EXPLANATORY MEMORANDUM TO

THE IMMIGRATION AND POLICE (PASSENGER, CREW AND SERVICE INFORMATION) ORDER 2008

2008 No.5

THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 (DATA SHARING CODE OF PRACTICE) ORDER 2008

2008 No.8

THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 (DUTY TO SHARE INFORMATION AND DISCLOSURE OF INFORMATION FOR SECURITY PURPOSES) ORDER 2008

2008 No. 539

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

This Memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 These three orders relate to the acquisition of data in respect of passengers, crew and services entering and leaving the UK and the sharing of that data between the border agencies:

- The Immigration and Police (Passenger, Crew and Service Information) Order 2008 specifies the travel related data that can be required from ships, aircraft and trains entering and leaving the UK by an immigration officer or a police officer.

- The Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2008 specifies travel related information which the Secretary of State (in so far as she has functions under the Immigration Acts), Her Majesty's Revenue and Customs and a chief officer of police (collectively, "the border agencies") must share with each other for immigration, Revenue and Customs or police purposes and which they may disclose to the Security and Intelligence Agencies, if the information is likely to be of use for certain security purposes.

- The Immigration, Asylum and Nationality Act 2006 (Data Sharing Code of Practice) Order 2008 brings into force the Code of Practice on the Management of Information Shared by the Border and Immigration Agency, Her Majesty's Revenue and Customs and the Police.

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

3.1 The enabling powers under which the Immigration and Police (Passenger, Crew and Service Information) Order 2007 and the Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2007 are made apply with modifications in respect of trains entering and leaving the United Kingdom via the Channel Tunnel by virtue of secondary legislation made under section 11 of the Channel Tunnel Act 1987. These two orders therefore include provision in respect of such trains which is made under those powers as modified.

4. Legislative Background

4.1 The Immigration and Asylum Act 2006 (the 2006 Act) received Royal Assent on 30th March 2006.

4.2 The Immigration and Police (Passenger, Crew and Service Information) Order 2008 is made under paragraphs 27 and 27B of Schedule 2 to the Immigration Act 1971 and section 32 of the 2006 Act. Those powers apply with modifications in respect of trains entering and leaving the United Kingdom via the Channel Tunnel by virtue of S.I. 1993/1813 and S.I. 1994/1405 (as amended).

- Paragraph 27 of Schedule 2 to the Immigration Act 1971, as amended by section 31 of the 2006 Act and applied with modifications under section 11 of the Channel Tunnel Act 1987, enables the Secretary of State to, by order, require or enable an immigration officer to require, a carrier to supply a passenger list and particulars of crew in respect of a ship, aircraft or train arriving or departing the United Kingdom and to specify the form and manner in which this information is to be provided.

- Paragraph 27B of Schedule 2 to the Immigration Act 1971 as amended by section 16 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 and section 31 of the 2006 Act, and as applied with modifications under section 11 of the Channel Tunnel Act 1987, enables the Secretary of State to, by order, specify the passenger and service information that an immigration officer may require from carriers in respect of a ship, aircraft or train arriving or departing the UK.

- Section 32 of the 2006 Act, as applied with modifications under section 11 of the Channel Tunnel Act 1987, permits the Secretary of State to, by order, specify the passenger, crew and service information which the police may require from carriers in respect of a ship, aircraft or train arriving or departing the UK and to specify the form and manner in which this information is to be provided.

4.3 The effect of the Immigration and Police (Passenger, Crew and Service Information) Order 2008 is to enable immigration and police officers to a) request specific passenger, crew and service information from air, sea and rail carriers in respect of movements into or out of the UK and b) to specify the form and manner in which some of this data should be supplied.

4.4The Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2008 is made under sections 36 and 38 of the 2006 Act. Sections 36 and 38 of the 2006 Act apply with modifications in respect of trains entering and leaving the United Kingdom via the Channel Tunnel by virtue of S.I. 1993/1813 and S.I. 1994/1405 (as amended).

- Section 36 of the 2006 Act introduced a requirement for the Secretary of State (in so far as she has functions under the Immigration Acts), Her Majesty's Revenue and Customs and a chief officer of police ("the border agencies") to share passenger, crew, freight, service and other travel related information specified by order where the information is likely to be of use for immigration, police or Revenue and Customs purposes. However, the duty on a chief officer of police in Scotland is to share information only to the extent to which it is likely to be of use for immigration purposes, police purposes in so far as they are or relate to reserved matters (within the meaning of the Scotland Act 1998) or Revenue and Customs purposes other than the prosecution of crime.

- Section 38 of the 2006 Act introduced a statutory gateway to allow for the disclosure of similar information specified by order to the Security and Intelligence Agencies where the information is relevant to their statutory purposes as specified in section 1 of the Security Service Act 1989 and section 1 or 3 of the Intelligence Services Act 1994.

4.5 The effect of the Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2008 is to specify powers under which information (in respect of international air, sea and rail travel) is obtained or held and matters in respect of travel or freight. Information which is obtained or held under those powers or which relates to the specified matters is the information which is subject to the duty to share under section 36 and the statutory gateway under section 38 of the 2006 Act.

4.6 The Immigration, Asylum and Nationality Act 2006 (Data Sharing Code of Practice) Order 2008 is made under section 37 of the 2006 Act. Section 37 of the 2006 Act created a requirement for the Secretary of State and the Treasury to issue jointly one or more codes of practice about the use of information shared in accordance with section 36(2) of that Act and the extent to which, or form and manner in which, shared information is to be made available in accordance with section 36(6) of that Act. The effect of this Order is to bring that Code of Practice into force on 1st March 2008.

5. Territorial Extent and Application

5.1 These instruments apply to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Home Office Minister of State for Borders and Immigration, Liam Byrne and the Financial Secretary to the Treasury, Jane Kennedy, have made the following statement regarding Human Rights:

In our view the provisions of the Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2007 is compatible with the Convention rights.

6.2 As the two other instruments are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 Whilst the significant increase in global travel has brought great social and economic benefit, it has also brought an increased threat from illegal immigration, organised crime and terrorism. Current UK border control processes will not sustain the increased demands placed upon them. A modernised approach to border control needs to be developed, that uses new techniques, new structures and new technology in order to ensure that information on people and freight crossing the border is captured efficiently by the border agencies and shared between them effectively. The e-Borders system, for which primary legislation was obtained in the Immigration, Asylum and Nationality Act 2006, is crucial to these aims.

7.2 The orders to which this Explanatory Memorandum relates, will create the legislative platform essential to supporting the UK e-Borders programme, improving the use of intelligence and supporting the wider joint working required of the agencies under the Unified Border Force. It will also assist the border agencies in carrying out their functions, enabling them to obtain passenger, crew and service data from sea, rail and air carriers in advance of all movements into and out of the UK, and to receive this data in a form, manner and time at which is necessary for the effective processing of the information.

7.3 e-Borders will underpin a system of intelligent passenger management, that will help us to build a more accurate picture of risk in advance, develop a better understanding of suspect passengers, travel patterns and networks and as a consequence, focus resources on identifying, scrutinising and where necessary intervening against, high risk travellers, whilst facilitating legitimate passenger movement.

Data acquisition

7.4 The data to be requested under the legislation includes both mandatory data, and additional data required only to the extent which it is known to the carrier. The mandatory data requested in the legislation is comprised of Travel Document Information (TDI) which is data held in the machine readable zone of the passport. This is known in the airline industry as Advanced Passenger Information (API) data.

7.5 Other Passenger Data (OPI), which is also known as Passenger Name Record data (PNR) is that collected for a carrier's own commercial purposes and includes details such as passenger's name, address, telephone numbers, ticketing field information, travel itinerary etc. OPI will only be required to the extent to which it is known to the individual carrier, i.e. data collected in the ordinary course of the carrier's business. In practice, this will be data generally held on a carrier's reservation, departure control or equivalent systems. If the carrier does not already collect this data, they will not be required to begin collecting it for the purpose of meeting the requirements of this legislation.

7.6 The data requested under this legislation will be submitted via a single window. This will ensure that carriers will not receive multiple requests for the same data. These powers will also be used to underpin border agencies' ability to request additional data from carriers (not gathered under e-Borders) on a case by case basis, in support of their functions.

7.7 Project Semaphore, the e-Borders pilot, has shown the real benefits to be gained from the capture and analysis of this type of data. Processing at a rate of 30m passengers per annum, Project Semaphore to date has resulted in over 16,500 alerts and 1300 arrests for offences including murder, drug smuggling, rape and assault; and has led to the seizure of counterfeit travel documents, drugs and contraband. In addition, Semaphore has already made a real contribution to the fight against terrorism.

7.8 Semaphore covers fewer than 12% of all routes into and out of the UK (based on current calculations of 250 million passenger movements into and out of the UK per year). The proposed legislation will translate the lessons of Project Semaphore and underpin the e-Borders programme to capture data on 100% of passenger movements.

7.9 e-Borders will also ensure that we will have precise information on numbers and nationalities flowing in to and out of the UK. This information will better inform immigration as well as wider government planning, the Government will, for example, be in a better position to identify those who enter the UK legally but subsequently abuse their status. e-Borders is thus a key step to securing public confidence in the immigration system.

Data sharing

7.10 A key element of delivering closer working between the border agencies is ensuring that information about people and freight crossing the border is shared between them effectively. This will increase their ability to identify individuals who present a threat to the UK and to mount an appropriate, coordinated and proportionate response, whilst facilitating the free flow of low risk individuals through the UK's border controls. The Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2008 now specifies the information that must be shared between the agencies under the provisions introduced in the 2006 Act. This Order will underpin the required data sharing by the agencies in the short, medium and long term under e-Borders and other joint working arrangements involving pursuit of their shared aim of securing the border. The ability to share more freely information about people and freight crossing the border will greatly enhance the operational effectiveness of these joint working activities.

7.11 The travel related information gathered under e-Borders and other border security initiatives and shared by the border agencies may also be useful to the Security and Intelligence Agencies in support of their statutory functions. A statutory gateway to facilitate the passing of passenger, crew and service information in bulk to the Security and Intelligence Agencies for certain security purposes was therefore introduced in the 2006 Act. The Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2008 now specifies the information that may be disclosed to the Security and Intelligence Agencies under the provisions introduced in the primary legislation.

7.12 The Secretary of State and the Treasury will jointly issue a Code of Practice under section 37 of the 2006 Act to regulate the handling and sharing of data under section 36 of that Act. The Code of Practice is being laid before Parliament at the same time as all the above Orders.

Consultation and Guidance

7.13 In 2007, two 12 week consultations with the carrier and ports industry were carried out. Whilst broadly supportive of proposals to strengthen our borders, it is true to say that most carriers are concerned about the impact on their business processes and the resulting capital expenditure.

7.14 However, the impact of e-Borders on carriers must be viewed in a wider context. Carriers will bear only a (relatively small) portion of the overall costs of the e-Borders programme. Overall, costs to industry equate to approximately 14p per passenger movement. Moreover, carriers (the aviation industry in particular) are already supplying data to a number

of countries (and also meeting the associated implementation and operational costs); with other countries planning to require this information in the near future. e-Borders type requirements will affect all long and short-haul carriers in due course even if the UK had not decided to develop such a system. We believe that industry would therefore, still need to spend a sizeable proportion of the costs that they would incur as a result of e-Borders, in order to implement similar international initiatives.

7.15 The e-Borders programme has engaged in consultation with the carrier industry for over three years and remains committed to a continued process of stakeholder engagement throughout the implementation of the Programme. This will ensure that Industry is fully aware of their obligations, and support and guidance on how this can be achieved will be provided.

7.16 The e-Borders supplier will be required to work with carriers to help them to meet their obligations effectively. The supplier will assign staff to work with specific industry groups and carriers to seek to ensure that impacts to their respective business operations are minimised.

7.17 The Government will also continue to engage internationally and in Europe to ensure that they remain fully aware of e-Borders development and to minimise the overall burden faced by industry as they adapt to the growing number of data transmission requirements made by other countries; for example through the encouragement of common global standards for data collection from carriers.

8. Impact

8.1 A Regulatory Impact Assessment was prepared for the 2006 Act. A Regulatory Impact Assessment was also prepared in respect of the Immigration and Police (Passenger, Crew and Service Information) Order 2008 and is attached at Annex A. This includes an account of the legislative and non-legislative options considered and our reasoning for the final recommendation made.

8.2 A Regulatory Impact Assessment has not been prepared for the Immigration, Asylum and Nationality Act 2006 (Duty to Share Information and Disclosure of Information for Security Purposes) Order 2007 or the Immigration, Asylum and Nationality Act 2006 (Data Sharing Code of Practice) Order 2007 as these instruments have no impact on business, charities or voluntary bodies and the cost impact to the public sector is minimal.

9. Contact

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Ian Goswell at the Home Office, Tel: 020 7035 3752 or email: Ian.Goswell@homeoffice.gsi.gov.uk; or

Mark Curtis at Her Majesty's Revenue and Customs, Tel: 0870 267 7936 or email: Mark.Curtis@hmrc.gsi.gov.uk

can answer any queries regarding these instruments.

Department: Border and Immigration Agency	Impact Assessment of provision of passenger, service and crew data by carriers to the UK border agencies.

Stage: Final	Version: November 2007	Related Publications (1) RIA on Data Capture and Sharing Powers for the border agencies (2) Securing the UK Border: Our Vision and Strategy for the Future

Available to view or download at:

(1) RIA for primary legislation: http://www.homeoffice.gov.uk/documents/ria-data-capture211005?view=Binary ; and

(2) Securing the UK Border: Our Vision and Strategy for the Future: www.ind.homeoffice.gov.uk/6353/aboutus/Securing_the_UK_Border_final.pdf

Contact for enquiries: Elizabeth Coley, email: e-Borders.consultation@homeoffice.gsi.gov.uk

What is the problem under consideration? Why is government intervention necessary?

Securing the nation's borders is the first duty of the state. This requires a co-ordinated and coherent cross-government response. A strong border is good for travellers, good for industry, national security and the economy. The exponential growth in global movement of people and goods brings great opportunity for the UK but creates new challenges from international terrorism, organised crime and mass migration. This means re-thinking our traditional understanding of physical frontiers. We need to exploit new technology and develop innovative approaches to managing risk and intelligence. Current UK border control processes will not sustain the increased demands being placed upon them. A new system of border control capable of improving the security, efficiency and effectiveness of the borders needs to be developed in order to process rapidly increasing numbers of travellers; exclude or monitor individuals who could cause harm to the UK; facilitate legitimate travel and meet the future operating requirements of the border agencies. Primary legislation is in place (see evidence base). Government intervention, via secondary legislation, is necessary in order to implement these primary provisions.

