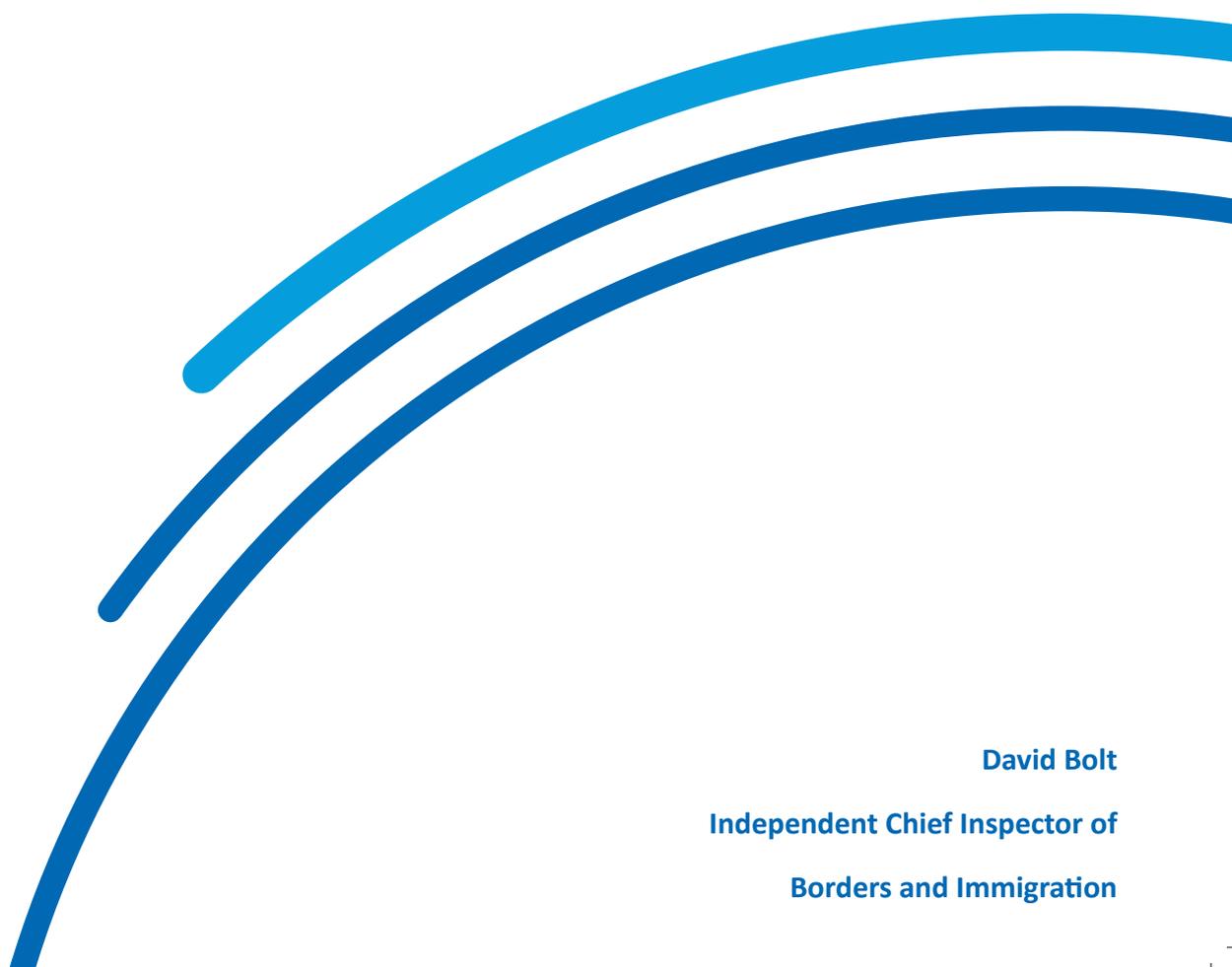




# An inspection of Border Force operations at east coast seaports

July to November 2016



**David Bolt**  
Independent Chief Inspector of  
Borders and Immigration



# **An inspection of Border Force operations at east coast seaports**

**July to November 2016**

Presented to Parliament pursuant to Section 50 (2) of the UK Borders Act 2007

March 2017



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Print ISBN 9781474142038  
Web ISBN 9781474142045  
ID 20170301 03/17

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

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# Foreword

In my published inspection programme for 2016-17 to 2019-20,<sup>1</sup> under the theme 'Protecting the Borders', I set out my intention to inspect Home Office immigration and border functions at seaports and around the UK coastline.

This inspection looked at Border Force's operations along the east coast, focusing on the major seaports between the Thames Gateway and northern Scotland. It examined the efficiency and effectiveness of immigration and customs controls at these ports, but also considered Border Force's coverage of smaller ports, harbours and marinas. It looked specifically at Border Force's identification and handling of clandestine arrivals, in light of recent activities in northern France to increase border security and close down migrant camps, and the reported displacement of clandestine traffic to the east coast. The inspection also examined Border Force's use of intelligence, and threat and risk assessments, about migrant movements and the movement of prohibited and restricted goods.

The inspection found that Border Force, given the practicalities, was generally efficient and effective in managing the fixed immigration control points at the major seaports, and in dealing on an intelligence-led basis with vehicle and freight arrivals. By contrast, coverage of smaller ports, harbours and marinas was poor. The numbers of clandestine arrivals identified by Border Force at east coast ports had indeed increased, and Border Force was dealing appropriately with individuals, whether they claimed asylum or agreed to be removed immediately. The overall sense was that Border Force was stretched, in some instances too thinly, but coping.

The report makes nine recommendations for improvement grouped under four themes: direction versus discretion; resourcing and equipping of seaports and maritime functions; remedial actions specific to the east coast; and General Maritime (GM).

This inspection was the first of what will be a series of inspections. Over the next 1-2 years, I plan to look at Border Force operations at south and west coast seaports, and at Border Force's use of its cutter fleet. Some of the recommendations made in this report are relevant to these other areas, and I would hope to see improvements made wherever they apply and not just at the east coast ports covered here.

This report was sent to the Home Secretary on 1 February 2017.

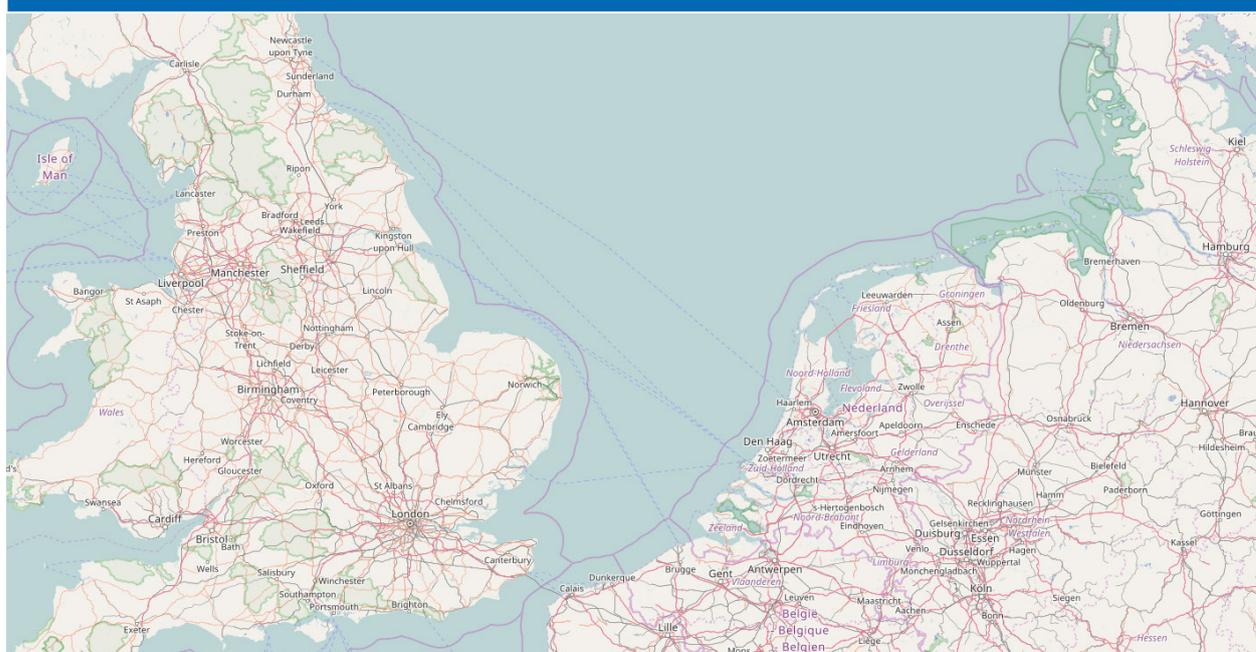
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<sup>1</sup> <http://icinspector.independent.gov.uk/wp-content/uploads/2016/03/Forward-Plan-2016-17-2018-19.pdf>

# 1. Purpose and Scope

- 1.1 This inspection examined the efficiency and effectiveness of Border Force immigration and customs operations at east coast seaports. It focused on six large ports: Tilbury, Harwich, Felixstowe, Immingham, Hull and Rosyth, but also considered Border Force’s coverage of smaller ports, harbours and marinas along the east coast. The inspection also looked at Border Force’s handling of clandestine arrivals in light of reports of the displacement of clandestine arrivals to east coast ports from Dover and other ports in the south east.
- 1.2 The inspection considered:
- compliance with legislation, instructions and guidance and use of intelligence and targeting;
  - allocation of resources; and
  - progress made in implementing relevant recommendations from the 2016 ICIBI report ‘An Inspection of General Aviation and General Maritime’.<sup>2</sup>
- 1.3 The inspection examined the effectiveness of Border Force’s own targeting regime, but alerts from the separate HM Revenue and Customs (HMRC) freight handling system were out of scope.

