EXPLANATORY MEMORANDUM TO

THE CHANNEL TUNNEL (INTERNATIONAL ARRANGEMENTS) (AMENDMENT) ORDER 2012

2012 No. 1264

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of the Channel Tunnel (International Arrangements) (Amendment) Order 2012 ("2012 Order) is to implement in UK domestic law the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of France on Implementation of the Cyclamen Device in the French Terminal of the Channel Tunnel situated in Coquelles ('the Agreement'). The Order will enable the screening of vehicles, their contents and passengers to detect the illicit importation of radiological and nuclear (RN) materials at the French Channel Tunnel port of Coquelles in accordance with the provisions of the Agreement.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Order is made to implement the Agreement. The Order amends the Channel Tunnel (International Arrangements) (Amendment) Order 1993.

4.2 In particular, the Order is necessary to ensure that Border Force officers are able to exercise the necessary powers in the tunnel system in Coquelles in order to give effect to the Agreement. Border Force officers will carry out screening under the Agreement in reliance on powers contained in customs enactments – in particular the Customs & Excise Management Act 1979

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom. It also provides that certain customs enactments shall have effect in the tunnel system in France for the purposes of the Agreement.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Cyclamen screening for RN materials commenced at UK ports from 2004 in response to the increased threat of terrorism after the terrorist attacks of

September 11 2001 on the United States of America. It forms a vital part of the Government's counter-terrorism strategy (CONTEST). Border Force is responsible for carrying out these screening activities as part of its customs enforcement responsibilities at the UK border. It is a passive screening device so it does not emit any radiation and has no effect on any object or person passing through it. Cyclamen equipment is installed at key points of entry into the UK.

7.2 A significant volume of, vehicles, passengers and goods enter the UK via the Channel Tunnel port of Coquelles each year. The UK therefore requires the capability to carry out RN screening and detection at Coquelles, where it already carries out UK frontier controls, to maintain UK border security.

7.3 The Agreement has been entered into with France to authorise the installation and operation of Cyclamen portals and to provide the framework for the procedures that the UK and France will adopt in response to detections of radiological or nuclear materials. It sets respective roles and responsibilities for investigating alarms and for taking any further action required. In cases where the level of radiation detected meets agreed referral criteria the Agreement establishes that the UK will inform the French Authorities who will decide whether further enforcement action is necessary. If so, the French Authorities will take over management of the incident from UK officials and the radiological and nuclear materials will be dealt with from this transfer point in accordance with French nuclear safety legislation

8. Consultation outcome

8.1 Full consultation has been conducted with the French Government and the port operator. As a result of this consultation, the Agreement has been concluded with the French and operational arrangements are being developed with the port operator.

9. Guidance

9.1 Border Force officers working in the UK already have guidance about RN screening and detection procedures. Officers working at Coquelles will receive an appropriately amended version of this guidance.

10. Impact

10.1 There is minimal impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Border Force will conduct operational reviews of RN screening at Coquelles at regular intervals after screening commences. The Order also includes a requirement to review its operation every 5 years.

13. Contact

Anne Webber at the Home Office Tel: 07919 572 323 or email: anne.webber@homeoffice.gsi.gov.uk can answer any queries regarding the 2012 Order.