What are the policy objectives and the intended effects?

Policy objective - Introduction of secondary legislation to obtain passenger, crew and service data from sea, rail and air carriers in advance of all movements into and out of the UK, and to receive this data in a form and manner necessary for effective processing of the information, whilst offering some flexibility to carriers in the way they transmit data.[1]

Intended effect – To modernise the UK border and in particular to, a) assist the border agencies in carrying out their functions, improve the use of intelligence and support wider joint working demanded of the agencies under the Unified Border Force; b) create a legislative platform to support more effective use of the information available to the agencies through use of the system being developed by the UK e-Borders programme; c) minimise impact on industry and travelling public

What policy options have been considered? Please justify any preferred option.

Options - (1) Maintain status quo (2) Introduce secondary legislation, providing for comprehensive provision of the required data elements in a form and manner and at a time which will support the immediate and longer term needs of the border agencies. A central facility will be established for collection, analysis and distribution of data.

Recommendation: Option 2. This is the only option capable of supporting fully the future needs of the border agencies and of responding to the threats and challenges that the UK border will face. It will also provide a platform for the comprehensive and routine supply of data to the agencies via a "single window" .

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

December 2010

Ministerial Sign-off For consultation stage Impact	**Ministerial Sign-off** For final proposal/implementation stage

[1] Police powers to capture passenger, crew and service information on air and sea journeys within the United Kingdom are subject to a separate RIA, to be issued by the end of 2007.

Assessments: ***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options*** Signed by the responsible Minister: Date:	Assessments: ***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*** Signed by the responsible Minister: Date:

Policy Option 1. Description: Maintain status quo. - Border agencies use existing data capture powers and implement these, separately, on a routine basis where their existing legislation supports this. Carriers can determine within certain parameters how they wish to provide passenger data

ANNUAL COSTS Total Cost (£m Real) **£ 252m** Yrs 2007-2017 **Average Annual Cost** (Real annual including transition cost over 10 years)		Description and scale of **key monetised costs** by 'main affected groups' Government: £191m Industry: £20m	
£ 25m p.a.		**Total Cost** (PV)	**£ 211m**
Other **key non-monetised costs** by 'main affected groups' - Port Authorities will be required to provide additional accommodation for border control agencies. Any increase in time taken checking passengers will have an adverse impact on both the integrity of the border and the attractiveness of the UK as a travel destination.			
ANNUAL BENEFITS One off **£ NIL** Yrs **Average Annual Benefit** (excluding one-off)		Description and scale of **key monetised benefits** by 'main affected groups' No benefit from this option as it represents business as usual.	
£ NIL		**Total Benefit** (PV)	**£ NIL**
Other **key non-monetised benefits** by 'main affected groups' No business change for carriers.			
Key Assumption/Sensitivities/Risks: Passenger growth continues at approx. 3.1% pa. Risk that passenger waiting times increase and therefore impact on carrier throughput or security. By maintaining the status quo, there is a risk that the effectiveness and efficiency of the UK border control functions would deteriorate in relative terms leading to UK border controls could come to be viewed as archaic and a relatively easier target for illegal immigrants and organised crime.			
Price Base Year 2007	Time Period Years 10 years	**Net Benefit Range** (NPV) **£ N/K**	**NET BENEFIT/(COST)** (NPV Best estimate) **£ (211)m**

What is the geographic coverage of the policy/option?	*World-wide*
On what date will the policy be implemented?	*ongoing*
Which organisation(s) will enforce the policy?	Border and Immigration Agency and border agencies
What is the total annual cost of enforcement for these organisations?	£ TBC
Does enforcement comply with Hampton principles?	N/A. Border and Immigration Agency is not one of the Regulators that fall within the scope of the Hampton Principles[2].
Will implementation go beyond minimum EU requirements?[3]	N/A. This proposal does not implement an EU Directive
What is the value of the proposed offsetting measure per year?	£ N/A
What is the value of changes in greenhouse gas emissions?	N/A

[2] Although the Border and Immigration Agency is not one of the regulators falling within the scope of the Hampton review, we would aim to follow the principles in the way we manage compliance with our Regulations.

[3] This section is applicable only to regulations that specifically relate to and transpose EU Directives. e-Borders does not implement the API Directive (this has already been done). According to cabinet office guidance it is therefore appropriate to put N/A in this section.

Will the proposal have a significant impact on competition?						No
Annual cost (£-£[4]) per organisation (excluding one-off)[5]			Micro: Cannot determine	Small: Cannot determine	Med: £2,000	Large: £25,000
Are any of these organisations exempt?			No	No	No	No
Impact on Admin Burdens Baseline (2005 Prices)			**Net Impact**		**£** (Increase - Decrease)	
Increase of	£ NIL	Decrease of	£ NIL		NIL	
			Key:	**Annual Cost: Constant Prices**	**(Net) Present Value**	

[4] Costs displayed in real terms.

[5] The following assumptions were made (for both options). **Large carriers:** All major scheduled aviation (>4m pax pa); All charter aviation; all no frills aviation; All ferrys; All international rail (Eurostar & Eurotunnel); all cruise operators. **Medium:** All minor scheduled aviation (<4m pax pa); all merchant shipping. **Small:** all General Aviation and Leisure craft. We are unable to determine the number of business that operate on international voyages for: Merchant Shipping; General Aviation; Leisure Craft; as such, these numbers are excluded. A Cost Assumption book to be circulated to carriers, provides more detail.

Policy Option 2. Description: ***Introduction of secondary legislation, providing for comprehensive provision of the required data elements in a form and manner and at a time which, will support the immediate and longer term needs of the border agencies. A central facility established for collection, analysis and distribution of data. Referred to in this document as e-Borders.***

ANNUAL COSTS Total Cost (£m Real)	**£ 1,486m**	Yrs 2007-2017	Description and scale of **key monetised costs** by 'main affected groups' Government: £1,078m Industry: £202m Figures reflect both set up and running costs.	
Average Annual Cost (Real annual including transition cost over 10 years)	**£ 149m p.a.**		**Total Cost** (PV)	**£ 1,280m**
Other **key non-monetised costs** by 'main affected groups' – NIL				
ANNUAL BENEFITS Total Benefit (£m Real)	**£327m**	Yrs 2007-2017	Description and scale of **key monetised benefits** by 'main affected groups' Government: £244m UK Economy £7m	
Average Annual Benefit (Real annual including Benefit over 10 years)	**£ 33m p.a.**		**Total Benefit** (PV)	**£ 251m**
Other **key non-monetised benefits** by 'main affected groups: **Industry:** Potential benefit to carriers with reduction in Carriers Liability and removals costs. Improved border security whilst maintaining the flow of passengers. **Government**: Significant improvement in Counter Terrorism (CT) capabilities, efficiencies in detection of crime, immigration and customs offences. Enables delivery of key Government target re passenger movement				
Key Assumption/Sensitivities/Risks: Option 2 will complement the UK counter terrorism strategy and underpin Ministerial commitments about maintaining the integrity of the border, reflecting the emphasis on enhanced joint working between the border agencies. Costs reflect the impact on the UK economy based on the % movement of passengers holding a UK passport.				
Price Base Year 2007	Time Period Years 10	**Net Benefit Range** (NPV) **£**	**NET BENEFIT/(COST)** (NPV Best estimate) **£ (1,029)m**	

What is the geographic coverage of the policy/option?	*Worldwide*
On what date will the policy be implemented?	January 2008
Which organisation(s) will enforce the policy?	Border and Immigration Agency and border agencies
What is the total annual cost of enforcement for these organisations?	TBC
Does enforcement comply with Hampton principles?	N/A. Border and Immigration Agency is not one of the Regulators that fall within the scope of the Hampton Principles.
Will implementation go beyond minimum EU requirements?	N/A. This proposal does not implement an EU Directive
What is the value of the proposed offsetting measure per year?	£ N/A
What is the value of changes in greenhouse gas emissions?	N/A

Will the proposal have a significant impact on competition?					No
Annual cost (£-£) per organisation (excluding one-off) [6]		Micro: Cannot determine	Small: Cannot determine	Med: £36,000	Large: £143,000
Are any of these organisations exempt?		No	No	No	No
Impact on Admin Burdens Baseline (2005 Prices)		**Net Impact**		**£** (Increase - Decrease)	
Increase of	£ 1.2m	Decrease of	£	See above	
	Key:	**Annual Cost: Constant Prices**		**(Net) Present Value**	

[6] Ibid. Costs again displayed in Real terms.

Evidence Base
for Summary Sheets

1. Issue and rationale for Government intervention

Background
The UK is the world's fifth largest economy, a global centre for finance and international business with the biggest transport hub in the world. There were over 200 million passenger movements across the UK border in 2006 and these are rising rapidly. Traffic through airports alone could reach 305m by 2015. International travel brings the UK great economic and social benefit. The people of the UK need to travel abroad for work and pleasure. By the same token, the UK economy and society need business travellers, tourists, students and workers from abroad to, for example, fill gaps in the UK labour market. However, movement on this scale poses challenges:

- The UK's leading role in international affairs makes it a target for international terrorism; and
- The UK's economic stability and relative wealth attract criminals and organised crime groups who seek to use the country as a market for illegal goods such as drugs or to legitimise the proceeds of crime through its global financial institutions.

In response, the UK border system must therefore:

- Process rapidly increasing number of travellers more effectively;
- Keep out or monitor the travel of those individuals who could cause harm to the UK; and
- Facilitate legitimate travel in the interests of the UK's people and economy (for example, through ensuring fewer interventions are made against legitimate travellers).

To do so we need to develop a modernised, effective and secure border control, capable of meeting the future operating needs of the border agencies, travel industry and travelling public. Current UK border control processes will not sustain the increased demands placed upon them. While all services and locations are threat assessed and the level of intervention is already differentiated, the law and current policy requires officers to grant or deny admission and to handle all documents in order to establish identity and entitlements for all passengers.

We will transform immigration controls, bringing together plans for identity cards and electronic border controls, combining biometrics, information and risk assessment to create a triple ring of border security for the UK: overseas, at the border and in the UK.

With biometric visas to help lock down travellers to a single identity, the e-Borders programme will be the second part of our offshore border control and has at its heart

a system of intelligent passenger management. It will focus on the routine and comprehensive capture and analysis of passenger, crew and service data, in advance of all movements into and out of the UK by air, sea and rail. Information captured through the e-Borders programme will help build more accurate pictures of risk in advance, allowing us to build up in a manner consistent with data protection and other legislation a better picture of suspect passengers, travel patterns and networks and as a consequence, focus resources on identifying, scrutinising and where necessary intervening against, high risk travellers, whilst facilitating legitimate passenger movement.

At present each examination takes place in an environment in which the Immigration Officer knows very little about the passenger. e-Borders will provide the technology to improve business processes on the border. The data collected from the carriers will be screened against existing watchlists to identify in advance, those passengers who are of interest to the border agencies. Additional functionality will also provide immigration officers with the tools and capabilities to make more informed decisions, resulting in a more effective, efficient and secure border control which will, in turn, assist in reducing the processing time for all passengers.

The e-Borders pilot, Project Semaphore, operational since January 2005, has shown the real benefits to be gained. Processing at a rate of 29m passengers per annum, Project Semaphore to date has resulted in over 16,500 alerts and 1300 arrests for offences including murder, drug smuggling, rape and assault; and has led to the seizure of counterfeit travel documents, drugs and contraband. Semaphore has already made a real contribution to the fight against terrorism. e-Borders as it develops will expand on this success and deliver the modern border fit for the challenges ahead.

e-Borders as part of Government policy.

The Immigration Asylum and Nationality (IAN) Act 2006 introduced new provisions to strengthen the UK border that permit the border agencies (Border and Immigration Agency, Police and HM Revenue and Customs) to capture passenger, service and crew data and specify the means by which that information is provided to them[7]. These provisions build upon the existing data capture and sharing capabilities of the border agencies and must be implemented via secondary legislation. It is that secondary legislation which forms the subject of this Regulatory Impact Assessment. A list of the secondary legislation required, is set out at Annex 1.

In addition, the Government's commitments on border control, most recently set out in the Home Office strategy paper of March 2007, entitled 'Securing the UK Border: Our Vision and Strategy for the Future' (a link to which is provided on page 1) include that e-borders will cover the majority of passenger movements by 2009 and 95% of all passengers by 2011.

The Prime Minister announced on 14 November a wide range of measures to counter terrorism and strengthen border security, including the establishment of a UK Border Agency. The new Agency will bring together the work of the Border and Immigration Agency, UKvisas and the detection work at the border of HM Revenue & Customs into a single organisation responsible for tackling smuggling as well as immigration control. It will report jointly to the Home Secretary and the Chancellor of the Exchequer on its work at the border – managing the flow of goods and people. The Prime Minister's announcement also foreshadowed further work on the role of

[7] The RIA written to accompany the introduction of primary e-Borders legislation considers the key drivers and issues that have informed development of an e-Borders programme and should be read in conjunction with this further assessment.

policing at the border, to be led by the Home Secretary working jointly with the Association of Chief Police Officers (ACPO) and the Association of Chief Police Officers in Scotland (ACPOS).

This integrated approach signals a step change in the Government's commitment to strengthening border security through joint working and reinforces the essential role that efficient and effective sharing of passenger, crew and freight-related information plays in its delivery. The Government will legislate to create the new agency as soon as Parliamentary time allows.

In addition to the formal review in 2010, this document remains subject to ongoing work as part of our engagement with carrier industry to ensure that dialogue continues around costs and benefits as e-Borders implementation is rolled out.

Two options for taking forward this work have been examined, as described below.

2. The options

Option 1: Maintain Status Quo

Option 1 considers the effects of maintaining the existing arrangements. Under this option, no new secondary legislation would be introduced and no existing secondary legislation amended. Border agencies would be required to use their existing data capture powers and implement these, separately, on a routine basis where their existing legislation permits. Carriers would be able to determine within certain parameters how they wished to provide passenger data.

Agreements for transmission (to one or more of the agencies) of data elements not included in existing legislation would need to be reached between the agencies and industry.