**Figure 1: An indicative map showing some of the crossings relevant to this inspection**



<sup>2</sup> <http://icinspector.independent.gov.uk/wp-content/uploads/2016/01/ICIBI-report-on-GAGM-14.01.2016.pdf>.

## 2. Methodology

- 2.1 The inspection used eight of the Independent Chief Inspector's ten inspection criteria (see Appendix 2).
- 2.2 Inspectors:
- made a familiarisation visit to the Port of Hull to gain an understanding of Border Force port functions, port layout and types of traffic;
  - reviewed relevant past inspections and recommendations (referenced within the report), together with the Border Force Operational Assurance Directorate (OAD) April 2015 report of its 'spot check' of compliance with directions and guidance at Hull;
  - reviewed Home Office documentary evidence covering policies, operational guidance, data specific to clandestine arrivals, and performance statistics and staffing data;
  - researched and analysed open-source material, including media reports;
  - engaged with stakeholders, including meetings and discussions with the UK Chamber of Shipping, port operators and ferry operators;
  - met Border Force's delivery partners, including the National Crime Agency and local police;
  - sampled 144 case files from the period 1 January to 30 June 2016, comprising:
    - 95 clandestine arrivals (around a fifth of all such cases);
    - 46 refusals of leave to enter (around half of all such cases);
    - 3 cases where the individual was required to submit to further examination but was subsequently granted leave to enter (around half of all such cases);
  - between 3 and 14 October 2016, conducted onsite inspections at five ports - Tilbury, Harwich, Felixstowe, Immingham and Hull (and also visited Edinburgh, where the officers who normally cover Rosyth are based), including live observation of ferry arrivals covering freight and non-freight (known as 'tourist'); and
  - interviewed and held focus groups with Home Office managers and staff.

## 3. Conclusions

- 3.1 This inspection looked in detail at five major seaports in England (Tilbury, Harwich, Felixstowe, Immingham, Hull), and one in Scotland (Rosyth), within the wider context of Border Force operations along the UK's east coast.
- 3.2 Border Force has a permanent presence at the five English seaports. At four of them, it operates a 24-hour shift system. At Hull, it works only early and late shifts. Officers based at Edinburgh Airport cover Rosyth when required. Elsewhere along the east coast, Border Force takes a 'risk-based' and 'intelligence-led' approach to attendance at any port or other location.
- 3.3 The inspection looked at the frequency of Border Force attendance at 62 smaller, normally unmanned, east coast ports and landing places. According to its own data, Border Force officers had not attended 27 of the 62 during the 15 months to 30 June 2016. While there may not have been specific intelligence to cause Border Force to attend these locations, this may be to an extent circular and self-fulfilling – non-attendance means that Border Force misses opportunities to collect local intelligence. This is recognised, and Border Force is committed to making better use of its Field Intelligence Officers to gather such intelligence.<sup>3</sup>
- 3.4 The other likely consequence of long periods of non-attendance by Border Force at particular locations is that there is no visible deterrent to anyone prepared to risk using these spots to land illegal migrants or contraband goods, or simply not to comply with legislation such as the Immigration Act 1971.<sup>4</sup> If extended beyond the pilot<sup>5</sup> running at the time of the inspection, the use of rigid hulled inflatable boats (RHIBs) as a flexible and rapidly deployable resource will not only deliver the 'improved offshore maritime capability' set out in Border Force's Business Plan, but will also add significantly to its deterrent value.
- 3.5 At seaports dealing with regular arrivals of both foot passengers and freight, ministerial commitments to carry out checks on 100% of people arriving in the UK mean that Border Force is obliged to prioritise immigration controls. At east coast ports, inspectors observed officers adhering to the Border Force 'Operating Mandate' and other relevant instructions and guidance in respect of immigration controls. However, a random sample of immigration records from 1 January to 30 June 2016 revealed a failure to file a copy of Form IS81 in just under half of cases.<sup>6</sup> The IS81 informs a traveller that they are to be subject to further examination, and must be served for this to be lawful.<sup>7</sup> The filing of a copy of the IS81, correctly completed, falls within Border Force's regular assurance regime, so these omissions should have been identified.

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3 The 2016 ICIBI inspection of the Intelligence functions of Border Force and Immigration Enforcement recommended that the responsibilities of designated Field Intelligence Officers (FIOs) should be reviewed 'with a view to reducing their time spent on office based administrative duties and enabling them to get 'into the field' to collect feedback and new intelligence from frontline staff'. The Home Office accepted this recommendation. <http://icinspector.independent.gov.uk/wp-content/uploads/2016/07/An-Inspection-of-the-Intelligence-Functions-of-Border-Force-and-Immigration-Enforcement.pdf>.

4 Under the Immigration Act 1971, the captain of a vessel is required not to allow passengers to disembark 'unless either they have been examined by an immigration officer, or they disembark in accordance with arrangements approved by an immigration officer'.

5 At the time of the inspection, Border Force's Thames Command was piloting an offshore capability using a six metre long RHIB.

6 There were no copies of IS81s held on file in 20 out of 44 cases in which a paper file existed (there were no paper files in 5 cases). Of those 20, Border Force told inspectors that 'old style IS81s were used so it was not possible for copies to be made.'

7 Electronic records indicated that IS81s were served in all cases.

- 3.6 Industry stakeholders told inspectors that the number of cruise ships calling in to east coast ports is increasing. Attendance at some of the remote places that these ships visit (to carry out immigration checks on passengers who wish to go ashore) already stretches Border Force's resources, with officers having to cover great distances from their base to meet a ship's arrival. It was not clear how Border Force would deal with an increase in demand.
- 3.7 The 'Border Force Business Plan 2015 – 2018' describes 'a fully intelligence-led organisation that targets its activities to greatest benefit'. Given the vast and increasing numbers of arrivals in the UK of both people and goods, set against Border Force's reducing resources, it is imperative for Border Force to make effective use of intelligence and threat and risk assessments. Given it is required to prioritise immigration controls, this applies particularly to the resourcing of customs controls. Here, Border Force already makes routine use of intelligence and threat and risk assessments to identify particular arrivals and loads to target.
- 3.8 Inspectors looked at use of intelligence to target vehicles and consignments for searching at their port of entry. With the exception of Felixstowe, where there were some backlogs, Border Force was managing the timely searching of all but a handful of Category A and B targets and also 99% of Category C targets.<sup>8</sup> The percentages of successful seizures resulting from these Category A, B and C alerts suggests that targeting has improved since the 2013 ICIBI report 'An Inspection of Border Force Freight Operations'.<sup>9</sup> However, only a small percentage of the total number of freight arrivals are the subject of Category A, B or C alerts, and Border Force has limited capacity at east coast ports for non-targeted searching, for example where officers on the ground have suspicions about a shipment.
- 3.9 Pleasure craft (within the General Maritime category)<sup>10</sup> arriving in the UK from outside the EU or departing the UK to a destination outside the EU are required to make a customs declaration. Those arriving from within the EU are required to make a customs declaration where they have something to declare. The 'Inspection of General Aviation and General Maritime', which ran from February to July 2015, concluded from the available evidence that compliance with this customs declaration requirement was 'low'. It recommended that the Home Office should encourage more voluntary reporting and suggested ways of achieving this. The current inspection assessed east coast data from the period April 2015 to June 2016 inclusive. This showed that only four arrivals in that 18 month period had submitted the relevant declaration form. At this level of reporting, the process is all but meaningless as a form of customs control.
- 3.10 Clandestine entry into the UK by illegal migrants takes various forms. Individuals travelling alone or in groups conceal themselves inside unaccompanied or accompanied freight, or sometimes underneath vehicles, in an attempt to pass through the immigration and customs controls undetected. Some make use of tourist traffic, concealing themselves in 'cars (including car boots), vans, coaches and caravans/mobile homes', as noted in Border Force's 'Annual Threat Assessment 2016' (ATA). The ATA identifies the Hook of Holland and Zeebrugge as key ports of embarkation for clandestine arrivals. Meanwhile, data provided by the Home Office for clandestine arrivals detected at or in the vicinity of east coast ports showed an increase of almost 100% between 2014-15 and 2015-16, with the 2015-16 rate sustained in the first half of 2016-17.

<sup>8</sup> Border Force officers must action all Category A and Category B alerts. Category C alerts should be actioned 'wherever available resources permit'.

<sup>9</sup> <http://icinspector.independent.gov.uk/wp-content/uploads/2013/11/An-Inspection-of-Border-Force-Freight-Operations-FINAL-PDF.pdf>.

<sup>10</sup> 'General Maritime' (GM) covers vessels such as go-fast craft, rigid hulled inflatable boats (RHIBs), dinghies, yachts and motor cruisers, but also tugs and fishing vessels. Craft with more than 12 passengers are regarded as passenger ships rather than pleasure craft. Border Force defines GM as 'non-scheduled, un-canalised and non commercial maritime traffic. This generally includes yachts, tugs, rigid hull inflatable boats (RHIB) and small motor boats. It can also include small commercial vessels identified through intelligence as being used solely for smuggling purposes.'

