contracting Parties reserves the right to take any measures necessary for the safeguarding of its sovereignty or security.

ARTICLE 25

1. Each of the Contracting Parties shall notify the other of the completion of the internal procedures required for the implementation of this Treaty, which shall enter into force on the first day of the second month following the date of receipt of the last notification.

2. This Treaty is concluded for an unlimited duration, and each of the Contracting Parties may terminate it at any time by written notification addressed through diplomatic channels to the other Party. The termination shall come into effect two years after the date of this notification.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Treaty.

Done in duplicate at Le Touquet this 4th day of February 2003 in the English and French languages, both texts being equally authoritative.

For the Government of the
United Kingdom of Great Britain
and Northern Ireland:

For the Government of the
French Republic:

DAVID BLUNKETT

NICOLAS SARKOZY



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ISBN 0-10-161722-4



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