Key Concerns
• Modernisation of border control processes is essential to keep pace with increases in passenger numbers. Any reduction in service standards would have an adverse impact on both the integrity of the border and the potential attraction of the UK as a travel destination. • No co-ordinated approach for handling requests for data from carriers, No platform for a "single window". Multiple requests could be made of carriers for the same information. • Agencies individually collecting and analysing data will lead to duplication of effort and inefficiencies and is not cost effective for Government. • Fails to address the key drivers and issues that an e-Borders programme is designed to deal with. • Significant increases in border agency resources would be required to meet increased passenger numbers at existing or improved border security levels. • Port Authorities will be required to provide additional accommodation for border control agencies. • Limits the effectiveness and efficiency of agencies by failing to provide the data in a form and manner necessary for the agencies to process the data effectively and efficiently.

Key Benefits
• No legislative change required. • No capital investment required by carriers. • Carriers will not have to make changes to their existing processes.

Option 2 – Introduce secondary legislation, which provides for the comprehensive provision of the additional data elements required, in a form and manner and at a time which, along with the introduction of appropriate data sharing provisions, will support the immediate and longer term needs of the border agencies. A central facility established for collection, analysis and distribution of data.

This option provides a legislative platform for the Border and Immigration Agency e-Borders Programme. Secondary legislation will be introduced to enable the border agencies to require the comprehensive and routine provision of passenger, crew and service information from all carriers in a prescribed form and manner.

Further secondary legislation (not subject to this consultation) will facilitate the efficient sharing and joint analysis of data between the border agencies; since these instruments are subject to the affirmative Parliamentary procedure, these additional legislative instruments will be laid before Parliament in advance of, but with a view to coming into force at the same time as, those which form the basis of discussions in this RIA.

A list of the passenger, crew and service data elements required, together with an explanation of those requirements, is attached at Annex 2.

Key Concerns
• Capital expenditure for carriers. • Most carriers will have to make changes to their existing processes. • Potential impact on reservation and check in processes. • Significant initial capital investment required by government. • Significant business process changes for the border agencies.

Key Benefits
• Utilises potential of existing primary legislation and is in keeping with the Government's declared intentions for securing the UK border and will be the second part of our offshore border. • Advanced checking of passenger information would result in more effective processing of the majority of passengers through border controls and improved security at ports, for example through more targeted, specific interventions. • The comprehensive movement record enabled by this option will provide enhanced national security and counter terrorism capability. • The ability to check and analyse passenger movements, will transform Police, HMRC and BIA capabilities to identify, track the movements of and intervene against individuals of interest • For UKvisas, the passenger movement records (producing visa compliance data), automated visa application checks against the multi-agency watch-lists and the provision of enriched check results will enable more efficient and informed decision-making. • Where an individual is of interest to more than one agency, primacy for handling cases will be established. • Streamlines/clarifies for industry the current arrangements for General Aviation and small ports. • Provides a common platform for a "single window", meaning that carriers need only provide passenger data to the border agencies once. Such information

will be provided routinely and electronically, thus allowing the data capture and provision process to be absorbed into the normal working practices of the carrier.

- Reduces the potential incremental cost of future compliance with similar requirements imposed by other states.
- Potential benefit to carriers with reduction in Carriers Liability (CL) and removals costs. The ability of carriers to provide evidence that passengers appeared properly documented at the start of their journey will help them avoid the imposition of a CL charge, for example, an Airline Liaison Officer, using e-Boc data, may advise carriers of an individual in possession of suspect documents, leading to a decision by the carrier not to carry. This would reduce the incidence of detention and removal costs for carriers[8]
- In addition the future service of Authority to Carry (ATC) will aid carriers in preventing passengers who clearly do not qualify for admission from travelling, again resulting in a reduction in the incidence of detention and removal costs.
- Improved efficiency within the border agencies and support wider joint working demanded of the agencies under the Unified Border Force.

[8] Semaphore alerted an ALO to individuals on separate bookings routed to Spain via Heathrow. Two weeks earlier, a similar group had been intercepted at Heathrow and had been found to have forged documents in their possession. Two were found to be in possession of forged documents and a third was suspected of being a facilitator. All three were offloaded. The fourth individual was located later when he attempted to board a flight to the UK. He was offloaded. As a result of the action taken these individuals did not reach the UK and the carrier did not incur detention and removal costs.

3. Detailed analysis

The introduction of an e-Borders programme marks a fundamental change to UK border control. This will have cost implications, principally for Government but also for carriers. The Government's position on costs (under Option 2) is:

- The Government will fund the elements of an e-Borders solution, which will encompass the e-BOC (e-Borders operations centre), its staff, system changes at the primary line and the mechanisms to receive and process data transmitted from the carrier systems.

- Industry will bear the costs associated with changes to their systems and infrastructure, data collection and extraction and data transmission costs.

The Home Office has undertaken a detailed cost analysis of each industry sector. Based on the engagement to date with that industry and experience from Project Semaphore, the Home Office has developed a series of **costed assumptions** to form the basis for this analysis.

The estimate of costs to carriers was compiled after the Final Invitation to Negotiate (FITN) was issued to bidders and prior to the completion of the evaluation of their Firm Price Responses. Moreover, we acknowledge that solutions for particular parts of industry, for example, general aviation, have not yet been developed fully and consequently definitive costs cannot yet be stated. In this context therefore, the costs to carriers set out below are illustrative but not definitive.

The cost assumptions document has, for reasons of **commercial sensitivity**, been shared only with carriers and only in hard copy only. It will not be published with this RIA.

For reasons of clarity however, it can be stated that cost assumptions have been based on:

1. Experience with Project Semaphore;
2. Ongoing discussions between the e-Borders programme and industry;
3. Published travel schedule information;
4. Recognised publicly available statistics (e.g. CAA, DfT etc.);
5. Published statistics from carriers' own websites.

The results of this analysis are described in the sections below.

Costs to industry

Option 1

Under Option 1, the carriers will be obliged to continue to service ad-hoc data requests from the UK government agencies. This might be in the form of responding directly to specific requests or providing system access to the border agencies. In either case, the industry will continue to incur costs. This is estimated to be in the

region of £3.5m[9] per annum at current price levels. Current UK border control processes will not sustain the increased demands placed upon them which will inevitably impact on the carrier industry.

In addition under this option, Project Semaphore will continue to require passenger information from carriers at current levels. The Home Office has been providing funding to the carriers towards the costs incurred. This amounts to £120,000 per annum, based on FY 2006/7 costs.

Whilst Option 1 maintains the status quo, industry will still need to spend a sizeable proportion of the e-Borders costs (as set out in Option 2 below) in order to implement similar international initiatives. The European Commission has recently brought forward a proposal to place obligations on carriers entering the EU to provide PNR data[10]. As the number of other international schemes is growing rapidly it is envisaged that, over the lifespan of e-Borders, a significant proportion of the capital costs would still be incurred, as well a high proportion of the variable costs. However it is difficult to put a monetary value on the cost of system changes that would still be incurred. The majority of major air carriers have already put in place the necessary changes to meet similar data requirements of other countries which include The USA, Canada, Australia, Thailand, Costa Rica, Japan, Mexico the UAE and Spain. These Carriers will be further engaged to assess the level of expenditure that has already been incurred.

[9] This cost estimate has been derived from information supplied by a representative sample of carriers to create an average cost per passenger of £0.015 and scaled accordingly. At this stage in the procurement process and for reasons of commercial sensitivity, we are unable to provide a breakdown of costs.

[10] http://ec.europa.eu/justice_home/doc_centre/terrorism/docs/com_2007_654_en.pdf

Option 2

The calculations for Option 2 have been derived by analysis of the potential ways in which the different industry sectors may choose to implement their obligations as set out in this legislation. These options, and estimated costs, are based on continuous industry engagement and current trials with Project Semaphore. The cost estimates take into account the proposed implementation timescales, with an industry roll-out aligned with the e-Borders requirements. Inflation is also taken into account. Other sources of information include CAA Statistics, published schedule information and carriers' own published figures.

The table below sets out estimates of the total real costs incurred by the carrier industry with regard to Option 2. Total passenger movements start at 238 million per year in 2007 and grow to 313 million by 2016[11]. This equates to a compound growth rate of 3.1% per annum over 10 years and to approximately 14 pence per passenger movement, (£393m / 2.7bn passenger movements over 10 years).

A document outlining the breakdown of these calculations (including a breakdown of the admin burden) has been circulated to Industry separately and in hard copy only, due to commercial sensitivity of the data contained therein.

Individual Industry Costs		**10 Year Real Cost (£m, unless otherwise stated)**				
Aviation Industry Costs:		Capital Investment	Total Running Cost – 10 Years	UK Proportion of Capital Investment	UK Proportion of Running Cost – 10 Years	Average Cost Per Passenger Movement
General Industry	£ m	£5.5 m	-	£3.4 m	-	-
Major	£ m	£24.8 m	£169.4 m	£15.3 m	£104.3 m	£0.15
Minor	£ m	£10.7 m	£38.9 m	£6.6 m	£24.0 m	£0.35
No Frills	£ m	£7.4 m	£26.2 m	£4.6 m	£16.1 m	£0.05
Charter	£ m	£3.7 m	£39.7 m	£2.3 m	£24.4 m	£0.17
General Aviation	£ m	£0.2 m	£3.6 m	£0.1 m	£2.2 m	£0.43
Total	**£ m**	**£52.3 m**	**£277.8 m**	**£32.2 m**	**£171.1 m**	**£0.14**
Maritime Industry Costs:						

[11] The Future of Air Transport Progress Report 2006 (DfT)

Ferry	£ m	£10.1 m	£19.9 m	£6.2 m	£12.3 m	£0.13
Cruise	£ m	£6.3 m	£8.5 m	£3.9 m	£5.3 m	£1.98
Merchant	£ m	£1.0 m	£2.3 m	£0.6 m	£1.4 m	£0.75
Leisure	£ m	£0.2 m	£0.4 m	£0.1 m	£0.3 m	£6.31
Total	**£ m**	**£17.5 m**	**£31.2 m**	**£10.8 m**	**£19.2 m**	**£0.20**
Rail Industry Costs:						
Eurostar	£ m	£1.3 m	£9.2 m	£0.8 m	£5.6 m	£0.15
Eurotunnel	£ m	£0.3 m	£3.3 m	£0.2 m	£2.1 m	£0.04
Total	**£ m**	**£1.6 m**	**£12.5 m**	**£1.0 m**	**£7.7 m**	**£0.09**
Total	**£ m**	**£71.5**	**£321.5**	**£44.0**	**£198.1**	**£0.14**

The table below outlines how the costs are have been allocated between the provision of OPI, passenger TDI and crew TDI.

Industry Costs					
	Units	Capital Investment	Total Running Cost - 10 Years	UK Proportion of Capital Investment	UK proportion of Running Cost - 10 years
OPI					
Aviation	£ m	6.6	40.6	4.1	25.0
Maritime	£ m	4.3	6.8	2.7	4.2
Rail	£ m	0.1	1.3	0.1	0.8
TDI					
Aviation	£ m	38.6	232.8	23.8	143.4
Maritime	£ m	9.3	18.8	5.7	11.6
Rail	£ m	1.3	11.1	0.8	6.8
Crew					
Aviation	£ m	7.1	4.4	4.4	2.7
Maritime	£ m	3.9	5.6	2.4	3.5
Rail	£ m	0.1	0.2	0.1	0.1

Total					
Aviation	£ m	52.3	277.8	32.2	171.1
Maritime	£ m	17.5	31.2	10.8	19.2
Rail	£ m	1.6	12.5	1.0	7.7
Total	**£ m**	**71.5**	**321.5**	**44.0**	**198.1**

It should also be recognised that many of the required technology changes may also bring about business process improvements within carriers' organisation, such as moving away from costly manual processes. Some of these benefits may help offset some of the carrier costs.

The e-Borders Programme has engaged in consultation with the carrier industry for over three years and remains committed to do so through the implementation process. We will work with carrier industries to design solutions for e-Borders which are workable and effective in their individual environments. We are taking care to ensure that this implementation does not adversely affect carriers as part of our wider effort to consider the sum impact of our policies on industry.

Moreover (and irrespective of e-Borders), as the use of self-service check-in methods become increasingly popular across all sectors of the carrier industries, the carriers' total labour costs (for example - staffing at check-in desks) may decrease significantly. The impact of future trends over the next ten years in self-service check-in arrangements, and the resulting savings to industry in terms of labour costs, are estimated only conservatively in this cost analysis. Consequently the future estimated impact of the cost of e-Borders to industry (particularly in respect of labour costs) is towards the top end of the scale. It should also be noted that the growing trend for passengers to provide their details/check-in online will provide significant assistance (with associated cost savings) to carriers in respect of collecting and transmitting data to e-Borders.

As stated, costs also need to be viewed in the wider context of other international initiatives. Carriers (the aviation industry mainly) are coming under increasing pressure from other nations to supply similar data and to meet the associated implementation and operational costs. The UK actively engages in international and European discussions to develop common global standards for data collection from carriers. Where possible, we will seek to encourage the harmonisation of international processes to negate further cost to industry and to facilitate ease of implementation.

Costs to Government

The table below presents the break down between set-up and running costs of the two options.

10 Year £m Real	Option 1	Option 2
	£m	£m
Government		
Set-Up	(71)[12]	(534)
Running Costs	(157)	(710)
Total	**(228)**	**(1,244)**
Industry		
Set-Up		(44)
Running Costs	(24)	(198)
Total	**(24)**	**(242)**
Gov. + Industry		
Set-Up	(71)	(578)
Running Costs	(181)	(908)
Total	**(252)**	**(1,486)**

The figures provided here are indicative. A further breakdown is not possible at this stage due to the commercial sensitivity of contract negotiations. Following contract award, it may be possible to include a more detailed breakdown of Government costs.

Benefits to Government

The flow of data from e-Borders will provide the security, intelligence, and law enforcement agencies with a new capability to strengthen our border and support operations elsewhere. It will transform our borders, delivering major improvements in security, effectiveness and efficiency, enabling us to capture information on individuals before they travel to or depart from the UK.

This will enhance the security of the UK by identifying in advance passengers who present a risk by:

- alerting us to exactly who is seeking to cross our borders, checking them against watchlists on entry and departure (taking action as appropriate); enabling this flow to be managed and controlled in a targeted intelligence led manner. For those passengers of interest who are checked and allowed to travel we will learn in due course when they next cross the border.
- providing a multi-agency operational capability with a co-ordinated and integrated approach; and
- identifying potential threats to public security, and enabling the necessary action to be taken to deal with them.