- 3.11 Some clandestine arrivals have had no help to reach the UK, but others will have paid criminal facilitators to be smuggled into the country. The National Crime Agency's 'National Strategic Assessment of Serious and Organised Crime 2016' says: 'The highest priority Organised Immigration Crime (OIC) threat is clandestine activity using Roll-on Roll-off (Ro-Ro) and containers.' For Border Force, General Maritime, Ro-Ro Freight and Ro-Ro Tourist are regarded as 'Very High' priorities as modes of entry for clandestine arrivals, and Containers and Commercial Maritime as 'High' priorities.
- 3.12 The inspection found that Border Force was making good use of available intelligence to produce and update assessments of the threat and risk of clandestine entry via east coast ports, including possible (further) displacement of clandestine traffic from northern France northwards along the European coast and up to the Scandinavian ferry ports. In response, Border Force North had created (and had had cause to deploy) contingency plans to cope with mass clandestine arrivals at the Humber ports, Teesport, Port of Tyne and at Rosyth.
- 3.13 However, inspectors observed some inconsistent working practices between ports in relation to searching for clandestine arrivals. For example, both Hull and Harwich receive passenger vehicles from the Hook of Holland, but while Border Force at Hull were seen to carry out some searches of arriving vehicles for anyone who may be concealed inside, no such searches were seen at Harwich. Officers told inspectors that Harwich relies primarily on the pre-departure checks done by the Dutch authorities. In the six months to 30 June 2016, over 900 individuals were found during these pre-departure checks, but they are not a guarantee that no-one has managed to conceal themselves in a vehicle after embarkation, so there is an argument for some level of searching on arrival.
- 3.14 Inspectors examined a sample of files for clandestine arrivals detected at east coast ports between 1 January and 30 June 2016. The majority of the individuals in the sample, which constituted 20-25% of all cases detected in that period, were single, adult males. Of these, a significant proportion did not claim asylum in the UK but agreed to prompt removal. Border Force officers assumed that this was because these individuals would make further attempts to enter the UK clandestinely, drawn by the 'pull factor' of access to paid work in the 'shadow economy'. Officers believed rumours to the effect that the fee charged by criminal gangs covered three facilitated attempts to enter clandestinely.
- 3.15 The sampled files also included members of family groups and unaccompanied minors. Most of these claimed asylum and the claims were at various stages in the asylum process, the majority unresolved at the time of the inspection. Border Force's analysis of intelligence about clandestine arrivals pointed to the fact that the number of arrivals at Border Force Central Region ports claiming to be minors had increased. Amongst the sampled files, Border Force had disputed the age of the individual in a handful of cases and had sought a local authority age assessment, but most of those claiming to be unaccompanied minors were accepted and treated as such. Overall, the files indicated that officers were aware of and complying with their safeguarding duties.
- 3.16 Border Force officers at the ports visited spoke to inspectors about the reduced staff resources, in particular about the loss of skilled and experienced officers to earlier voluntary exit schemes. Apart from any impact this had had on Border Force numbers and capacity, the loss of particular skills had affected some capabilities and the efficient use of the remaining resources. For example, the loss of officers able to drive a heavy goods vehicle meant that the vehicle scanner shared between Hull and Immingham could not easily be moved to where it was most needed, resulting in loads that should have been scanned having to be searched by other, less apt means.<sup>11</sup>

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<sup>11</sup> Border Force told inspectors that managers at Hull and Immingham had sought volunteers for advanced driving training on 4 August 2016 and that, as at 25 January 2017, this process was ongoing.

- 3.17 Border Force has recognised that it must extend the use of technology in order to manage the increasing traffic of people and goods with fewer officers. This is key to it meeting its objectives of deterring and preventing individuals and goods that would harm the national interest from entering the UK, and at the same time facilitating the legitimate movement of individuals and trade to and from the UK. On the latter point, port operators were mostly complimentary about the Border Force teams they worked with on a daily basis. However, one commercial company operating at Felixstowe told inspectors that examination of their consignments had slowed down, and their staff now had to wait around until Border Force could attend for an examination, which the company put down to reduced Border Force resources. It did not blame the local Border Force team, but felt that Border Force as a whole needed to show a better understanding of the commercial impact of its decisions.
- 3.18 Compared with airports, the scope for efficiencies through the automated processing of passengers at seaports is limited. However, the inspection revealed that other existing technologies were not available to everyone who needed them. The vehicle scanner is one example. Another is the archaic and inefficient taking of wet ink fingerprints at one of the ports, which then required two officers to transport them to the nearest airport for electronic transfer and checking.<sup>12</sup> This not only slowed down any removals under the Dublin III Regulation, but also significantly reduced Border Force's capacity for other tasks at that port while this was happening.
- 3.19 Where, through the use of technology or through working practices, or both, Border Force identifies better, more efficient ways of working, it needs to ensure that they are rolled out regionally and nationally as quickly as possible, rather than left to local initiative. The networking trial of Cyclamen alarms to a regional control point is an example. The inspection found that, where this is not in place, already limited customs work is routinely disrupted as officers are required to conduct primary screening. A different example is the inconsistent approach between ports to the use of personal protective equipment (PPE) when searching soft-sided trailers for clandestine arrivals. Given that many arrivals concealed in a soft-sided trailer will have had to cut their way in and be equipped to cut their way out, Border Force needs to be clear why the use of PPE is not mandated for all such cases.
- 3.20 The report makes nine recommendations grouped under four themes: direction versus discretion; resourcing and equipping of seaports and maritime functions; remedial actions specific to the east coast; and General Maritime (GM).

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<sup>12</sup> Border Force subsequently advised inspectors that digital fingerprint capabilities would be installed at Hull by February 2017.

## 4. Recommendations

### The Home Office should:

1. In determining what is mandated for Border Force as a whole, or is a global requirement that is subject to qualified exceptions, or is left to regional, local or individual officer judgement, ensure that:
  - a. rules, instructions and guidance are explicit about any discretion, levels of authority, and how decisions and actions are to be recorded;
  - b. assurance regimes for mandated functions are rigorous and where failures are identified they are remedied immediately – in the case of port files, checking that IS81 forms have been correctly completed and filed should be prioritised to establish whether the non-compliance identified at east coast ports is a problem across Border Force; and
  - c. ‘best practice’ or improved ways of working (once tested and established) are quickly shared across Border Force and actively promoted – in terms of officer safety, ensuring that there are clear national guidelines on the use of personal protective equipment and these are followed at all times.
2. In terms of resourcing seaports and maritime functions in general, ensure that:
  - a. regions/ports have trained and experienced officers, and ready access to essential IT and other technologies (including hand-held fingerprinting devices), needed not only to meet their mandated responsibilities efficiently and effectively, but also to create genuine possibilities for them to exercise local initiative and to respond to opportunities; and
  - b. the impact on other tasks of prioritising certain activities (for example the primary screening of Cyclamen alarms) is fully understood, and does not cause inefficient, last-minute reallocations of officers from planned work resulting in tasks such as vehicle searches being suspended because teams are no longer functional.
3. Specifically in relation to the east coast:
  - a. ensure that the facilities and arrangements in place at each port for accommodating and processing clandestine arrivals are fit for purpose, and that all east coast ports have created and tested (at least annually) contingency plans for dealing with mass clandestine arrivals;
  - b. review the different practices at Hull and Harwich in relation to the searching of tourist vehicle arrivals from the Hook of Holland, and decide what level of reliance Border Force should place on pre-departure checks for concealed migrants by the Dutch authorities; and
  - c. prioritise visits to those smaller, unmanned ports and other locations where vessels can land people and goods and that have not been visited for more than 12 months, in order to collect any relevant local intelligence and to provide a visible Border Force deterrent to any criminal or non-compliant use of them.

4. In relation to General Maritime (GM), discuss and agree with Her Majesty's Revenue and Customs either the discontinuance of Form C1331 (the required customs declarations by pleasure craft) or an effective way of ensuring a meaningful level of compliance with the current requirement to complete and file it.

## 5. Background

### Border Force

- 5.1 Border Force is a law enforcement command within the Home Office with responsibility for securing the UK border by carrying out immigration and customs controls of people and goods entering and leaving the UK.
- 5.2 The 'Border Force Business Plan 2015 – 2018' sets out five strategic objectives:
- To deter and prevent individuals and goods from entering the UK that would harm the national interest;
  - To facilitate the legitimate movement of individuals and trade to/from the UK;
  - To protect and collect customs revenues from trade crossing the border;
  - To provide excellent service to customers; and
  - To provide demonstrable effectiveness, efficiency and value for money.
- 5.3 It also sets out four values that underpin how it will deliver these objectives:
- Commitment: we must each personally commit to making our team the best it can be;
  - Discipline: we must each take personal responsibility for our actions and support each other to do the right thing;
  - Respect: we must each create and help maintain a truly inclusive working environment for colleagues and customers; and
  - Moral Courage: we must each do the right thing, even when it is unpopular or in conflict with personal interests, and so safeguard our integrity.

### East Coast Ports

- 5.4 Border Force is divided into five regional commands. Its east coast operations are covered by two of these regions - North (which covers the Humber Estuary and Scotland) and Central (which covers Suffolk, Essex and the Thames Gateway). There are Border Force Officers based at Hull and Immingham on the Humber, Felixstowe in Suffolk, Harwich in Essex, and Tilbury in the Thames Gateway. Other east coast ports do not have a permanent Border Force presence. For example, the freight port of Rosyth in Scotland (which receives three ferries per week from Belgium) is normally covered by officers who are based at Edinburgh Airport.
- 5.5 The Port of Hull has the only sea passenger terminal on the River Humber. It handles c.1 million passengers a year on routes to and from the Netherlands (Rotterdam) and Belgium (Zeebrugge).

In addition, it handles c.10 million tonnes of cargo. Immingham, on the opposite side of the Humber Estuary, handles c.55 million tonnes of cargo a year, more than any other port in the UK. At both Hull and Immingham, the cargo received consists of unaccompanied shipping containers,<sup>13</sup> Ro-Ro vehicles<sup>14</sup> and other bulk cargoes.