It will enhance the operational effectiveness of UK border control operations and:

[12] The set-up costs for Option 1 relate to the capital costs for refreshing legacy systems

- allow us to direct our border control officers, customs and police officers to focus on those who present a threat and improve overall coverage of the border;
- improve our ability to apprehend immigration offenders and criminals; and
- provide detailed movement records to support the fight against those who, for example, falsely state their residence status to abuse the tax, benefits and NHS system.
- facilitate legitimate travel in the interests of the UK's people and economy (for example, through ensuring fewer interventions are made against legitimate travellers).

It will support more efficient management of core agency resources utilised on border control activity by:

- enabling us to move more people through our borders and manage the 50% increase in passenger numbers forecast over the next 10 years; and
- automating manual and resource intensive processes such as the collection and processing of landing cards and greater access to databases and case records to verify identity and eligibility.

Unquantifiable benefits

The deterrent effect of strong border security cannot be quantified easily, but it is very real. The information provided by e-Borders will contribute significantly to our security, to our intelligence capacity and to our border control activities. It will provide a comprehensive record and a dynamic picture of all those seeking to enter and leave the United Kingdom. The contribution that this will make to public confidence in the security and effectiveness of border controls is very significant.

The substantial security benefits cannot be measured easily in purely numerical terms. However, the estimated property damage arising from the "9/11" attacks on New York amounted to $10bn - $13bn and human capital losses at about $40bn[13]. The economic cost to the UK of the terrorist attack on 7th July 2005 has been estimated at over £2bn[14]. Clearly any contribution e-Borders will make to reducing the risk of such attacks will be of significant value.

As other countries such as the USA, Australia and EU partners take similar measures to secure their borders, it is essential that the UK does not allow itself to fall behind if it is to avoid being seen as a soft target for immigration abuse, international crime and terrorism.

Whilst many of these benefits cannot be financially quantified, there is experience to draw on. Project Semaphore, as an operational pilot, has provided for the first time the ability to monitor the movements of passengers before they leave or arrive in the United Kingdom on selected routes.

The Joint Border Operations Centre (JBOC), which is the operational hub of Project Semaphore, managing the data captured and generating alerts to the border security agencies, has to date issued more than 16,500 alerts to all agencies. These alerts have resulted in more than 1300 arrests for crimes including murder, rape and assault. In addition to arrests, alerts have enabled the offloading of passengers who

[13] Milkin Institute
[14] Centre for Economics and Business Research

would not qualify for entry, saving detention and removal costs. Alerts have led to the seizure of many false documents, and of significant quantities of smuggled tobacco, and drugs (see annex 3 for details of Semaphore arrests/interventions and individual case studies).

e-Borders will also enable the interception at the border of those suspected of committing a crime, thus avoiding lengthy, expensive extradition proceedings - in 2006 there were 91 people extradited to the UK from overseas.

More widely, e-Borders will enable the Government to enforce a whole range of court orders restricting travel outside the country and enable more informed decisions to be made on bail decisions. This data may also be used evidentially for a number of purposes, including for example, in respect of children taken out of the UK/brought into the UK in breach of custody arrangements. The Central Authority for England and Wales, which is responsible for all cases of international child abduction that fall within the scope of the Hague Convention on the Civil Aspects of International Child Abduction (1980), recorded the following statistics of children taken out of, or brought into the UK, in breach of custody arrangements between 2004-2006:

Number of recorded, new cases of children being taken from/brought into the UK in breach of custody arrangements

Year	Children taken from the UK in breach of custody arrangements	Children brought to the UK in breach of custody arrangements
2004	155	158
2005	159	166
2006	153	191

In such cases, the e-Borders passenger movement record will help to identify when the child arrived in or left the UK, the port of departure/arrival and any individuals that the child was travelling with.

Improved data on migration will help support improved planning of Government, local authority and third sector services and contribute to ensuring joined up delivery of services.

In addition, the requirement that data be sent electronically, and in advance of travel, will simplify and improve the border agencies' ability to monitor and where necessary, intervene against movements into and out of the UK from small air and sea ports, with significant efficiency and cost savings to Government.

Quantifiable benefits

The centralised structure, as proposed in option 2, would strengthen significantly the capabilities of the border agencies and bring far greater benefit to Government than can be provided under existing border control processes. The table below sets out indicative estimates for the quantifiable benefits that option 2 may bring. The delivery of benefits is conditional on deployment of e-Borders – they will be reviewed as additional functionality is rolled out.

The assessment of passenger information in advance will enable border control to process more passengers more efficiently. This will bring both resource savings to

Government and time savings to passengers. It also provides the platform for automated clearance of passengers, which would bring significant further savings to Government and allow an enhanced service, in terms of both speed of processing and security, to be provided to passengers.

e-Borders will centralise the watchlist checking capability for UKvisas. This will bring quicker and more informed decision-making capability for UKvisas by:

- Providing faster check results and enriched information for decision-making;
- Using the travel history information, detailing previous travel to/from the UK, as compliance information to inform risk assessment, strategy development and decision-making.

Benefit	**Estimated value (over 10 year npv)**
Centralising e-Borders systems will result in more efficient checking of passengers producing efficiency savings by reducing average clearance times of non EEA passengers (13% of total) from 70 seconds to 50 seconds).	£32m
Elimination of processing costs for landing cards	£6m
Efficiencies in processing applications for extensions of stay and naturalisation.	£1m
Cross border fraud reduction[15]	£130m
UKvisas and Police[16]	£68m
Benefit to the UK economy through reducing average clearance times of non EEA passengers (13% of total) from 70 seconds to 50 seconds	£7m
Other benefits[17]	£7m
Total	**£251m**

There are other areas where e-Borders will have an impact and provide significant savings for the Government. Excise duties contribute in excess of £38bn per annum to the Exchequer of which £7.6bn is accounted for by tobacco duties. The losses due to smuggling and fraud are also significant at approximately £3.75bn per annum. This represents a drain on legitimate traders and a loss of revenue that could be used for investment in public services.

[15] Benefits as set out in the evidence base, include identifying those who falsely claim non –domicile/non resident status to avoid UK income tax, or who claim non-exportable social security benefits.
[16] Benefits include automated watch list capability for UKvisas; operational efficiency gains for the police (see annex 3)
[17]The creation of a passenger movement record will help prevent resources being directed to individuals who have left the UK. Benefits of the movement record include, for example, reductions in asylum support costs, more efficient deployment of immigration enforcement resources and more efficient handling of appeals cases.

The table below summarises the excise duty receipts, and estimated revenue evaded by smuggling and fraud in 2003/04[18].

	Excise duty receipts 2003-4	Latest Estimate of revenue evaded
Cigarettes	£7,634m	£1,900m
Hand rolling tobacco	£297m	£750m
Other tobacco	£162m	n/k

Whilst the majority of cigarette smuggling involves large-scale organised smuggling in freight vessels, there are significant amounts brought in by passengers. The smuggling of hand rolling tobacco is almost exclusively undertaken by passengers, both air and sea – the illicit market share for hand rolling tobacco has been above 50% of the market for each year since estimates have been available. The ability to check watchlists systematically for known tobacco smugglers and analyse the movement patterns of suspected traffickers will assist in disrupting this activity. Once again any inroad that e-Borders can provide into preventing fraud of this magnitude will have a significant impact on the tax gap.

The impact on legitimate traders of tobacco smuggling and the need to protect society from organised crime is also significant – the Select Committee Report[19], for example, states that the average independent retailer is losing about £25,000 pa in turnover as a result of tobacco smuggling. The social impact is also of concern; tobacco smugglers have no qualms about selling to minors.

e-Borders will also provide a single, definitive record of the conditions attached to entry of a foreign national. This will enable other Government departments and agencies to ascertain the entitlement to public services more effectively than at present. It is currently estimated, for example, that health trusts are owed in excess of £9m in respect of treatment provided to foreign nationals who have subsequently left the UK without payment.

e-Borders data will enable easy identification of those who falsely claim non domicile or non resident status to avoid UK income tax or who continue to claim non-exportable social security benefits despite having left the country. Ascertaining the size of the tax gap is problematic, but it is estimated to be around £2bn per annum. Although the impact of e-Borders in countering this fraud has yet to be quantified the benefit of even a small reduction is significant.

Whilst not a key e-Borders priority, e-Borders could also contribute to compliance on fine enforcement, if provisions were issued prohibiting travel overseas whilst fines remained unpaid and confiscation orders undischarged. There are totals of £487m in outstanding fines[20] and £300m in unpaid confiscation orders[21]. It is important to note that in order to minimise the number of interventions at ports, in this context, the police will be mounting an awareness campaign in partnership with other parts of government and the Courts to encourage discharge of fines and will use the data collected through e-Borders to support enforcement activity at ports and elsewhere.

[18] House of Commons - Treasury Committee Excise Duty Fraud Fourth Report of Session 2004–05 (HC 126) 15 March 2005
[19] Ibid.
[20] Data supplied by HM Court Service and made up of a combination of fines that are in arrears and fines that are being paid off as part of a payment plan.
[21] HO JARD and HMCS data'

Key benefits to carriers and ports

The table below demonstrates that option 2 is of benefit to carriers. It should be noted however that the benefits described cannot be quantified (with the exception of landing cards) with any degree of accuracy at this stage.

Benefit	**Delivered by option 1**	**Delivered by option 2**
Ability to identify and request that carriers do not carry passengers who clearly do not qualify for admission to the UK. The ALO network, for example, can advise carriers on individuals identified by e-Boc as, for example, inadequately documented. This may yield savings in respect of carriers' removal and detention costs.	No	Yes
Reductions in the number of ad-hoc enquiries, to carriers, from control authorities in respect of historical passenger data. (Mainly a benefit for aviation)	No	Yes
Small savings to carriers as a result of no longer needing to procure, transport, store and distribute landing cards. Staff time will also be freed up as they will not have to distribute the cards to passengers. This will be fully realised once roll out it complete.	No	Yes
Improved security climate will reduce the costs of risk mitigation incurred by port operators and recovered by them from carriers.	No	Yes
Facilitate more efficient use of border agency staff, which will also potentially permit a slowing of the growth of the Trader Provided Free estate at ports relative to the increase in passenger numbers[22].	No	Yes
The service standards (currently set at 45 minutes for non-EEA and 25 minutes for EEA nationals) that option 2 makes possible will contribute to maintaining the UK as an attractive travel hub and destination.	No	Yes

[22] The current review of trader provided accommodation will build on the work undertaken by the border management programme to rationalise the accommodation provided by the port authorities.

Additional benefits

The e-Borders programme continues to engage actively with all sectors of industry that will be impacted by e-Borders. It is recognised that industry are major stakeholders in the programme and their support and input is essential.

The e-Borders programme remains committed therefore to working with carriers and ports to identify any further viable benefits that may help ease the burden that e-Borders will impose.

Additional ideas relating to potential benefits have been put forward by the industry as part of the e-Borders programme's continuous consultation process. The e-Borders programme has listened to and captured these ideas from industry with a view to examining how they could be incorporated into the programme. The centralised structure provided by option 2 facilitates exploration of the following:

- The possibility of e-Borders maintaining a form of centralised 'disruptive passengers' list that can be shared with carriers.

- Provision of anonymised statistical data that carriers or ports could use for commercial purposes. Any provision of such data would be subject to strict commercial confidentiality. Competition and data protection issues would need to be considered carefully.

- An enhancement to the 'Travel Document Information' (TDI) submission process and an Authority To Carry message with extra data relevant to the carrier regarding the passenger, for example whether a passenger requires a visa, the validity of a visa, and the acceptability of a travel document.

- An enhancement to the TDI submission process with a validation of submitted TDI by e-Borders to help prevent the submission of false or incorrect TDI.

In addition compliance with the e-Borders requirements could be the driver behind widespread adoption of biometric technology in the industry. Some carriers have suggested that biometrics could be used as the basis of a fast track or trusted passenger scheme that would allow enrolled passengers to move quickly through security and immigration, and could be combined with premium services and offers from carriers and the ports. It should be noted that the introduction of biometrics linked to TDI does not form part of current plans. Carriers would be consulted should such a proposal be taken forward.

The e-Borders requirements could also drive faster adoption of technology that may make the processing of passengers by some carriers more efficient. The collection of TDI could replace processes that the carriers are obliged to do at present and make those processes more efficient. These requirements are likely to make the automation of check-in viable in a wider range of circumstances than is available to present.

The e-Borders programme will continue to engage with carriers to identify opportunities for improved efficiency and cost savings in all systems along with wider business benefits. Other areas of the border agencies are also looking to consult carriers on a range of issues, for example the Border and Immigration Agency review of carriers' liability.

4. Recommendation.

Recommendation	
Option 1	This option allows for limited use of passenger data from the carriers and satisfies some short term requirements but does not provide a firm foundation for an efficient, integrated, intelligence-led control. It would also mean that the primary legislation already in place would not be fully implemented and would sit on the statute book unused.
Option 2	This option supports the short and long-term data acquisition and sharing requirements of the border agencies, and provides a platform for a "single window" through which data will be supplied. It provides the foundation on which an integrated secure border for the 21st century can be built.
Recommendation: That option 2 be pursued. The routine and comprehensive acquisition of data from all carriers is essential to the future, effective management of the UK's borders. Option 2 provides an effective, long term solution aimed at tackling the key challenges facing the border agencies e.g. migration pressures, the increased security threat, the predicted rise in travellers to the UK, the need to facilitate the arrival of low risk passengers and the need for closer integration of the border agencies. A growing number of other countries are introducing, or are looking to introduce, comparable schemes. Should the UK not introduce an e-Borders programme, it may, in time, come to be viewed as a relatively easy target for illegal immigrants and organised crime groups. An implementation plan for option 2 is set out at annex 4.	

Specific Impact Tests - Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

See annex 5 for details.

Type of testing undertaken	***Results in Evidence Base? (Y/N)***	***Results annexed? (Y/N)***
Competition Assessment	*N*	*Y*
Small Firms Impact Test	*N*	*Y*
Legal Aid	*N*	*Y*
Sustainable Development	*N*	*Y*
Carbon Assessment	*N*	*Y*
Other Environment	*N*	*Y*
Health Impact Assessment	*N*	*Y*
Race Equality	*N*	*Y*
Disability Equality	*N*	*Y*
Gender Equality	*N*	*Y*
Human Rights	*N*	*Y*
Rural Proofing	*N*	*Y*

Annex 1 – List of new Orders and changes to existing secondary legislation required to support the e-borders programme.

Data acquisition[23]

Overall purpose	Action required	Effect
Data acquisition	An Order under paragraph 27(2) of Schedule 2 to the Immigration Act (IA) 1971, as amended by section 31(2) of the Immigration Asylum and Nationality (IAN) Act 2006	The Order will provide an immigration officer with the power to require a carrier to provide a passenger list and particulars of crew in respect of a ship or aircraft arriving or departing the UK and will specify the particulars of crew that can be requested and the form and manner in which that information is to be provided. It will also cover trains arriving and departing the UK via the Channel Tunnel by virtue of a modification made to paragraph 27 by order under the Channel Tunnel Act 1987. The existing 1972 order will be revoked.
Data acquisition	An Order under paragraph 27B (9), (9A) and (10) of Schedule 2 to the IA 1971 as inserted by section 18 of the Immigration and Asylum Act (IAA)1999 and amended by section 31(3) of the IAN Act 2006.	The Order will specify the passenger and service information which an immigration officer may require from the owner or agent of a ship or aircraft arriving or expected to arrive in or departing or expected to depart from the UK. The new Order will add to the list of data elements already specified in the existing Immigration (Passenger Information) Order 2000. A link to the existing 2000 Order is below. The proposed data elements to be included in the new Order are at Annex 2. http://www.opsi.gov.uk/si/si2000/20000912.htm
Data acquisition	An amended Direction made under paragraph 27B (8) (a) of Schedule 2 to the IA 1971 as inserted by section 18 of the Immigration and Asylum Act (IAA) 1999.	The Direction will specify the form and manner in which passenger and service information is to be provided to the Immigration Service under paragraph 27B.
Data acquisition	An Order under section 32(5)(a) of the IAN Act 2006 as amended by section 14 of the Police and Justice Act 2006.	The Order will specify the passenger, crew and service information which the Police may require from the owner or agent of a ship or aircraft arriving or expected to arrive in or departing or expected to depart from the UK (including those that arrive from/depart for another place in the UK). The Order will also specify the form and manner in which such data is to be provided. The proposed data elements to be included in the Police Order are

[23] It is likely that a single data acquisition order will be made under paragraphs 27 and 27B of Schedule 2 to the 1971 Act and section 32 of the IAN Act 2006.

		at Annex 2.
Data acquisition	Commissioners Directions dated 18 October 2001, made under s.35 of the Customs & Excise Management Act 1979 (as amended by s.35 of the IAN Act 2006) and s.64 of the Customs & Excise Management Act 1979	The Commissioners Directions specify the information required to be provided to HMRC by the owner or operator of a ship, aircraft or through train on the persons carried and the service they are carried on, arriving in and departing from the UK. The amended Directions will specify provision in advance of arrival/departure and the form and manner in which such data is to be provided (which will be electronic).
Data acquisition	An Order under the Channel Tunnel Act to apply and modify the relevant data acquisition and sharing powers to trains entering and leaving the UK via the Channel Tunnel.	The Order will enable all the relevant data capture and sharing powers to be applied in respect of through trains and shuttle trains. A number of the acquisition powers already apply to such trains.)

Data Sharing

(Please note that the data sharing Orders set out below are not the subject of this consultation with Industry.)

Data sharing	An Order under section 36(4) of the IAN Act 2006	The Order will specify a number of data acquisition powers and matters in respect of travel or freight. Information collected or held by the border agencies under those powers or in respect of those matters will be subject to the obligation to share between the border agencies.
Data sharing	An Order under section 37(2) of the IAN Act 2006	The Order will bring into force the code of practice on data sharing, which will regulate the handling and sharing of data subject to the duty to share. The purpose of the code is to ensure legitimate, fair and proportionate data sharing by the border agencies in accordance with their data protection and human rights obligations.
Data sharing	An Order under section 38 (4) of the IAN Act 2006	The Order will specify a number of data acquisition powers and matters in respect of travel or freight. Information collected or held, by the border agencies under those powers or in respect of those matters is information which may be disclosed to the Security and Intelligence Agencies where likely to be of use for certain purposes. The specific persons to whom information may be disclosed are listed in section 38 (3) of the Act and are the Director-General of the Security Service; the Chief of the Secret Intelligence Service; and the Director of the Government Communications Headquarters.

Annex 2

Summary of data requirements.

Data to be required

Broadly speaking, for the police and the Border and Immigration Agency, the data falls into two categories:

- that which must be provided by a carrier and;
- that which must be provided by the carrier, but only to the extent that it is known to the carrier. In practice, OPI data will be routinely requested from carrier reservation and departure control systems in respect of the aviation industry; and from comparable maritime/rail systems.

Passenger data

Information that must be provided is that contained in the passenger's travel document (known as TDI)[24]. Where a passenger does not hold a travel document, the type of identification relied upon together with the number, expiry date and issuing State of that identification must be provided. The registration mark of any vehicle and any attached trailer in which the passenger is travelling and which is being carried on a service/voyage is also required. The information that must be provided to the extent that it is known is comprised of other passenger information (OPI) collected by a carrier for its own commercial purposes. These requirements reflect both the shorter-term, non e-Borders, requirements of the agencies and ensure that there is a legal basis for obtaining certain additional information, on a case by case basis should the need arise.

Where separate data messages relating to the same passenger are sent to e-Borders, the secondary legislation will require that carriers provide a means by which the e-Borders system may link the different sets of information. Linkage might be achieved, for example, by use of a common field providing an identifier unique to a particular passenger. Carriers have highlighted, and the programme has recognised, the different technical systems operated across the industry. Therefore the e-Borders supplier has been required to work with companies to identify the most effective solution.

Crew data

Travel document information will be required routinely. Where a member of crew does not hold a travel document, the type of identification relied upon together with the number, expiry date and issuing State of that identification must be provided. The registration mark of any vehicle and any attached trailer in which the member of crew is travelling and which is being carried on a service/voyage is also required. BIA may also require the carrier to provide information as to the number of crew on board, the fact that a person is a member of crew and the place of birth and rank of a member of crew. Carriers will also be required to distinguish crew data from passenger information relating to the same service. We will continue to explore with carriers how best this obligation might be met and refine our thinking and legislative requirements as appropriate. The information listed for sea crew reflects the content of current legislation as well as future, e-Borders, requirements.

[24] Also referred to in the aviation industry as 'API'

Service data
In order to prioritise and act upon alerts generated following the receipt of crew or passenger data, border agencies must have details of the service on which the person is arriving or departing. The service data elements listed in this annex will be required routinely under e-Borders arrangements and must be provided by a carrier when sending both passenger and crew information.

HMRC

It should be noted that HMRC will not be introducing any requirement for additional data items under the IAN legislation given that HMRC is already able to require extensive passenger data in so far as it is collected by the carrier in the ordinary course of business or held in the passenger reservation system, departure control system or equivalent. HMRC will therefore simply be amending its Commissioners Directions to make mandatory the advance provision of the data that it is already empowered to require. In support of a coordinated BMP/e-Borders approach, HMRC will also be amending their Directions to require the data to be provided in an electronic format to the extent that the carrier is reasonably able to comply. This change does not require primary legislation to support it but in the interests of consistency and minimising impact on the trade it will be introduced at the same time as the IAN legislative changes.

Timing

The ability to obtain the required data in advance of travel is key to a) allowing the border agencies to identify and take appropriate action against known individuals who present a risk, and b) risk assessment analysis. Carriers will be required to provide information at various points during the travel process; the main obligations falling at between 24 and 48 hours prior to departure, at check-in and on departure.

Form and Manner of data transmission

Carriers will be required to provide data in a form and manner which facilitates the effective and efficient processing of the information by the border agencies. Essentially, this means:

- Carriers will be required to provide data a) electronically and b) in a particular form via one of a number of specified technical interfaces, that are intended to be offered by the agencies in order to provide some flexibility and thus minimise impact[25]. It is anticipated that carriers will transmit reservation data direct from the reservation systems using existing service providers or, using virtual private networks, over the internet[26].
- Carriers will be required to provide Travel Document Information relating to a passenger's or crew member's identity and nationality as contained in a travel document, including travel document number, name, nationality and date of birth.
- Carriers will be required to provide the same elements of Travel Document Information (TDI) for all passengers and crew on all routes in to and out of the

[25] Examples of the kind of interfaces which may be used are system to system or web interfaces.
[26] The potential interfaces have been discussed during the consultation with industry. Air carriers have indicated that they would wish to have the option of using existing service providers or of using the internet. They are also keen to see e-Borders requirements reflect international messaging standard formats such as UN EDIFACT PAXLST, UN EDIFACT PADIS and XML. In general, ferry operators' systems are not currently set up to provide the kind of data to be required under e-Borders arrangements. Their IT systems are diverse, each being unique to an individual carrier. One common factor is, however, the ability of all operators with whom we have had contact to use the XML format for data transmission. The formats and methods of data transfer described above will be supported by the e-Borders system and the legislation under development will reflect this approach.

UK[27].

In order to cater for the period prior to full e-Borders roll out and for exceptional circumstances which may arise in the short and longer term, e-Borders intends to build in sufficient flexibility to its requirements so that data may be provided by other means where this is authorised. Such means are likely to include facsimile, verbally or otherwise electronically where this is expressly authorised.

Sanctions

Failure to comply with a requirement to provide data to the border agencies (in the case of the Borders and Immigration Agency and the police "without reasonable excuse") will be a criminal offence which is subject to summary conviction. The agencies' powers to require data derive from different statutes and are, therefore, backed by separate sanctions for non-compliance.

However, the border agencies are committed to supporting carriers so that they may meet their obligations. As part of the implementation process, we will monitor the quality of data and feed this back to carriers; we will consider how we can use compliance reports as part of this process. We will also advise on 'best practice' and seek to resolve any issues via negotiation, support and advice as far as are able.

Code of Practice and data protection

The Immigration Asylum and Nationality (IAN) Act 2006 introduced provisions at section 36 to underpin the data sharing required by the UK Border Agencies under e-Borders and other joint working arrangements. These provisions require the Secretary of State for the Home Department (in so far as she has functions under the Immigration Acts), Her Majesty's Revenue and Customs and a chief officer of police ("the border agencies") to share certain passenger, crew, service, freight and other travel related information between them, where that information is likely to be of use for immigration, police or Revenue and Customs purposes.

Section 37 of the same Act created a requirement for the Secretary of State and Treasury to issue jointly one or more codes of practice about:

- the use of information shared in accordance with s.36(2); and
- the extent to which, or form and manner in which, shared information is to be made available in accordance with s.36(6).

The Code of Practice on the management of information shared between the Border and Immigration Agency, Her Majesty's Revenue and Customs and the Police has been developed to meet the requirement of s.37 of the IAN Act.

The Code of Practice details how the legislative framework will be implemented, how personal information will be used and the safeguards for the use of this data. It provides the basis for reliable, secure and effective information management by the border agencies. It also aims to provide reassurance and confidence in respect of how personal data will be used and stored in order for the border agencies to comply with both UK and EU data protection and human rights legislation. The border agencies regard the lawful and proportionate processing of personal information as necessary for the successful delivery of their aims and to maintain confidence in the border agencies by the public.

[27] There are many options open to carriers for the capture of TDI data. These include online, kiosk, manual or automated capture by staff and capture at reservation.

The Code shall be supplemented through a consistent and dynamic range of further guidance, methods, checklists and tools. The Code is a dynamic and evolving document that will be subject to periodic review, (the first of which will be six months after publication), and will be updated as necessary.

The border agencies have held a number of discussions with the Information Commissioner's Office (ICO) on the data capture and data sharing measures contained in the Immigration, Asylum and Nationality Act 2006. The ICO has been directly consulted during the construction of the Code of Practice and will continue to be engaged throughout the review process. The ICO will be consulted on any significant changes to the code and will be invited to assess, in person, procedures and systems in place in respect of the processing of personal data.

List of the crew data elements to be specified by order made under paragraph 27(2) of Schedule 2 to the Immigration Act 1971[28]

All Crew[29]	MANDATORY PROVISION
Number of crew	Total crew on ship or aircraft
Full name	As given in passport/ seaman's passport
Gender	As given in passport/ seaman's passport
Date of Birth	As given in passport/ seaman's passport
Nationality	As given in passport/ seaman's passport
Type of travel document	As given in passport/ seaman's passport
Travel document number	As given in passport/ seaman's passport
Issuing state	As given in passport/ seaman's passport
Expiry date of travel document	As given in passport/ seaman's passport
Crew identifier	To indicate that information relates to a crew member rather than a passenger
Vehicle Registration Mark	Registration mark of any vehicle in which a crew member is travelling – and which is carried on a service/voyage.
Trailer Registration	Registration number of any trailer attached to that vehicle.
Identification details (where a travel document is not held)	Where a travel document is not held, carriers must send the type of identification relied upon together with the number, expiry date and issuing State of that identification.

Other crew information in relation to Sea Crew only	
Place of birth	As given in passport/ Seafarers Identity Document
Rank/rating or equivalent	

Service information	MANDATORY PROVISION
Service identification	For air carriers this is the IATA code and the flight number, for sea carriers the name of the vessel and the service number. For rail carriers the train running number
Carrier name	As above
Scheduled departure date	Date of scheduled/ planned departure of the vessel (based on local time of departure)
Scheduled departure time	Time of scheduled/ planned departure of the vessel (based on local time of departure)
Scheduled arrival date	Date of scheduled/ planned arrival of the vessel (based on local time of arrival location)

[28] These data elements may be subject to slight variation. A full and final list will be included in an Order to be laid before Parliament in December 2007.

[29] A member of crew is to be understood here as an operating crew member, rather than positioning crew. The latter will be classed as passengers.

Scheduled arrival time	Time of scheduled/ planned arrival of the vessel (based on local time of arrival location)
Last place/port of call of service	
Place/port of service initial arrival	
Subsequent place/port of call within the country	
Number of passengers	
Other service information applicable to maritime only	
Nationality of ship	.

List and description of data elements to be specified by order made under paragraph 27B(10) of Schedule 2 to the Immigration Act 1971[30]

Data Elements	Description
Information relating to a passenger as given on or shown by the passenger's passport or other travel document	MANDATORY PROVISION
Full name	Personal information as normally contained in the Machine Readable Zone (MRZ) of the travel document.
Gender	As above
Date of birth	As above
Nationality	As above
Type of travel document	As above
Travel document number	As above
Issuing state	As above
Expiry date of travel document	As above
Identification details where a travel document is not held	Where a travel document is not held, carriers must send the type of identification relied upon together with the number, expiry date and issuing State of that identification.