**Figure 2: An indicative photograph of multiple unaccompanied shipping containers in an extensive port area – standard sized containers are 20ft or 40ft long, but other sizes are also in use**



- 5.6 Felixstowe on the Suffolk coast and Harwich on the Essex coast are on opposite sides of the estuary of the River Orwell. On its website, the Port of Felixstowe describes itself as ‘Britain’s biggest and busiest container port’ and says ‘The port handles more than 4 million TEUs (twenty-foot equivalent units) and welcomes approximately 3,000 ships each year.’ Felixstowe also has a small Ro-Ro freight arrival area with a single route operating to and from Vlaardingen in the Netherlands, which handles some 10,000 freight drivers a year.
- 5.7 Harwich is predominantly a passenger terminal. In the 12 months to April 2016, it handled 699,000 passengers. The port operates two routes, one to the Hook of Holland, which carried 692,000 passengers in the six months covered by the inspection, and to Europort (part of the Rotterdam port area) which carried 7,000 freight drivers. In addition, Harwich handled 373,000 units of freight (TEUs and accompanied and unaccompanied lorry trailers).
- 5.8 Tilbury, which includes the London Container Terminal, is part of the Thames Gateway. It is a multi-modal port handling ferries, containers and bulk cargo. In 2015, the port handled approximately 500,000 containers, plus over 180,000 items of accompanied Ro-Ro freight, on its single route to and from Zeebrugge, which operates 10 arrivals and departures each week.

<sup>13</sup> Large unaccompanied shipping containers are lifted from ships onto the dock to await collection and removal. Once they are cleared for customs purposes by Border Force, most are loaded onto trailers and driven out of the port intact.

<sup>14</sup> Ro-Ro (from ‘roll on and roll off’) is an industry term for vehicles and freight driven onto and off a vessel either by the driver of the vehicle or, in the case of unaccompanied trailers, by a port-based driver.

- 5.9 Two other freight-only ports are mentioned in this inspection report: Teesport and Purfleet. Teesport is near the mouth of the River Tees in North Yorkshire. It handles over 5,000 vessels a year and c.40 million tonnes of cargo. Purfleet Thames Terminal handles per year c.250,000 trailers, containers and tanks of liquid and loose commodities like grain, and the importation and export of c.400,000 vehicles.
- 5.10 Different commercial companies own and run these ports, and other smaller ports, harbours and marinas along the east coast. A number of port operators told inspectors that they had a good working relationship with Border Force. There appeared to be no strategic management of these relationships from the Border Force side, with responsibility resting with local Border Force managers.<sup>15</sup>

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<sup>15</sup> Border Force subsequently informed inspectors that 'regular meetings are held at both port and national level through the Maritime Sector Group and North Sea Maritime Sub Group'. Local representatives of port and/or ferry operators who spoke to inspectors were not aware of those groups.

## 6. Border Force coverage of east coast ports

### Deployment of Border Force officers

- 6.1 Border Force operates a 24-hour shift system at Immingham, Felixstowe, Harwich and Tilbury. At Hull, Border Force works only early and late shifts, with the mornings focused on immigration control of the passengers from the two daily ferry arrivals, and with the rest of the time focused on customs work. East of Scotland officers are deployed for most of their time at Edinburgh and Aberdeen airports, rather than at the port of Rosyth. Border Force told inspectors that the priority for deploying to Rosyth 'is set dynamically at the monthly Scotland Tasking and Coordination Group (TCG) meeting.
- 6.2 For all ports without a permanent Border Force presence, Border Force's approach is to be 'risk-based' and 'intelligence-led'. Therefore, attendance by Border Force officers at unmanned ports along the east coast is normally reactive, in response to targeting alerts.

### Business Plan and Control Strategy

- 6.3 Border Force's 'Business Plan 2015 – 2018' states that it aims to be 'a fully intelligence-led organisation that targets its activities to greatest benefit'. As part of becoming 'intelligence-led', Border Force has introduced a 'Control Strategy', updated annually, which assesses and rates the risks at the border and to the UK. The 'Control Strategy' is broken down by types of goods, for example 'illegal drugs' and 'smuggled (duty evaded) cigarettes and tobacco', and types of people, including 'illegal entrants'. It is sub-divided by mode of travel, of which 'Commercial Maritime', 'Containers', 'General Maritime', 'Ro-Ro Freight' (goods vehicles with drivers or unaccompanied trailers driven on and off vessels by port drivers) and 'Ro-Ro Tourist' (for example, coaches)<sup>16</sup> are relevant to this inspection.
- 6.4 Border Force senior managers use the 'Control Strategy', together with current intelligence from Border Force Intelligence Directorate, to target their resources, with the emphasis being on targeting the highest identified risks.

### 'Operating Mandate'

- 6.5 Border Force's 'Operating Mandate' was agreed with Home Office ministers and has been in use since July 2012. It 'defines the full border security checks to be conducted by Border Force officers, or through automated processes, on people and accompanied goods, freight and post arriving in – and where appropriate – departing from the UK; it also defines the actions to be taken in response to those checks'.
- 6.6 It sets out the mandatory checks for 'all individuals seeking entry to the UK', and those to be applied to 'specific cohorts of individuals seeking entry', plus the further 'necessary and appropriate' checks an officer might apply 'on a case-by-case basis to satisfy themselves of the

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<sup>16</sup> Border Force designates individuals who arrive at sea ports as foot passengers, or in cars, motor homes, coaches etc as 'tourists'.

appropriate course of action to be taken'. It also sets out what to do in situations of 'temporary technical or operational disturbances', for example if a computer-based checking system is temporarily unavailable. It also covers when and how cases should be referred and handed on to other authorities.

## **'Operations Manual' and 'Immigration and Customs Guidance'**

- 6.7 Prior to June 2016, Border Force's 'Operations Manual' provided guidance on how to operate the immigration controls. It was divided into five main sections: pre-entry, the primary immigration checkpoint, secondary examination, criminal investigations and business tools. Until July 2016, customs guidance, including from Her Majesty's Revenue and Customs, was provided separately for officers via the 'Enforcement Handbook Border Force Portal'. In June and July 2016, those guidance documents were amalgamated into a single guidance document: 'Immigration and Customs Guidance'.

## **'Target Operating Model'**

- 6.8 In April 2016, the Border Force Board<sup>17</sup> adopted a 'Target Operating Model' (TOM), designed to 'set a clear direction for Border Force for the next four years' to 2020. The TOM sets out the key drivers for change, which are underpinned by Border Force's 'desire to be truly "world class"'. The drivers are:
- Increasing passenger and trade growth;
  - Increasing and ever diversifying threats;
  - Increasing public expectations on security and service;
  - Decreasing budgets to cut overall deficit; and
  - The need to recruit, develop and retain our people capability.
- 6.9 One of Border Force's aims under the 'people' strand of the TOM is 'focussed effort towards maritime', the objectives for which include 'improved offshore maritime capability' and 'protected and prioritised deployment of officers to maritime ports along the coastline'.
- 6.10 Border Force expects to have reduced its overall staff numbers by 2020. Doing more with less will be challenging at seaports, arguably more so than at airports, because of the eclectic nature of the traffic. For example passengers arriving at seaports may disembark on foot or in vehicles, or as drivers of commercial freight and coaches, which in turn impacts how the controls are configured and how they need to be manned.
- 6.11 In terms of the numbers arriving at the immigration controls, busy airports handle much more traffic than large seaports. However, the spasmodic and less punctual maritime arrivals make it harder for Border Force to achieve efficiencies. At airports, automation, such as ePassport gates, may help to offset the planned reduction in Border Force's numbers, as the examination for immigration purposes of a large proportion of UK and other European Economic Area (EEA)<sup>18</sup> passengers and 'Registered Travellers'<sup>19</sup> becomes an automated process, which can be monitored by a smaller number of Border Force officers. However, seaports lack the steady flows of foot passengers that enable airports to make efficient and effective use of automated ePassport gates.

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<sup>17</sup> Comprising the Director General Border Force and his senior managers.

<sup>18</sup> The EU states plus, by separate agreement, Iceland, Liechtenstein and Norway. Switzerland benefits via a separate agreement.

<sup>19</sup> Registered Traveller members are pre-cleared nationals of a range of countries, aged over 18 and holding biometric passports. Details at <https://www.gov.uk/registered-traveller>.

## The Single Intelligence Platform

- 6.12 Border Force intelligence specialists and senior managers are aware that data and information collected at ports is not being fed back to 'the centre' to complete the intelligence cycle. Therefore, Border Force as a whole is not benefitting. In the view of these specialists and managers, the Single Intelligence Platform (SIP) will make it easier for staff to provide feedback in areas such as the results from intelligence alerts they have been required to investigate. SIP went 'live' in May 2016. But, SIP has adopted an 'agile development model', meaning that further functionality will be developed, tested and rolled out in stages.
- 6.13 Intelligence alerts from the National Border Targeting Centre (NBTC) may cover immigration matters, customs or other criminal activity. Between 1 April 2015 and 31 March 2016, officers at east coast ports provided feedback on 164 (48%) out of a total of 343 alerts received. However, figures provided to inspectors indicated that fewer than 1 in 3 alerts had had any feedback between January and June 2016. This poor level of feedback suggests that the problem is not simply IT-related, but that Border Force officers do not see value in providing feedback to alerts.

# 7. Inspection findings – immigration controls

## Compliance with the ‘Operating Mandate’

- 7.1 Inspectors asked Border Force for details of breaches of the ‘Operating Mandate’ at the ports inspected. It had had five reported breaches between 25 April 2015 and 7 August 2015. Three of these related to cars driving past the immigration controls in error, and one to a defective barrier failing to stop a lorry. Border Force obtained details from the carrying companies, did checks and contacted the travellers to establish identity. It recorded these four breaches as ‘fully recovered’ and action was taken to prevent a repetition. The fifth case involved the failure during a crew check to identify a seaman who had deserted his ship in 1997 and had been removed from the UK in 2009. This individual deserted again and had since gone to ground.
- 7.2 Inspectors observed the immigration controls in operation at Harwich and Hull. During these observations, Border Force officers were seen to comply with the ‘Operating Mandate’ when processing all foot and car passenger arrivals. However, there were some differences in how this was achieved, because the controls were configured differently at each port.
- 7.3 While Annex A of the ‘Mandatory Checks Framework’<sup>20</sup> makes clear that an officer must examine an individual’s travel document and make a ‘visual comparison of facial image in the travel document with the individual’, the layout of vehicle controls makes it impractical in many instances for Border Force officers to comply fully with this.<sup>21</sup> The latter is clear that each passport or identity document should be handed to the officer by the person to whom the document belongs. Officers are able to ask passengers to exit their vehicle, or may leave their booth to look more closely at and speak to the occupants of a vehicle, but this is not common practice. Most exchanges are with the driver or front seat passenger, through the windows of the booth and the vehicle.

## Refusal of entry

- 7.4 To test further compliance with the ‘Operating Mandate’ and ‘Immigration and Customs Guidance’, inspectors sampled 46 refusals of leave to enter the UK.<sup>22</sup> Seven EEA nationals in the sample had criminal convictions, were known to have criminal associations or had extant deportation orders against them. Border Force correctly identified all seven and they were all refused admission and removed. Officers were following the ‘Operating Mandate’ in using warning alerts and available checking processes to identify and refuse admission to these individuals.
- 7.5 The sampled records contained refusals of entry of crew members, and of their relatives travelling as supernumeraries, who lacked the necessary entry clearance for shore leave

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20 An internal Home Office document.

21 As noted in the 2017 inspection report ‘An inspection of Border Force’s identification and treatment of Potential Victims of Modern Slavery (July – October 2016)’ (available at: <http://icinspector.independent.gov.uk/wp-content/uploads/2017/02/Potential-Victims-of-Modern-Slavery-Inspection-report.pdf>), the ‘Operations Manual’ required that each passport or identity document should be handed to the officer by the person to whom the document belonged. The newer ‘Immigration and Customs Guidance’ and ‘Mandatory Checks Framework’ do not require this. However, Border Force informed inspectors that, where an officer suspects that an individual may be a potential victim of modern slavery, the officers ‘should ensure that the person hands their passport to the officer in person and that the officer has the opportunity to examine the individual passenger’.

22 Sampled immigration cases from 1 January to 30 June 2016 included the ports of Tilbury/Purfleet, Harwich, Felixstowe, the three Humber ports, Rosyth, Aberdeen and cruise ship calls at Invergordon.

in the UK, which indicated that Border Force was checking submitted crew and passenger lists. However, there was no evidence of occasional attendance on vessels to check that the submitted crew list tallied with those on board.

- 7.6 The sample also included successful detections of forged or suspect travel documents and actions to refuse and remove the individuals using them. The crew of fishing vessels operating within the UK's 12-mile limit are required to have entry clearance, and there were two examples where crew members who did not have entry clearance were refused leave to enter when the vessel docked.

## Record keeping

- 7.7 The inspection also looked at compliance with guidance on record keeping.
- 7.8 EEA nationals, and their non-EEA family members, are able to seek admission to the UK under 'The Immigration (European Economic Area) Regulations 2016', based on their nationality, but non-EEA nationals must seek formal leave to enter by demonstrating that they qualify in a category set out in the Immigration Rules.<sup>23</sup> Any EEA or non-EEA passenger who is unable to satisfy a Border Force officer's initial checks that they qualify for admission or entry can be required to submit to further examination. In such cases, the Immigration Rules require, and EEA Regulations permit, that they are notified in writing, and Border Force uses Form IS81 to do this. This informs the individual that he or she has been identified as requiring further examination and no decision about entry will be made until the officer is satisfied that the passenger can be admitted or granted leave to enter under the appropriate legislation.
- 7.9 The 'Immigration and Customs Guidance' states: 'On completion of the forms, officers must issue the white IS81 form to the passenger and retain the yellow copy. **Completed yellow copies of the IS81 form should not be left unattended at the PCP.** Where a port file is created, the yellow copy should be taken from the pad and placed on the port file. Where a port file is not created the yellow copy can be kept in the pad and must be stored securely locally.'<sup>24</sup>
- 7.10 Border force has detailed assurance requirements with designated levels of responsibility. 'The Border Force Assurance Standards: Assurance Checks (Scheme of Control)' states<sup>25</sup> that a senior officer should 'randomly select 10% of immigration port files'. It continues 'where more than 100 cases were created in the period (or 10 files where less than 100 files were created, or all files where less than 10 files were created)' and check a number of things including whether 'the decision to subject to further examination has been justified on the file, including a copy of the IS81'. Inspectors were shown documentary evidence that assurance was taking place. Nonetheless, of the 44 paper files sampled in this inspection,<sup>26</sup> 20 did not contain a copy of the Form IS81. Border force subsequently told inspectors that the 20 were served on board ship and 'old style IS81s were used so it was not possible for copies to be made' but this meant no audit trail existed in the paper files.
- 7.11 Where the decision is taken to detain an individual following a further examination, the person must be issued with Form IS91R (reasons for detention), which must be placed on file. The IS91R must specify the power under which the person has been detained, the reasons for detention and the basis on which the decision to detain was made. The 49 records sampled contained five

<sup>23</sup> The Immigration Rules set out the practice to be followed in regulating the entry into and stay in the UK by people subject to immigration control. They are regularly updated and laid before Parliament by the Home Secretary.

<sup>24</sup> From Section 5.5 'Immigration Casework'. The text in bold is as in the guidance.

<sup>25</sup> According to Horizon (the Home Office intranet), the 'Scheme of Control' is an internal Border Force document which specifies the checks that managers must conduct to 'assure the operational functions and also non-operational activity (such as health and safety compliance) for Border Force'.

<sup>26</sup> Five of the 49 sampled cases had not required a paper file.

such cases. A copy of the IS91R had been retained in each of the five files. The records showed that detention had been carried out in accordance with guidance in all of these cases.

- 7.12 Although an IS81 copy was missing from just under half of the sampled records, and in some cases the officer's notes lacked sufficient detail, in most cases the evidence and reasoning behind the decision to refuse entry had been recorded as required on port files and on the electronic Case Information Database (CID). The quality of the refusal notice was satisfactory in all cases.

## Cruise ships

- 7.13 Cruise ships are categorised as Commercial Maritime in the 'Border Force Control Strategy'. Stakeholders from the maritime sector confirmed to inspectors that the number of cruise ships calling in to east coast ports is increasing. This poses a particular resource challenge for Border Force.
- 7.14 Where there are cruise ship passengers who are subject to immigration examination, Border Force must either meet the ship on arrival in the UK, or arrange for the passengers to be examined on board prior to arrival. While the industry favours the latter approach, as it provides a better customer experience and avoids delays in disembarking when the ship makes a stopover, Border Force's normal practice is to process cruise ship passengers on disembarkation.
- 7.15 Some of the locations that cruise ships visit are quite remote, and it is time consuming for Border Force officers to attend these normally unmanned ports. For example, it is a five hour drive for Border Force North officers from Edinburgh to attend a cruise ship arriving at the Port of Invergordon on the Cromarty Firth. Invergordon's cruise liner list for 2016 (covering 25 April to 30 July) showed 39 arrivals, with passenger numbers varying from 45 to 3,500, though some of the 39 were coastwise arrivals that did not require Border Force attendance.

## General Maritime – immigration controls

- 7.16 General Maritime (GM) covers vessels such as go-fast craft, rigid hulled inflatable boats (RHIBs), dinghies, yachts and motor cruisers, but also tugs and fishing vessels.<sup>27</sup> While some GM vessels might use large ports, many will use smaller ports, wharfs, marinas and jetties that cater for pleasure craft.
- 7.17 The Immigration Act 1971 requires the captain<sup>28</sup> of any ship arriving in the UK not to allow passengers to disembark 'unless either they have been examined by an immigration officer, or they disembark in accordance with arrangements approved by an immigration officer'.<sup>29</sup>
- 7.18 The inspection looked at the frequency of Border Force attendance at 62 smaller ports, wharfs, marinas and jetties on the east coast that were normally unmanned. According to its own data, Border Force officers had not attended 27 of the 62 during the 15 months from 1 April 2015 to 30 June 2016.
- 7.19 Border Force told inspectors that, while there was no resource specifically allocated to GM, one of its mobile teams could usually deploy to meet an arriving GM vessel where required. However, the lack of any visible Border Force presence for over a year at almost half of the identified small ports raises questions about how GM captains who are minded not to comply with the requirements of the Immigration Act, or to engage in criminality (e.g. the smuggling of people and goods), view the risk of being caught.

<sup>27</sup> Craft with more than 12 passengers become passenger ships rather than pleasure craft. See footnote 10 for Border Force's definition of GM.

<sup>28</sup> This means any person in charge of a craft.

<sup>29</sup> Section 27(1) Immigration Act 1971. Available at: [http://www.legislation.gov.uk/ukpga/1971/77/pdfs/ukpga\\_19710077\\_en.pdf](http://www.legislation.gov.uk/ukpga/1971/77/pdfs/ukpga_19710077_en.pdf).