Mandatory information related to Vehicles

Vehicle Registration Mark	Registration mark of any vehicle in which a passenger is travelling – and which is carried on a service/voyage.
Trailer Registration	Registration number of any trailer attached to that vehicle.
Other data relating to a passenger	TO BE PROVIDED TO THE EXTENT KNOWN BY THE CARRIER[31]
Place of birth	Personal information not contained in the MRZ of the travel document
Issue date of travel document	As above
UK visa or entry clearance expiry date	As above
OPI record locator code	Booking reference number
Date of reservation	Date reservation first created in carrier reservation system
Date(s) of intended travel	Date passenger intends to travel
Name as it appears on	Passenger name(s)

[30] These data elements may be subject to slight variation. A full and final list will be included in an Order to be laid before Parliament in December 2007.
[31] See P.28 for a working definition.

the reservation	
Other names on OPI	Other passengers on same booking
Address	Passenger's address
All forms of payment information	Usually in code specifying type of payment e.g. M (cash), Credit Card number
Billing address	
Contact telephone numbers	Can include telephone number for passenger, travel agency, hotel etc
All travel itinerary for specific OPI	Route booked for those passengers on the OPI
Frequent flyer[32] information (limited to miles flown and address(es))	Only card number and type (e.g. gold card, blue card).
Travel agency	Can be name, IATA code, telephone number or full address of travel agency
Travel agent	Person at agency who made the booking
Code share OPI information	OPI reference of code share booking (this generally relates to airline carriers)
Travel status of passenger	Status of booking e.g. confirmed, wait-listed, cancelled.
Split/Divided OPI information	Where an OPI booking for more than one passenger is split due to a change in itinerary for one or more (but not all) of the passengers
E-mail address	Email address of person who made reservation
Ticketing field information	Includes ticket number, date and place of issue (not usually the same as reservation date)
General remarks	Additional information that the agent considers of interest or relevance to the booking
Seat number information	i.e. seat allocated/requested
Bag tag numbers	Issued at check-in. information usually held on Departure Control System
OSI information	Additional passenger information such as infant, staff, VIP, ticket numbers
SSI/SSR information	Information such as unaccompanied minors
Received from information	Details of who made the booking
All historical changes to the OPI	Changes to flights
Number of travellers on OPI	Number of passengers on the same OPI
Booking Class Indicator	Includes class of travel
One-way tickets	Where passenger travelling on one-way ticket
ATFQ fields	Information about how a fare is constructed – quote/cost of fare
Check-in time	The time the passenger checks in, regardless of method.
Check-in agents initials	Identifies who checked the passengers in
Baggage information	How much luggage the passenger checked in
Outbound Indicator	Identifies where a passenger is expected to be travelling onto
Inbound Indicator	Identifies where a passenger started their journey and not just the last leg of the route
Group Indicator	Helps to identify family groups

[32] The e-borders Programme is aware that further information is usually held on separate carrier systems

Sex indicator	To identify sex of passenger
Other information on passenger who is under the age of 18 and unaccompanied.	TO BE PROVIDED TO THE EXTENT KNOWN BY THE CARRIER
Age	As above
Language(s) spoken	As above
Special instructions	e.g. medication, allergies, special dietary requirements, transit details
Name of guardian(s) on departure	Details of the adult who hands the child over to the carrier
Relationship to child	As above
Address	As above
Telephone number	As above
Name of guardian(s) on arrival	Details of those who will be caring for the child
Relationship to child	As above
Address	As above
Telephone number	As above
Departure agent	Details of carriers' agent
Transit agent	As above
Arrival agent	As above
Flight / Service information	MANDATORY PROVISION
Flight/ship's/train's identification	Details of arriving aircraft or ship
Carrier name	As above
Scheduled departure date	As above
Scheduled departure time	As above
Scheduled arrival date	As above
Scheduled arrival time	As above
Last place/port of call of service	As above
Place/port of service initial arrival	As above
Subsequent place/port of call within the country	As above
Number of passengers	As above
Service information applicable to maritime only	
Nationality of ship	As above

List of data elements to be specified by order made under paragraph 32(5) of the Immigration, Asylum and Nationality Act 2006 (List of data elements required by the Police)[33]

Mandatory data

The traveller's

- Full name
- Gender
- Date of birth
- Nationality
- Type of travel document held by the passenger and its number
- The document's expiry date
- Issuing State of travel document held
- Vehicle Registration Mark - Registration mark of any vehicle in which a passenger is travelling – and which is carried on a service/voyage
- Registration number of any trailer attached to that vehicle**.**
- Identification details where a travel document is not held – the type of identification relied upon together with the number, expiry date and issuing State of that identification.

The crew member's

- Full name
- Gender
- Date of birth
- Nationality
- Type of travel document held by the passenger and its number
- The document's expiry date
- Issuing State
- Vehicle Registration Mark - Registration mark of any vehicle in which a crew member is travelling – and which is carried on a service/voyage
- Registration number of any trailer attached to that vehicle**.**
- Identification details where a travel document is not held – the type of identification relied upon together with the number, expiry date and issuing State of that identification.

Service data

- Flight/ship's/train's identification
- Carrier name/Nationality of ship
- Scheduled departure date
- Scheduled departure time
- Scheduled arrival date
- Scheduled arrival time
- Last place/port of call of service
- Place/port of service initial arrival
- Subsequent place/port of call within the country
- Number of passengers

[33] These data elements may be subject to slight variation. A full and final list will be included in an Order to be laid before Parliament in December 2007.

Data for each traveller to be supplied to the extent that they are known to the carrier;

- The name as it appears on the reservation
- address
- Ticket number
- Date and place of issue of ticket
- Identity of the person who made the reservation
- Any other names that appear on the same reservation
- Method of payment
- Credit/debit card details
- Telephone number
- Fax number
- e-mail and internet addresses
- Date of reservation
- Unaccompanied minors
- Accompanied minors travelling with a person that is not recognised as a family member
- Name, address and contact details of a sponsor in the UK
- Name and contact details of an adult dropping off the child at a port.
- Passenger Name record or other data locator used by the carrier
- Code share Other Passenger Information (OPI) details (such as reservation and payment details)
- Travel status of the passenger
- Split/divided OPI information
- Check-in time
- Seat number
- Baggage details
- Baggage tag numbers
- Flight/ship's/train identification
- Scheduled departure date
- Scheduled departure time
- Scheduled arrival date
- Scheduled arrival time
- Last place/port of service call
- Subsequent place/port of call within the country
- Number of passengers

Annex 3 – Semaphore Statistics and Case Studies

SEMAPHORE ARRESTS & INTERVENTIONS BY OFFENCE
1st JANUARY 2006 – 30th SEPTEMBER 2007

The table and case studies below are a snapshot of Semaphore successes. It is important to note that Semaphore is not limited in operation to high risk routes.

0FFENCE	NUMBER Jan – Dec 2006	NUMBER Jan – Sept. 2007
Police Arrests: Murder	5	4
Kidnapping	3	1
Rape	4	2
Sexual Offences	22	15
Registered Sex Offender	3	0
Threatening Behaviour	8	3
Harassment	5	1
Threats to Kill	2	2
Violence Against the Person	20	23
Assault	56	34
Robbery	11	11
Burglary	16	8
Theft	41	18
Handling Stolen Goods	17	13
Criminal Damage	8	10
Rioting	4	1
Offensive Weapons/Firearms	12	6
Road Traffic Offences	82	49
Drink Driving	1	1
Arson	2	0
Fraud	20	29
Deception	11	6
Blackmail	1	0
Perverting the Course of Justice	2	1
Breach of Court Order	63	41
Prison Absconder	4	2
Recall to Prison	5	7
Failure to Attend Court	44	8
Bail Offences	71	89
Non-Payment of Fines	29	45
Obstruction of Police at Court	1	0
Money Laundering	1	3
Drug Offences		25
Bigamy		1
Breach Of The Peace		2
Deserting The Army		3
Copyright Offences		1
Prostitution		1
Bankruptcy		1

HMRC Interventions: Drug smuggler Class A	1 (1kg)		2 (8kg)	
Cigarette Smuggler	30		44	
Drug Smuggler Other			1(22,000g 'blue pills)	
Evasion of excise duty			1 (£11.8 million)	
SEIZURES				
Cigarettes	30 (317,800)		44(211,719)	
Hand rolling tobacco	4 (13.75kg)		12 (59.85kg)	
Products Of Animal Origin	8 (45.57kg)		9(21.17kg)	
Cannabis	1(5g)		1(6kg)	
Immigration Interventions:	Arrest	Non Arrest	Arrest	Non Arrest
Travelling on Lost/Stolen/Cancelled Passport	1	18		28
Fraudulently Obtained Document	1	12		23
Fraudulently Obtained Visa	1	6		17
Previous Adverse Immigration. History	3	61		75
Inadequately Documented Arrivals		13		12
Facilitator	2	3	1	2
Visa applications refused overseas[34]				43
Offloaded (denied boarding)				58

PROJECT SEMAPHORE CASE STUDIES

CASE STUDY 1: SOME POLICE SUCCESSES

a) May-June 2007

Within a six week period leading up to the 20th June 2007 the results of JBOC alerts issued by the police included:

- The arrest of a male wanted for murder since 24th January 2007.
- The arrest of a male wanted for the murder of a one year old baby in January. 2007.
- The arrest of a male wanted for murder, who arrived at London Heathrow from Calcutta.
- The arrest of a male wanted for rape of a 13 year old girl since 2005.
- The arrest of a male wanted for Actual Bodily Harm (ABH) since 2005. The subject was suspected of assaulting his wife having subjected her to two years of ill treatment (which included restricting her food, her use of toiletries and her medical care).

[34] UKvisas data is based on specific pilot exercises conducted over a limited 3 month period at one of the smaller overseas posts.

- The arrest of a male wanted for a racially aggravated serious assault where he broke the victim's jaw.

- The arrest of a male wanted for a serious assault in 2006 where he kicked his wife about the head until she became unconscious.

- The arrest of a male wanted for a serious assault in which he attacked a taxi driver with a bottle causing serious injuries.

- The arrest of a male for a serious assault in which he slashed the victim across the face with a piece of a mirror.

- The arrest of a male wanted for assault in 2006; where he deliberately slammed a door shut on a female's hand causing her to lose the end of one her fingers.

- The arrest of a male wanted for rioting in 2006. He was one of three suspects who used threatening & unlawful violence against victims (including use of metal bars, cricket and baseball bats).

- The arrest of a male wanted for a £156,000 deception where he falsely represented himself as the rightful recipient of a lorry load of new clothing.

- The arrest of a male wanted for money laundering;

- The arrest of a male wanted for theft and deception where he stole goods to the value of £70,000 from a parcel delivery company and attempted to obtain Nokia mobile phones to the value of £20,000.

In addition to the above, during this period the police gathered intelligence on a wide range of suspects including registered sex offenders and various organised crime operations.

b) Other Police successes (outside of the 6 week period set out above) include:

- Arrest of passenger who had been wanted for murder since October 2006

- Arrest of a passenger wanted on a European Arrest Warrant for fraud in Poland.

- Arrest of a passenger wanted for threats to kill

- Arrest of two passengers for Class A drugs offences

- Police alerted Semaphore regarding a suspect in a fatal stabbing committed during a large scale disturbance. The suspect's identity was entered onto the Semaphore system which alerted police to the fact that he and an associate had departed the UK. UK officers liaised quickly with their colleagues overseas who were able to intercept the pair en route. Police in the UK arrested the men upon their return.

  Early location and arrest of the suspects allowed the murder investigation team to be reduced in size at an earlier stage than would otherwise have been the case. Prompt arrest of the suspect resulted in forensic evidence,

which would have been lost had the journey been completed, to be secured and available to support the prosecution case. Detention of the suspects en route prevented their onward travel to a country with which no extradition treaty exists. Had this happened, the costs associated with locating the suspect and then securing his transfer to UK jurisdiction would have been significant with no guarantee of success. The early arrest of the suspect contributed to a reduction in community tension near the suspect's home, enabling a reduction in the number of police resources held ready to respond to disorder in the area affected.

- Police officers dealing with the murder of four members of the same family passed the suspect's details to Semaphore. The deceased had lain undiscovered for four weeks during which time the suspect had left the UK. Within one hour of the information being passed to Semaphore, officers in the Joint Border Operations Centre (JBOC) were able to tell the investigating officer that the suspect had travelled abroad. A search of the exit port's car parks led to the discovery of the suspect's vehicle and forensic evidence therein. The suspect's return flight to the UK was also identified by the system Investigating officers were alerted and travelled to Gatwick to meet the flight. The suspect is now serving life imprisonment.

  Early identification of the prime suspect's location allowed resources within the murder investigation team to be directed more efficiently and not dissipated by unnecessary enquiries to locate him in the UK. Early notification of his return journey allowed appropriate resources to be put in place to receive him. This ensured that he was arrested on arrival. The ability to plan the intervention allowed the suspect to be taken directly to his home force area rather having to be detained in Sussex pending transfer.

- Following an allegation of abduction, JBOC were able to provide the police with full information relating to the journey of the abductee and companions from the UK. This allowed officers to direct resources appropriately at an early stage. The Police were able to identify the travel destination and ascertain that this case was not a kidnap. They could then manage the resources involved in the investigation.

- Registered sex offenders are prohibited from travelling out of the UK unless they first notify their supervising officer of their intention to do so. Project Semaphore has enabled the identification of those who would try to avoid this requirement and allows the supervising officer to decide the most appropriate course of action in each case. This may help to provide essential evidence to support police and Court action against offenders and improved intelligence on them and their and associates.

- Semaphore was applied to outbound journeys to the FIFA World Cup in Germany 2006. Those convicted of football related and other types of violent or public disorder offences were subject to travel restrictions during the period of the tournament. The UK Football Policing Unit confiscated the passports of those affected allowing retention only where proof of travel to areas away from Europe could be proved. One group showed their intention to holiday in Thailand and were permitted to retain their passports. The Semaphore system identified them returning early from their two week holiday and officers were able to identify their intention to then travel to Germany. Semaphore has helped ensure that travel restrictions handed down by Courts are effectively

imposed. In this particular case, potentially unlawful activities in Germany that the group had planned were disrupted.