- 7.20 The 2016 ICIBI inspection of the Intelligence functions of Border Force and Immigration Enforcement<sup>30</sup> recommended that the responsibilities of designated Field Intelligence Officers (FIOs) should be reviewed 'with a view to reducing their time spent on office based administrative duties and enabling them to get 'into the field' to collect feedback and new intelligence from frontline staff'. The Home Office accepted this recommendation, and responded that it was working to free up FIOs to carry out their main objectives of working with partners and gathering intelligence, but also made the point that frontline officers should be submitting intelligence reports without having to involve an FIO.
- 7.21 At the time of the inspection, Border Force officers based at Harwich had recently been carrying out visits to small ports, but this was to be taken over by FIOs as the approach was rolled out nationally.<sup>31</sup> Border Force Senior Managers told inspectors that 'For the smaller commercial/ GM berths, jetties and ports a new control concept of visits is beginning ... under the Op 'Digby' banner, this process is relatively new and is being built into Command deployments to reinvigorate GM control.' These visits are primarily to be undertaken by Field Intelligence Officers (FIOs). Border Force told inspectors that it was in the process of recruiting more FIOs.
- 7.22 Also at the time of the inspection, Border Force's Thames Command had trained for and was piloting an offshore capability using a six metre long RHIB. If the pilot is successful and RHIBs are introduced more widely, this flexible and, where appropriate, highly visible offshore capability will significantly improve Border Force's ability to deter non-compliant behaviours and criminality, including at unmanned ports and other landing places.

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30 'An Inspection of the Intelligence Functions of Border Force and Immigration Enforcement (November 2015-May 2016)' was published on 21 July 2016. <http://icinspector.independent.gov.uk/wp-content/uploads/2016/07/An-Inspection-of-the-Intelligence-Functions-of-Border-Force-and-Immigration-Enforcement.pdf>.

31 'Operation Digby' explored areas where vessels could be brought alongside to land people. It was launched in August 2016 and in October 2016 the decision was taken to roll it out nationally into 'Operation Kraken'.

## 8. Inspection findings – customs controls

### Use of Intelligence and Threat and Risk Assessments

- 8.1 The 2015 – 2018 Business Plan describes ‘a fully intelligence-led organisation that targets its activities to greatest benefit’. Given the vast and increasing numbers of arrivals in the UK of both people and goods, set against Border Force’s resources, which are due to reduce, it is imperative for Border Force to make effective use of intelligence and threat and risk assessments.
- 8.2 However, while it looks to obtain and use intelligence and assessments to support its immigration functions, Border Force’s resourcing of the immigration controls is largely dictated by the ministerial requirement to carry out checks on 100% of people arriving in the UK. While this requirement remains, being ‘fully intelligence-led’ is therefore more relevant to the resourcing of customs controls, where Border Force has greater discretion, and here it makes routine use of intelligence and threat and risk assessments to identify particular arrivals and loads to target.
- 8.3 Each mode of travel identified in the ‘Border Force Control Strategy’ has a targeting hub dedicated to it. In relation to east coast ports, the most relevant hubs are those dedicated to Commercial Maritime, Containers, General Maritime, Ro-Ro Freight and Ro-Ro Tourist.

### Targeting goods movements (vehicles and containers)

- 8.4 Border Force uses intelligence targeting to prioritise which vehicles and containers to search on arrival in the UK. On the Home Office intranet, Border Force says that it will ‘deploy dynamic analytical capabilities to enable a flexible, responsive intelligence led force’. There are three priority levels (‘categories’), the meaning of which is explained on the same intranet:
- **Category A** targets relate to movements where there is strong evidence to suggest that an intervention will result in a positive outcome (for example detection of smuggled goods, identification of known target, collection of intelligence).
  - **Category B** targets relate to movements where there are specific indicators suggesting that an intervention is likely to result in a positive outcome.
  - **Category C** targets relate to movements where links to known problem routes, or to source or destination countries assessed as high risk, or other available information, provide reasonable grounds to suspect that an intervention may result in a positive outcome.
- 8.5 Border Force officers ‘must action’ all Category A and Category B alerts. Category C alerts ‘should’ be actioned ‘wherever available resources permit’. Any Category A or B target that is not searched must be reported to Border Force’s Chief Operating Officer. Category C targets that are not searched must be reported to regional management.
- 8.6 Border Force data for the east coast ports inspected for the period 1 January to 30 June 2016 showed that all Category A and all but two Category B alerts were actioned, as were 99% of Category C alerts. Officers told inspectors that failure to action an alert was usually because of resource difficulties.

- 8.7 The fact that Border Force responded to almost all prioritised targets provides a proxy measure of the quality of the alerts and the effectiveness of this targeted approach. From 1 April 2015 to 31 March 2016, 81% of the 53 Category A targets actioned by Border Force resulted in a seizure. The figure for the 924 Category B was 18%, and for the 11,577 Category C it was 3%. Some officers told inspectors that, in their view, many of the targets assessed as Category B should have been assessed as Category C.
- 8.8 During past inspections, Border Force officers have expressed scepticism about the quality and usefulness of targeting. On this occasion, officers told inspectors that they perceived there had been an overall improvement. The 2013 ICIBI inspection of freight operations<sup>32</sup> recorded success (seizure) rates of 48% for Category A, 14% for Category B, and 1% for Category C across Border Force as a whole, so the more recent east coast figures suggest an improvement, particularly in the quality of Category A alerts.
- 8.9 Figure 3 sets out by commodity the percentages of east coast seizures made as a result of alerts, and shows the range of priorities within the Control Strategy of each commodity across the five modes of entry relevant to east coast ports – Commercial Maritime, Containers, General Maritime, Ro-Ro Freight and Ro-Ro Tourist.

**Figure 3: Seizures at east coast ports that resulted from targeting - 1 April to 30 June 2016**

Commodity	Range of Control Strategy priorities	Percentage of seizure <sup>33</sup>
Heroin	'Very High' – 'High'	96%
Cocaine	'Very High' – 'High'	39%
Hand Rolling Tobacco	'Very High' – 'Medium'	59%
Cigarettes	'Very High' – 'Medium'	48%
Alcohol	'Very High' – 'Medium'	41%
Intellectual Property Rights (IPR) <sup>34</sup>	'High' – 'Low'	24%
Cash	'High' – 'Low'	4%
Other Class A drugs	'Medium' – 'Low'	92%
Firearms and offensive weapons <sup>35</sup>	'Medium' – 'Low'	6%
Class B and C drugs	'Medium' – 'Very Low'	38%
Products of Animal Origin (POAO)	'Medium' – 'Very Low'	13%

### Search capability beyond targeting alerts

- 8.10 Although there are some approximate measures for commodities such as cigarettes, for obvious reasons Border Force cannot say with any certainty what proportion of each smuggled commodity it manages to seize and how much enters the UK. However, it is the case that only a small percentage of the total number of freight<sup>36</sup> arrivals is the subject of Category A, B or C

<sup>32</sup> See footnote 9.

<sup>33</sup> Percentages have been rounded.

<sup>34</sup> Goods that infringe on the rights of the owner of the intellectual property, including counterfeit goods or goods designed to look like another brand in order to fool the consumer.

<sup>35</sup> 'Knives and Offensive Weapons' and 'Firearms' are treated separately in the 2016 Control Strategy.

<sup>36</sup> 'Freight' in this context is predominantly Containers and Ro-Ro Freight.

alerts. Where there is no alert, Border Force may still decide to search a particular vehicle or container. The decision to do so may come about as a result of:

- Border Force officers on the ground identifying something about a shipment, driver or agent that raises their suspicions
- a national, regional or local initiative to search for particular goods (for example, hand rolling tobacco) for a specific (usually short) period
- regular ‘trailer park’ searches by Border Force to check that contraband goods (or illegal entrants) have not been inserted into parked vehicles after they have been checked on arrival.

8.11 At east coast ports, non-targeted searching was limited. For unaccompanied containers, there is an understandable reliance on targeting or on information provided about the delivery address, the originating address and details of the goods being carried under the 1956 ‘Convention on the Contract for the International Carriage of Goods by Road (CMR)’.<sup>37</sup> Given the numbers of such containers, and the fact that they all look similar, it would be inefficient for Border Force to operate in any other way.

8.12 The practicalities of searching cars and smaller vehicles that arrive at passenger ports are quite different. However, at one of the passenger ports visited by inspectors, officers reported that the tourist car hall was rarely used, and therefore car boots were not systematically checked. On the two days that inspectors were on site at this port no tourists arriving at the controls in cars were subject to a customs search. At another port, the inspection team noted that the multi-skilled officers deployed to examine foot passengers were the minimum required to operate the immigration controls. They identified passengers of potential customs interest, but as there was no-one available to carry out the customs examinations the passengers were simply allowed to proceed.

## Cyclamen

8.13 In June 2004, in response to a Parliamentary Question, the then Home Secretary described Programme Cyclamen as providing ‘the capability to routinely screen all forms of traffic at UK points of entry for the illicit movement of radioactive materials’.<sup>38</sup> The Home Office uses rigorous risk analysis to assess the threat of such material being smuggled into the UK.

8.14 Cyclamen scanning of arriving foot passengers and vehicles is carried out routinely at all ports and airports. The ‘Cyclamen Screening Protocol’ sets out the model against which Border Force should operate. Inspectors found that all of the east coast ports were meeting the protocol, but a senior manager commented that it needed to be reviewed more regularly. Ports are required to carry out secondary screening for all Cyclamen alarms. Where this is the case, secondary screenings take priority and other activities suffer, particularly where staff numbers have reduced. Inspectors witnessed several occasions when officers were switched from other duties to cover the secondary screening of Cyclamen alarms.

8.15 Two of the ports visited had been taking part in a networking trial. Cyclamen primary screening was being monitored by Border Force North’s Regional Control Centre, which informed the port when a secondary examination was required. This meant that frontline officers could carry on with other work, such as customs searches, without having to monitor the primary screening point until required to respond to each Cyclamen alarm. Border Force reported that the trial

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<sup>37</sup> <http://www.jus.uio.no/lm/un.cmr.road.carriage.contract.convention.1956/doc.html> – ‘standardizing the conditions governing the contract for the international carriage of goods by road, particularly with respect to the documents used for such carriage and to the carrier’s liability’.

<sup>38</sup> <https://www.theyworkforyou.com/wrans/?id=2004-06-10.174612.h>

had produced efficiency savings estimated at £800,000 for the two ports. Senior managers considered the pilot to have been a success and said that the networking approach would be extended to other ports.

- 8.16 At Immingham, inspectors observed a team of four officers searching freight. When two of the officers had to respond to a Cyclamen alarm, the other two had to stop the search because safe systems of working required a minimum of three officers for each search. At Felixstowe, a shift of five officers was assigned to searching. Because of the three person minimum requirement, all five were involved in searching one container. The port receives c.200,000 containers a month, and this was the only search carried out on that particular day.
- 8.17 Border Force officers and local managers at all the ports visited expressed concern about the limited resources available for customs searching because other tasks took precedence. Although there are mobile teams, which are tasked with supporting the customs searching, these teams cover the regions' airports as well the seaports. The inability to carry out the amount of searching that officers considered appropriate was summed up by one manager as 'it's not because they don't want to, it's because they can't'.
- 8.18 Senior managers told inspectors that 'maritime' had been protected from Border Force's budget reduction for the financial year 2016-17,<sup>39</sup> and the reductions had actually come from 'aviation', despite the increase in air passenger arrivals during 2016. They were aware that officers at ports wanted to do their own profiling in order to decide what to search, rather than be directed by the targeting hubs, but said that the way forward was to continue to improve the quality of targeting for both maritime and aviation traffic, and they considered this to be 'well on track'.

### Delays in processing goods

- 8.19 There is an inherent tension between Border Force's objectives 'to deter and prevent individuals and goods from entering the UK that would harm the national interest' and 'to protect customs revenues from trade crossing the border', and those 'to facilitate the legitimate movement of individuals and trade to/from the UK' and 'to provide excellent service to customers'. As a law enforcement command with a key role to play in the UK's multi-agency national security and organised crime strategies, one might expect to see the former two objectives take precedence over the latter two, particularly when resources are stretched.
- 8.20 In fact, inspectors found no backlogs of Category A, B or C targeted arrivals awaiting a search, except at Felixstowe. Inspectors visited Felixstowe between 5 and 7 October 2016. At that time, there were one Category A, 17 Category B and 15 Category C targets waiting to be searched. The Category C targets were being held up to be searched as soon as resources became available, although senior managers had the authority to release them without search if resources were not available. The oldest arrival waiting to be searched was a Category B target that had arrived on 23 June 2016. This was a consignment of perishable goods. Because the load was now in an advanced stage of decomposition, Border Force would have to pay a specialist contractor to examine it.<sup>40</sup>
- 8.21 To set this backlog in context, Felixstowe had had considerable success in preventing prohibited goods from entering the UK and protecting revenues. Felixstowe's seizures from April and May 2016 are shown at Figure 4. Further to these, Felixstowe had found seven clandestine entrants concealed in a Category C target in April 2016.

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39 More detail on Border Force's budgetary position can be found at: <https://hansard.parliament.uk/Commons/2016-04%202020/debates/16042035000002/BorderForceBudget2016-17>.

40 Inspectors were informed that the importer had abandoned this consignment. However, it was not clear when the importer had made the decision to abandon the goods and, thus, whether it was related to delay.

**Figure 4: Felixstowe seizures in April and May 2016**

Commodity	Amount	Target category *
Tobacco	2,805 kilograms	C
	2,048 kilograms	B
Cigarettes	1,800,000	B
	750,000	C
Cannabis	40 kilograms	B
CITES <sup>41</sup>	6131 cartons	B
IPR	6 cartons of goods	C
	353 pieces	C
Non-lethal firearms	3,600 stun guns	B

\* The meaning of the categories is explained at page 21

- 8.22 On the ground, inspectors were told that shifts at Felixstowe were running below their agreed complement. Felixstowe was required to carry out secondary screening of Cyclamen and officers considered that was disproportionate. It took officers from other shifts that were already undermanned and meant, for instance, not having enough time to search containers despite them being set as 'Very High' in the 'Control Strategy'.
- 8.23 A commercial company operating at Felixstowe told inspectors that examination of their consignments had slowed down, and their staff were kept waiting around until Border Force could attend for an examination at an estimated cost to the company of £500. The company put this down to a reduction in Border Force resources. It did not blame the local Border Force team, but felt that Border Force as a whole needed to show a better understanding of the commercial impact of its decisions.
- 8.24 Inspectors requested information from Border Force about complaints relating to delays of shipments. Only Felixstowe and Tilbury had received complaints in the twelve months to October 2016. Tilbury had received one complaint, including a claim for compensation of £1,342. However, the claim was not pursued when Border Force asked for evidence of the loss. Between November 2015 and October 2016, Felixstowe had received 43 complaints about freight delays, of which two were upheld and 30 dismissed.<sup>42</sup> The other 11 cases were still open at the time of the inspection. The compensation payments made for the two upheld cases were £424.00 and £1,210.98 (a total of £1,634.98).

## Search technology and equipment

- 8.25 Border Force makes use of scanners to search suspicious freight, particularly sealed unaccompanied containers. Scanners are incorporated into a lorry and, when activated by the Border Force driver, the scanning mechanism swings out to move over the container.
- 8.26 Border Force officers told inspectors that they were concerned about scanner availability. The Humber scanner is shared between Hull and Immingham and inspectors witnessed an occasion

<sup>41</sup> The Convention on International Trade in Endangered Species (of Wild Fauna and Flora) is agreed between governments to ensure that international trade in specimens of wild animals and plants does not threaten their survival. It includes materials such as ivory.

<sup>42</sup> By Border Force Correspondence Unit.

when there was no-one available to drive it to where it was needed. In this case, a Category B target consisted of tyres packed so tightly into a soft-sided trailer that the bulging sides meant it was not safe to open. The officers present wanted to scan the trailer to determine if there were cavities that might conceal prohibited goods. The scanner was elsewhere but not in use, but there was no driver available to move it. The officers instead had to use other, less ideal, technologies<sup>43</sup> and to run checks against the agent, delivery address and driver, before releasing the load.

- 8.27 Border Force officers who hold a driving licence that does not cover driving heavy goods vehicles, such as the scanner lorry, are unable to do so without specialist training.<sup>44</sup> Officers at one port said that they had lost the majority of their experienced scanner drivers to earlier voluntary exit schemes designed to achieve budget reductions. They had also lost officers with expertise in interpreting the images produced by a scanner. They said that while the basic skills could be taught through training courses, experience was important, particularly for interpreting images.
- 8.28 Border Force told inspectors that it keeps track of how many trained scanner lorry drivers and interpreters it has in each area, and that it had plans to train six more east coast officers to drive the scanner lorries.

## Personal Protective Equipment (PPE)

- 8.29 Inspectors noted inconsistencies between the ports inspected in the use of personal protective equipment (PPE). At Tilbury, officers had to seek a Border Force Senior Officer's approval to remove their protective body armour if it impeded their ability to climb into a trailer. In such circumstances, another officer had to be on hand to provide support. This was because they had encountered clandestine arrivals carrying knives. At other ports, the use of PPE was discretionary, and at Hull, Immingham and Felixstowe, inspectors did not observe it being worn.
- 8.30 Her Majesty's Revenue and Customs has a policy covering the use of PPE when searching for smuggled commodities and revenue goods that applies nationally to its officers. There is no equivalent national policy for Border Force officers using their immigration powers to search for immigration offenders and trafficked individuals. This has led to inconsistent practices at east coast ports. The decision to devolve decisions about the use of PPE looks anomalous alongside Border Force's general approach to its duty of care to staff, which includes ensuring that all officers have received the level of Personal Safety Training appropriate to their role, for example.

## Customs controls for pleasure craft

- 8.31 Pleasure craft arriving in the UK from outside the EU and departing from the EU to a destination outside the EU are required to make a customs declaration. Pleasure craft arriving from within the EU must make a customs declaration if they have something to declare. The vessel's operator must complete specific parts of Form C1331 and call the National Yacht line for further instructions. The form has two parts: Part 1 for vessels departing the UK, and Part 2 for arrivals.
- 8.32 The 'Inspection of General Aviation and General Maritime', which ran from February to July 2015, concluded from the available evidence that compliance with this customs declaration requirement was 'low'. It recommended that the Home Office should encourage more voluntary reporting and suggested ways of achieving this. The current inspection assessed east coast data from the previous 18 months (April 2015 to June 2016 inclusive), which showed that only four arrivals in that period had submitted a Form C1331. At this level of reporting, the process is all but meaningless as a form of customs control.

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<sup>43</sup> Endoscopy and CO<sub>2</sub> detection.

<sup>44</sup> This applies to driving licences issued on or after 19 January 2013, see <https://www.gov.uk/old-driving-licence-Categories>.

## 9. Inspection findings – clandestine arrivals

### Clandestine entry

- 9.1 Clandestine entry into the UK is by definition illegal and hidden. As a result, knowledge of clandestine entry is inevitably incomplete, particularly at a tactical level. However, the methods of entry are well known. Individuals travelling alone or in groups conceal themselves inside unaccompanied or accompanied freight, or sometimes underneath vehicles, in an attempt to pass through the immigration and customs controls undetected. As the Border Force 'Annual Threat Assessment 2016' recognises, some make use of tourist traffic, concealing themselves in 'cars (including car boots), vans, coaches and caravans/mobile homes'.
- 9.2 Some clandestine arrivals have had no help to reach the UK, but others will have paid criminal facilitators to be smuggled into the country. The National Crime Agency's 'National Strategic Assessment of Serious and Organised Crime 2016' (dated 9 September 2016) says: 'The highest priority Organised Immigration Crime (OIC) threat is clandestine activity using Roll-on Roll-off (Ro-Ro) and containers. This poses a threat to the lives of those concealed within. Organised Crime Groups (OCGs) often use seaports away from the migrant camps.' The Border Force 'Annual Threat Assessment 2016' identifies the Hook of Holland and Zeebrugge as key ports of embarkation.
- 9.3 Groups in unaccompanied, sealed containers, are likely to have been placed there by organised people smugglers. Since they are unable to release themselves, the risks are high and there have been numerous recorded deaths. On the east coast, in August 2014, 35 people, including 13 children, were discovered locked in a container at Tilbury when dock workers heard 'screaming and banging' as the ship from Zeebrugge was being unloaded. The occupants were treated for severe dehydration and hypothermia. One man was pronounced dead at the scene and four were hospitalised. All were understood to be members of Sikh families who had fled Afghanistan.<sup>45</sup> The files sampled for this inspection included another case of an unaccompanied container in which 23 people were found. Most were family members from Afghanistan.
- 9.4 The 'Border Force Control Strategy' sets the priority for Border Force activity in relation to clandestine arrivals. Overall, the priority is set at 'Very High'. Some of the modes of entry covered by this inspection (General Maritime, Ro-Ro Freight and Ro-Ro Tourist) are set individually at 'Very High'. Containers (including other unaccompanied freight consignments loaded and unloaded by derricks) are 'High', and Commercial Maritime is 'Medium'.