CASE STUDY 2: BORDER AND IMMIGRATION AGENCY AND UKVISAS SUCCESSES.

- A Semaphore movements request was made to confirm the date of arrival of a visa holder in the Philippines. Semaphore records showed the subject had travelled from the UK to the Philippines at a date later than that shown by the Philippines arrival stamp in the passport. The indications were that the stamp could have been fraudulently obtained to conceal the length of time the passport holder had spent in the UK. The subject was arrested on suspicion of obtaining an Immigration arrival stamp either by deception or by paying a corrupt officer and faces prosecution. To date 26 similar cases have been identified.

- A Semaphore alert was issued on a suspected facilitator. He was encountered without accompanying passengers, but a search revealed he was in possession of 170 counterfeit travel documents. Cross agency co-operation led to his conviction and the resulting custodial sentence.

- Nine British passports which had been reported lost/stolen but were still in circulation, were impounded in August 2007 as a result of Semaphore alerts. Three of the documents were held by people who were not entitled to them.

- A Semaphore alert was issued in respect of an individual who had on a previous occasion been sentenced to imprisonment for 11 years for importation of Class A drugs and deported. The passenger was refused leave to enter the UK.

- A passenger was refused leave to enter the UK, after Semaphore identified that the person was travelling on a revoked GBR passport that had been fraudulently issued.

- A subject was refused leave to enter after Semaphore identified him as a failed asylum seeker/absconder in 1999. The subject was attempting to enter the UK using a forged Irish passport on this occasion.

- Refusal of a visa application following Semaphore data identifying the applicant as a person who had a) been refused leave to enter the UK for attempting to facilitate a female (revealed to be an impostor on a Dutch passport) and b) that 17,000 cigarettes had been seized from this individual in 2004.

- Advance Semaphore data allowed the identification of a person who had previously claimed asylum in the UK in a different identity and nationality. He was arrested on arrival and was prosecuted.

- Following a Semaphore watchlist hit, operators were able to confirm that a passenger had used a stolen birth certificate in order to obtain a British

passport. He was arrested on arrival for using a fraudulently obtained passport.

- Semaphore identified a passenger travelling on a British passport reported lost/stolen by a person in prison in the UK. The passenger using the document was apprehended on arrival and it emerged he had criminal convictions in the UK and had previously been deported. He was refused leave to enter and removed.

- A Semaphore alert led to the interception of two illegal immigrants and their facilitator. The facilitator was found to be holding stolen blank Guyanese passports. All were removed from the UK.

- A subject with an adverse immigration history and an extensive criminal record involving gun and drug offences in the UK was refused leave to enter and removed from the UK as the result of being identified by Semaphore alert. On an earlier visit to the UK he had been arrested while travelling in a car known to have been used in a shooting. He had been identified as an overstayer and removed from the UK. He had previously been refused a visa in 2003 and had been refused leave to enter 2006 when he claimed to be a visitor. He was travelling on a newly issued passport, although his previous one remained valid until 2013. Semaphore enabled JBOC officers to assemble the various and complex records relating to this person and co-ordinate an appropriate intervention. He was refused leave to enter and removed.

- Cruise liner data received by Semaphore resulted in an alert being issued on a crew member. He was not intending to seek leave for repatriation, so he would not have normally come under the scrutiny of the IO assigned to deal with the ship. As a consequence of the alert, the IO was made aware that he had recently been refused visit and student visas. It was discovered that in fact he had relatives in the UK, and that he had no intention of returning home. He was refused leave to enter, was later dismissed as a crewman and repatriated.

- The two week Semaphore trial on outbound passengers on a ferry route to France identified three suspected facilitators, two tobacco smugglers, one convicted sex offender and one individual under investigation by Kent police. Two forged documents were also identified.

- Semaphore bulk data analysis has enabled JBOC officers to identify the movements of numerous asylum seekers on inbound flights. This data has generated intelligence leading to successful interventions, including the identification of suspected facilitators. These interventions have led to the successful prosecution of traffickers.

- Semaphore data allowed Immigration Officers to identify the departure point and the routing of asylum claimants who were encountered in the UK undocumented. This information was crucial in establishing their true nationality and the veracity of their claims for asylum in the UK.

- UKvisas Risk Assessment Unit (RAU) suspected a visa applicant of previous immigration offences. Semaphore was able to show that the suspect had travelled between his home country and the UK. However these dates did not correspond with the endorsements in the applicant's passport, suggesting

some of these were counterfeit. This was subsequently confirmed and the subject was refused a visa.

- UKvisas RAU received intelligence regarding a person who had come to the UK as a visitor. Although his visa expired in December 2006, he had allegedly stayed in the UK until February 2007. A Semaphore check revealed that the family member had indeed flown back from the UK in February 2007. This breach of conditions was recorded and will be available to officers should another application to travel be made.

- Semaphore identified that a former spouse of a British Citizen who had had her sponsorship withdrawn following breakdown of the marriage, had entered the UK after withdrawal of sponsorship. An alert has been issued which will identify this person to the border agencies when she travels again or attempts to regularise her stay.

- An RAU at a Visa Section received intelligence suggesting an individual had overstayed his visa, was still in the UK and that he had sent his passport back to his country of origin to apply for a visa in his absence. A check of the Semaphore system showed there was no trace of his return to his country. Subsequent checks showed the disembarkation stamps in his passport, purporting to show his return to his country within the validity of the original visa, were counterfeit. He was not issued with a visa.

CASE STUDY 3: HMRC SUCCESSES

- Semaphore data linked a passenger to records showing two previous seizures of large quantities of hand rolling tobacco and cigarettes. Officers were able to set up an intervention resulting in the seizure of over 29,000 cigarettes and of other goods. As a result of this the subject of the alert, his wife and his daughter were all refused leave to enter and were removed by Border and Immigration Agency officers.

- Semaphore issued an alert on a convicted drug courier and known supplier, who was also identified as the subject of an extant Deportation Order. An intervention was set up and the passenger was intercepted. He was refused leave to enter and removed by the Border and Immigration Agency. Both of these examples demonstrate the utility Semaphore data has in arranging appropriate intervention, in these cases by HMRC and delivering appropriate outcomes, in this case administrative action rather prosecution.

- Semaphore data identified a subject who had been intercepted three times in the past by HMRC for importing large quantities of cigarettes. An intervention was set up resulting in the subject's arrest and the seizure of 15,400 cigarettes and 1 kilo of hand rolling tobacco.

- Semaphore data identified a passenger as a serial cigarette smuggler who had attempted to import 177,700 cigarettes since 2002. An intervention was arranged and 33,700 cigarettes were seized on this occasion.

- HMRC stopped a passenger on receipt of a Semaphore alert and on examination found her to be in possession of 1kg cocaine. The drugs were seized and the subject was later sentenced to 7 years imprisonment.

- Semaphore data highlighted records showing that a passenger was part of a group that had previously attempted to smuggle Class A drugs into the UK. Further investigation of the records showed that the subject was a frequent traveller to the UK. An intervention was arranged and 23.75 kg of hand rolling tobacco and 5,120 cigarettes were seized by HMRC.

- Semaphore identified a passenger who had previously been linked to seizure of 47,200 cigarettes since 2005. A further 9000 cigarettes were seized on this occasion.

- Following a Semaphore alert, HMRC arrested a passenger found to be in possession of 20kgs of herbal cannabis.

- Semaphore data identified a passenger wanted in relation to an investigation for evasion of £11.8 million in excise duty.

Annex 4

Implementation plan for option 2

Commencement of the secondary legislation

It is intended to commence the secondary legislation (in relation to both data acquisition and data sharing) by the end of December 2007.

Implementation

The legislation will provide the legislative framework for e-Borders to implement data acquisition solutions. The current position in respect of data capture is:

a) Travel Document Information
Travel Document Information ("TDI") will be collected through e-Borders from an early stage, and through a single window. Carriers will be required to collect and transmit all TDI data to the border agencies.

b) Other Passenger Information
Other Passenger Information ("OPI"[35]) is presently requested by HMRC, Police and BIA on a case-by-case basis, and larger scale capture has been trialled through Project Semaphore. Semaphore is currently collecting OPI data from 48 non-UK arrival and departure points. This will be collected and transmitted by carriers, through a single window, to the 'extent that it is known to the carrier'.

C) Service information
Service information is information related to the flight, train or ship the passenger or crew member is travelling on. This information must be provided by the carriers, via the single window, in all cases for both inbound and outbound journeys

D) Vehicle/trailer registration mark
Carriers will be required to collect and transmit the registration mark of any vehicle in which a passenger/crew member is travelling and which is carried on a service/voyage together with the number of any trailer attached to that vehicle**.**

e-Borders will work with stakeholders and delivery partners to bring these mechanisms together so that carriers will be able to submit all data through a single window. We will also be working with International partners to take account of international standardisation work. In particular, implementation will be compatible with our international obligations and we will be working with our EU partners to facilitate carrier compliance and to create a framework at European level.

Prior to the routine capture of data as part of the e-Borders roll out, border agencies will continue to request data where necessary to support operations. The border agencies will seek to minimise, the impact on carriers, where possible, through co-ordination of requests and other viable methods.

Delivery and milestones

[35] Also known in the aviation context as Passenger Name Records (PNR)

A high level view of e-Borders programme and project activities and the capability delivery stages and milestones is outlined below. These timings are provisional:

From contract award, planned for autumn 2007, the e-Borders programme has set out the following implementation assumptions:

Pilot
Our current expectation is that we would identify a small number of pilot carriers with whom we would engage during late 2007 and with whom we would develop interfaces during 2008. The pilot carriers would then start to supply operational data during 2008.

Mid 2008
A range of carrier interfaces will be available from mid-2008 for carriers to supply operational data. Roll out to carriers will continue in increasing volumes as per the dates below for Advanced Operating Capability, Initial Operating Capability, Major Operating Capability and Full Operating Capability.

Mid 2009
Semaphore services will be transitioned to e-Borders services during 2009 including the launch of the e-Borders Operations Centre (e-BOC).

April 2009 – Advanced Operating Capability (AOC)
e-Borders will achieve AOC, capturing at least 100m international passenger and crew details per year from a range of carriers and performing checks on these against watchlist sources. Foreign national passenger groups will be targeted through out this period on a risk basis.

December 2009 - Initial Operating Capability (IOC)
e-Borders will achieve IOC, capturing 60% of international passenger and crew details from a range of air, sea, and rail carriers and performing checks on these against watchlist sources.

December 2010 - Major Operating Capability (MOC)
e-Borders will achieve MOC, capturing 95% of international passenger and crew details from a range of air, sea, and rail carriers and performing checks on these against watchlist sources.

March 2014 - Full Operating Capability (FOC)
Full operational capability of e-Borders services with full coverage of international travellers using all international UK ports, including the correlation of passengers' arrival and departure.

Every effort will be made to provide all carriers with the earliest possible sight of the evolving technical solutions to help inform their preparations and elicit feedback. We will also share more detailed rollout plans as soon as these become available. Whilst the above assumptions imply carrier development lead times in the region of 6 months, where possible e-Borders will seek to accommodate individual carrier needs and the early communication described above will support early carrier preparations.

Future Services

Industry will be kept fully informed of any decisions taken on future services. Requirements to implant a future service will be communicated in good time, having full regard to commercial equity in respect of roll-out.

Authority to Carry (ATC)

Although classed as a future service and not covered in this RIA, carriers have, during the consultation process, raised issues relating to the proposed ATC scheme. As ATC is in its infancy we welcome carriers' helpful views on the scheme. Most carriers were concerned that the initial ATC programme (phase one) which involved a manual system, would not be workable. In the light of carriers' views, we will consider a move straight to an electronic system. The introduction of the American Apis Quick Query (AQQ) will also impact on air carriers, who have stated that they do not want the UK to introduce a system that is incompatible with AQQ. We are committed to ensuring that the ATC system will be in synergy with the AQQ system as far as possible. Carriers have also noted that there would be further benefit to them if ATC were to be linked with UKVisas. This option is also being considered and workshops with the carriers are to be instigated to review possible alternatives. Carriers further input into the development of ATC is essential and we are committed to working with carriers to ensure that the system is effective. ATC will be subject to a separate RIA, on which carriers will be consulted.

Data to be required/form, manner and timing of its provision

This is set out in annex 2 above.

Application to the Common Travel Area

Carriers have requested further information on how the legislation will work in respect of the Common Travel Area. Information will be collected on CTA routes to and from the CTA area, however exact implementation details are in development. We are committed to working with the Crown Dependencies and with Irish colleagues to deliver this part of the e-Borders programme. The CTA is currently subject to a separate review. Carriers will be consulted as this review goes forward.

Intervention at ports

During consultation, carriers expressed concern that interventions at ports may increase. e-Borders will risk assess each passenger before arrival with the aim of targeting interventions so that interventions against low risk passengers decrease. Border agencies will also ensure that any interventions are proportionate and made at the appropriate time. The police will endeavour to export interventions outside the port where possible in order to ensure fluidity at ports, for example, alerts in respect of unpaid fines may be passed to the relevant authority to alert them to the fact that the individual has left the port and to advice on their ETA at their home address.

Commitment to continued engagement with carriers

The border agencies are grateful for the support and advice received from industry to date, and carriers and ports have stated their desire to continue the close engagement. We are committed to ensuring that this engagement continues so that carriers are made aware of their roll-out obligations in good time.

It is accepted that each industry sector operates in significantly different ways and that a 'one-size fits all' solution will not work. The appointed supplier will work with carriers to ensure that implementation solutions reflect the operational environments of each carrier. Further guidance will also follow during the implementation stage, in respect of how e-Borders will work in emergency cases e.g. diversions.

Annex 5

IMPACT TESTS

PUBLIC SECTOR IMPACT

The e-Borders programme will result in major changes to working practices of the border agencies in relation to border control; for example, an e-borders operations centre will be established to co-ordinate e-Borders work and border agencies will move toward making targeted interventions resulting from e-Borders alerts. These provisions will therefore support much closer working and integration between the border agencies.

INDUSTRY

The provisions in the Immigration, Asylum and Nationality Act 2006 (IAN Act) enhance the data capture and sharing powers of the border agencies, in support of two major Government initiatives - e-Borders and the Border Management Programmes. In broad terms the data capture powers in the IAN Act 2006 extend or enhance existing provisions available to the border agencies. Hitherto, the border agencies have relied upon these powers to require the provision of passenger information or in some cases access to carriers' systems in support of their statutory functions. e-Borders will therefore expand upon and develop existing practice, so that all carriers operating into and out of the United Kingdom by air, sea and rail will be required to provide passenger, crew and service information in advance of arrival and departure. There will therefore be a clear and significant impact on carriers, in terms of collecting and transmitting data, and also in terms of infrastructure – i.e. putting in place systems to fulfil the obligations placed upon carriers by e-Borders. The actual impact, however, is likely to vary between carriers, being influenced by factors such as:

- the amount of information currently collected;
- whether the carrier already has in place systems to collect and store data;
- whether it is already complying with a requirement to provide data to the border agencies in the UK or overseas;
- the choice of technical interface used to transmit the information to border agencies; and
- specific operational considerations at juxtaposed controls.

Should transaction times be increased in respect of passengers embarking from the UK or travelling here from other countries, there will also be an impact on port operators (see below). Any additional costs that do arise from increased check-in transaction times will vary according to whether this takes place in a busy or quiet period, with possible knock on effects that could result in traffic queues, congestion, and ultimately cancellation of crossings. The programme is continuing to consult with industry to address this issue.

e-Borders continues to work closely with carriers to discuss the e-Borders concept and requirements, with the intention of developing potential operational and technical solutions that will deliver the key e-Borders objectives with maximum benefit and minimum adverse impact on industry. A key aim of our procurement strategy in advance of contract award is to be able to assess the impact of our proposals on industry. As part of this strategy we shall be working with potential suppliers to identify the different technical options to support e-Borders, exploring the advantages

and risks of each. We also intend to work through these options with industry in order to identity and address the impact.

Air carriers

The e-Borders team has circulated a questionnaire to air carriers, designed to enhance the Programme's understanding of carrier current systems, including what data is currently collected and how and where it is stored. The document also poses a number of questions requesting carriers' views on how they could meet the e-Borders requirements, including their preferences for data method transmission methods. A number of responses have been received from carriers; others are encouraged to return their completed questionnaires as soon as possible. Key findings to emerge to date from this work and from information from other sources include:

- That whilst the majority of air carrier respondents are able to transmit data via existing service providers, they would welcome an internet option which is more cost effective. Such an option will be provided under e-Borders arrangements;

- That air carriers are keen to see e-Borders requirements reflect international messaging standard formats such as UN EDIFACT PAXLST, UN EDIFACT PADIS and XML. e-Borders systems will support the provision of data in such formats;

- From the data capture from our surveyed Carriers and Ports, there are 266 overseas airports that fly commercial routes into the UK. Of these 266 airports, approximately 40% of these are able to collect TDI (this figure was calculated by examining those foreign airports that collect TDI either electronically or manually, for routes to the UK, routes to destinations other than the UK, and both);

- Out of the surveyed 169 airlines that fly in and out of the UK, approximately 20% of these fly routes that currently require TDI inbound data to be transmitted electronically (the countries included as requiring TDI are the US, Canada, Australia, New Zealand, Spain, Costa Rica, China and the UAE);

- Of the airlines surveyed, there are 75 known Departure Control Systems. 28, or approximately 40%, of these service routes that already require TDI data to be transmitted electronically (the countries included as requiring TDI are the US, Canada, Australia, New Zealand, Costa Rica, China and the UAE). A significant proportion of DCS systems are therefore already able to transmit TDI electronically; and

- OPI will only be required a) to the extent that it is known to the carrier and b) once systems are in place to support requests for this information. Of the OPI data elements potentially to be requested under e-Borders arrangements on average each Carrier that responded collects 67% of these data elements within their own reservation systems.

Sea and rail carriers

Modelling exercises designed to gather similar information on current systems and processes have been taken forward with the ferry and rail operators. Work is continuing on modelling trials with maritime, rail and cruise liners in a number of locations, such as Coquelles, Portsmouth, Calais, Waterloo and Harwich. Due to the numbers involved in these sectors, the work is being taken forward on an individual

carrier basis by way of visits and meetings. Overall, the key findings to emerge to date include:

- Generally speaking, ferry operators' and rail operators' systems are not currently configured to provide the kind of data to be required under e-Borders arrangements.

- Ferry operator and rail operator IT systems are diverse, each being unique to individual carriers. One common factor is, however, the ability of all operators with whom we have had contact to use the XML format for data transmission.

- HMRC currently acquires data from ferry operators via transmission to an HMRC database and by direct access to operators systems.

- One ferry operator already collects TDI electronically to facilitate the production of accurate passenger manifests.

- Some other ferry operators have limited capability to capture TDI data electronically at the point of check in. Some also already collect some of the data that will be required under e-Borders arrangements, via internet bookings.

More recent trials have extended the use of emerging technology to capture the data needed, such as utilising Automatic Number Plate Recognition (ANPR) cameras to read oncoming vehicle registrations. The camera picks up the vehicle registration and carries out a system interrogation to check if data has been entered in advance. Mobile devices, which have been developed to scan passengers' passports, are then used to capture data from all unexpected tourist traffic.

Impact on Ports

Although the secondary legislation places requirements on carriers in respect of collection and transmission of data, it should be noted that ports may also be affected.

- Planning and Installation:

The requirements placed on carriers by this legislation will result in carriers and control agencies installing or replacing equipment in the port environment. The e-Borders programme is aware of the impact this could have on Port Operators and has specified in the negotiation documents that the supplier will ensure that work is planned and executed in partnership with the port authorities and within timescales that will avoid peak periods as far as possible.

- Implementation:

The requirement for carriers to collect and transmit data may mean that carriers and agencies will need to alter their infrastructure, for example at check-in desks and control points; more space for server rooms may be required. This could, however, be offset by a relative reduction in the overall space required for agency controls, as e-Borders will permit control agencies to operate more efficiently, and therefore require less space than they require at present.

- Operation

A potential risk has been identified at check-in points and at agency controls given the necessity to increase the amount of data captured over and above present requirements. Should slower process times result, this may impact on port operations

e.g. in respect of turn around times and the possible need to provide more check-in facilities for carriers.

The introduction of e-Borders represents an opportunity for control authorities, particularly the Border and Immigration Agency, to operate in a different manner than at present. Specifically, the Border and Immigration Agency could, using data supplied in advance, operate their control in a risk-based intelligence-led manner. This mode of operation may not be suited to the present control configuration and a change to this may require the port operator to make some changes to the control infrastructure.

e-Borders could result in HMRC and Police intervening on outbound and inbound traffic to a greater extent than at present, but based on experience from Project Semaphore this should not require port operators to supply additional infrastructure to enable this to be done.

The programme is aware of the potential impact that e-Borders could have on port operators. To mitigate this risk the programme is in regular consultation with them. e-Borders is fully committed to formulating robust but flexible operational models that will meet the objectives of the port operators, of the carriers, of e-Borders, and of the border agencies.

IMPACT ON PASSENGERS/CREW

Passenger and crew information will be transmitted by carriers to the e-Borders programme. e-Borders will identify passengers of interest to the authorities prior to arrival in the UK or departure from the UK. This information will then be passed on to the relevant border control agency, which will determine the appropriate action to take against that passenger. One of the stated aims of the e-Borders programme is to offer legitimate travellers a more rapid service to the UK and to concentrate resources on targeted interventions. In fulfilling its own obligations under the Data Protection Act 1998, carriers are obliged to provide information to their passengers about the purposes for which data it obtains from passengers will be processed, including the disclosure of such information to Government (where required by law) for border control and wider law enforcement purposes. We will encourage carriers complying with an obligation to provide passenger information to the border agencies to ensure that the information they provide to their passengers reflects the uses for which information, when disclosed to Government, may be processed.

COMPETITION ASSESSMENT

The proposals will impact on industry sectors involved in the carriage of passengers to and from the UK for all modes of transport. This will include passenger airlines, general aviation, passenger shipping, sailing and cruise sectors, and rail.

During consultation a number of concerns regarding competition issues have arisen. The e-Borders programme is committed to delivering a fair and equitable roll-out of the e-Borders solution; this is included in the requirements specification for the appointed supplier.

In conjunction with the supplier, we will be undertaking a comprehensive engagement strategy with carriers to understand how best to achieve these objectives. Our strategy will reflect the fact that carriers in different industries may be direct competitors, for example rail and shipping. Implementation and roll-out plans will also be announced well in advance so that carriers are aware of their obligations in good time.

With these measures in place, it is our view that the proposals would be unlikely to affect competition in any market. This point also addresses concerns that carriers working in the UK market would be penalised in comparison to their associates on other (non-UK) routes. The UK is one of a growing number of countries that require that passenger, service and crew data be sent to them in advance of travel. As a result, carriers (the aviation industry in particular) working into the UK are not uniquely affected by these obligations.

There has been a concern that understandable but unwarranted data protection concerns may prevent passengers from choosing a certain airline over another who is not as yet supplying the e-Borders programme. An equitable roll out plan is likely to preclude passengers from having to make such a decision when travelling to a given area. Additionally, competition issues arising from data protection concerns would be short term as all carriers would be required to engage in e-Borders. The extra security measures provided by carriers who have implemented the programme could also be seen as a benefit for potential passengers.

As noted earlier, the potential benefit to carriers/ports of publishing statistical data acquired through e-Borders has been identified. We will be considering the practicalities of this option and are aware that the data supplied would need to be generalised to prevent competition and data protection issues arising. During consultation we have noted that statistical data relating to data accuracy would be of value to industry. Please see 'Sanctions' section for further information on this issue.

THE SMALL FIRMS IMPACT TEST

Paragraph 51 of the earlier RIA documents our findings to date in respect of the impact of the proposals on small business. In summary, it has been concluded that there are no businesses in the shipping or rail sectors that could be classed as 'small' and, in the aviation sector, 99% of UK originating passengers fly on carriers whose turnovers, on that category of business alone, are too high to be classified as small businesses. The only area we were previously able to identify where small businesses might be in operation is in the field of General Aviation (GA). Existing passenger information legislation already applies to GA (which is by no means limited to small firms or small aircraft) and our consultation with the British Business and General Aviation Association (BBGA) on the impact of the legislative provisions on their members will continue. The Small Business Service were consulted previously and agreed that based on the information available to date, e-Borders proposals will not have any significant impact on small business.

Further consideration of the possible impact on small business has suggested that there may be additional categories affected by the obligations to be imposed by the legislation, where small businesses might be in operation. The obligation to provide crew data falls on the owner or agent of a ship or aircraft and, in relation to ships, it may be the case that some agents are small businesses. In addition, there may be some small business in the General Maritime and the pleasure craft sector affected by the legislation. We are exploring this further as part of our ongoing consultation associated with both this RIA and the implementation of e-Borders generally and will develop this section, discussing with the Small Business Service as necessary, in the light of our findings. e-Borders will develop a web based interface to allow small businesses and individuals to submit the required data in a straightforward manner and at a low cost.

ENVIRONMENTAL/SOCIAL IMPACT/LEGAL AID

In carrying out this impact assessment, a potential risk has been identified should e-Borders cause longer queues to develop at seaports/railheads with a potential to impact on the local environment and economy. The programme is committed to managing this risk and ensuring that as far as possible e-Borders works within carriers' existing business processes and will not take significantly longer overall than at present; indeed by risk assessing data in advance of departure, e-Borders is designed to facilitate efficient passenger processing. Moreover, the appointed supplier will take into account the social and environmental impact of implementation.

HEALTH IMPACT

There are no implications of these proposals on a person's health.

EQUALITY ASSESSMENTS

A Race Equality Impact Assessment (REIA) was completed to accompany the primary legislation in the IAN Act 2006. It concluded that the e-Borders programme as a whole, would not amount to direct or indirect discrimination, or would impinge on our race equality duties. A copy of the REIA for the e-Borders provisions of the IAN Act, can be accessed at:

http://www.ind.homeoffice.gov.uk/6353/6356/10630/reiaimmigrationasylumandnat1.pdf.

This policy was again screened for impact on equalities on 11 May 2007. The following evidence has been considered. The data acquisition proposals, that are the subject of this RIA, will require all carriers to send data on all passengers and crew travelling to and from the UK. Consequently these proposals do not discriminate on the grounds of race, nationality, age, faith and belief, disability, sexual orientation or gender. Moreover, once this data has been acquired, e-Borders will look at data elements within a booking which may point towards a suspect individual or which match with alerts issued on UK databases again, none of which discriminate on the grounds of race, nationality, age, faith and belief, disability, sexual orientation or gender. As a result of this screening, it has been decided that a full equality impact assessment is not required.

HUMAN RIGHTS

Article 8 of the European Convention on Human Rights (ECHR), guarantees the right to respect for private and family life, home and correspondence. Article 8, as incorporated by the Human Rights Act makes it clear that public authorities must not interfere with the exercise of this right except "*such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others*."

The secondary legislation that forms the subject of this RIA raises potential issues under Article 8 of the ECHR as it permits the Government to acquire information about individuals. We believe however, that the potential interference with Article 8 falls within the exceptions set out within the same Article, for the following reasons:

1. The potential interference is in accordance with the law for the following reasons.
    - Data acquisition provisions are contained in the IAN Act 2006.

- The data which may be acquired is limited to that which is specified in an order made by the Secretary of State or Directions issued by the Commissioners of HM Revenue and Customs.
- Data may already be acquired by the border agencies under existing legislative powers. The secondary legislation that forms the subject of this RIA strengthens existing legislative powers by permitting acquisition of passenger, crew and service data in advance of all movements into and out of the UK; and specifying the form and manner necessary in which this information shall be provided to the border agencies.

2. The potential interference pursues a legitimate objective. As noted in this RIA, the e-Borders programme, has as its objectives, strengthening the security of the UK's border by, for example, helping the border agencies identify passengers who present a risk to the UK; whilst facilitating the passage of legitimate travellers. The secondary legislation can therefore be said to be in the interests of national security, prevention of crime and the economic well-being of the country. Case law has also established that the maintenance of effective immigration control is a permissible aim of the state in this context (for example, Berrehab v Netherlands 1988).

3. The potential interference with Article 8 is a proportionate response to the joint needs of the border agencies. The information will be acquired only for immigration, police or customs functions. Moreover, an Order under s.37(2) of the IAN Act will bring into force the code of practice on data sharing, which will regulate the handling and sharing of data, subject to the duty to share. The purpose of the code is to ensure legitimate, fair and proportionate data sharing by the border agencies in accordance with their data protection and human rights obligation.

RURAL PROOFING

No impact.