### Threat and Risk assessment

- 9.5 Inspectors looked at whether Border Force Intelligence was actively researching and considering the threat and risk<sup>46</sup> of clandestine entry via east coast ports. The Home Office provided a number of documents showing that work was being done to consider both.

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<sup>45</sup> <http://www.bbc.co.uk/news/uk-28827133> and <http://www.telegraph.co.uk/news/uknews/crime/11039485/Illegal-immigrants-in-Tilbury-shipping-container-were-Sikhs-from-Afghanistan.html>.

<sup>46</sup> The 'threat' is the capability of those involved in planning and or carrying out an event, while the 'risk' is the likelihood and impact of an event.

9.6 Threat and risk assessments rely on the collection and analysis of intelligence. In relation to clandestine entry, during the first two months of 2016, Border Force had carried out a detailed analysis of migrant activity around Zeebrugge involving certain nationalities. This analysis was later updated to reflect changes as a result of the disruption of a particular organised crime gang that had been operating in the area. An intelligence update for 'Operation Modem'<sup>47</sup> covering March to May 2016 considered the current threat and risk of clandestine entries via the east coast, and also looked at possible further displacement of clandestine traffic from northern France northwards along the European coast and up to the Scandinavian ferry ports. The update also identified that the number of arrivals at Border Force Central Region ports claiming to be minors had increased.

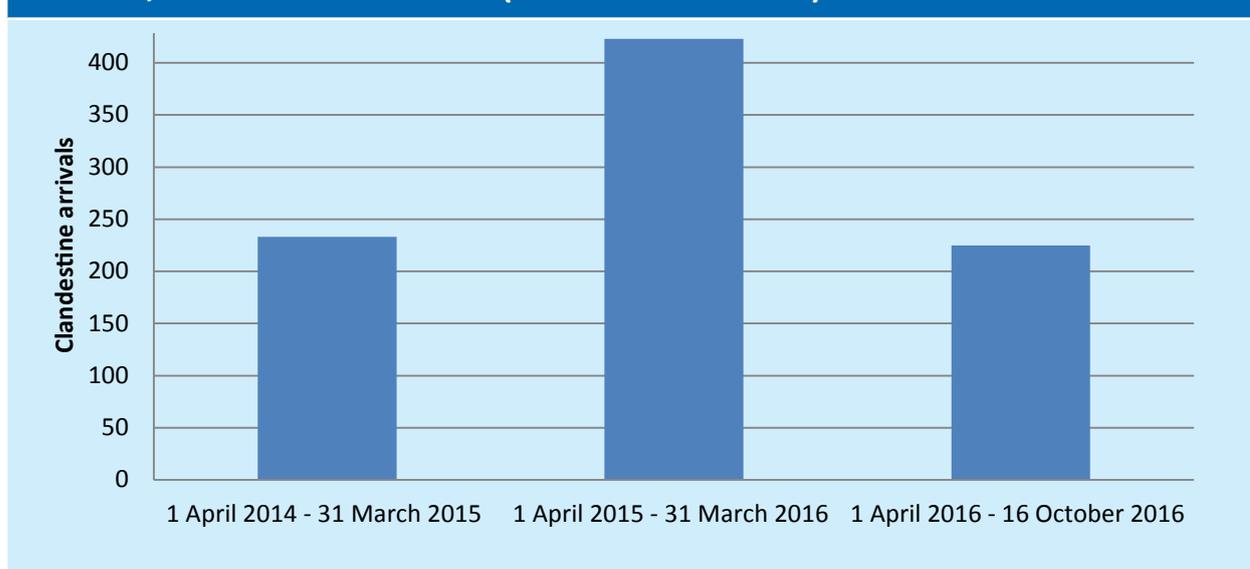
### Contingency planning

9.7 In response to threat and risk assessments for freight ports, Border Force North created contingency plans to cope with mass clandestine arrivals at the Humber ports, Teesport, Port of Tyne and at Rosyth. These plans provided clear guidance regarding the roles to be performed and the required Border Force response. Border Force officers told inspectors that they had worked through contingency plans with partner agencies, but they had also been tested for real, as Hull, Immingham and Tilbury had experienced mass arrivals within the last year.

### Increased detections of clandestine arrivals at east coast ports

9.8 Data provided by the Home Office for clandestine arrivals detected at or in the vicinity of east coast ports shows an increase of almost 100% between 1 April 2014 and 16 October 2016, with the sharpest rise occurring between the financial years 2014-15 and 2015-16 (see Figure 5). These figures do not include individuals who may have entered clandestinely through an east coast port but were discovered when well clear of the port of entry, for example having been 'dropped' from a lorry,<sup>48</sup> or arrested in an Immigration Enforcement operation targeting illegal working. It is not always possible to link such individuals back to their port of arrival as they may be reluctant to disclose where they entered the UK or may not actually know.

**Figure 5: Clandestine arrivals detected at east coast ports in financial years 2014-15, 2015-16 and 2016-17 (to 16 October 2016)**



47 An ongoing Border Force Intelligence operation covering North and Central regions.

48 See <http://icinspector.independent.gov.uk/wp-content/uploads/2016/07/ICIBI-report-on-Lorry-Drops-210716.pdf>.

## Breakdown of detections by port

- 9.9 Figure 6 below shows the number of clandestine arrivals detected in the financial years 2014-15, 2015-16 and 2016-17 (to 16 October 2016 – latest figures available at the time of the inspection) broken down by port.

<b>Figure 6: Clandestine arrivals as in Figure 5 broken down by port</b>			
<b>Port</b>	<b>1 April 2014-31 March 2015</b>	<b>1 April 2015-31 March 2016</b>	<b>1 April 2016-16 October 2017</b>
Felixstowe	26	0	13
Harwich	107	150	69
Hull	19	46	29
Immingham	16	124	61
Rosyth	7	3	4
Tilbury	58	100	49
<b>Totals</b>	<b>233</b>	<b>423</b>	<b>225</b>

## Ports of arrival

- 9.10 Inspectors examined Home Office records of a random sample of 95 clandestine arrivals detected at east coast ports between 1 January and 30 June 2016.<sup>49</sup>

<b>Figure 7: Port of arrival of the 95 clandestine arrivals in the file sample</b>	
<b>Port of Arrival</b>	<b>Number of clandestine arrivals in sample</b>
Felixstowe	9
Harwich	21
Hull	14
Immingham	5
Killingholme	10
Purfleet	10
Rosyth	4
Teesport	6
Tilbury	16
<b>Total</b>	<b>95</b>

<sup>49</sup> Figure 7 separates Humber Sea Terminal into the three constituent ports of Hull, Immingham and Killingholme. Killingholme handles only freight, and ferries operate to and from the Hook of Holland, Rotterdam and Zeebrugge.

## Ports of embarkation

- 9.11 Of the 95 files sampled, 37 clandestine arrivals had embarked at Zeebrugge, 20 at the Hook of Holland, 17 at the Port of Rotterdam, and nine at Europort.<sup>50</sup> Of the remaining 12, two had embarked at Esbjerg (Denmark), one each at Gothenburg (Sweden) and Cuxhaven (Germany), and in eight cases the port of embarkation could not be ascertained. This spread broadly aligns with Border Force intelligence about ports of embarkation.

## Search practices at passenger ports

- 9.12 The inspection team noted that Border Force at Hull and at Harwich had different approaches to arriving passenger vehicles. Hull and Harwich both receive sailings from the Hook of Holland. In light of intelligence reports, assessments and repeated evidence of the risk of clandestine arrivals from this embarkation port, inspectors expected that checks at Hull and Harwich would be similar in their intensity. However, while officers at Hull were observed to conduct some checks for concealed individuals by opening vans, caravans and trailers, inspectors saw no evidence of this when onsite at Harwich.
- 9.13 Inspectors discussed this with Border Force at Harwich and were told that they were relying on the fact that the vehicles had already been searched by the Dutch authorities. Officers at Hull and Harwich showed inspectors copies of emails from the Belgian and Dutch authorities stating which vehicles had been searched.<sup>51</sup> This information is provided as part of a tri-lateral agreement signed by the then UK immigration minister with Belgian and Dutch ministers on 12 November 2015. The agreement is based on ‘the need for the three nations to continue to secure their home ports and share intelligence to disrupt the criminal gangs who profit from exploiting vulnerable migrants’.<sup>52</sup>
- 9.14 Inspectors requested data from Border Force showing the number of individuals found as a result of the pre-departure checks by the Belgian and Dutch authorities. The numbers in Figure 8 confirm the identified trend for migrants to mass in Zeebrugge and the Hook of Holland.

**Figure 8: Numbers of individuals reported to have been found by Belgian and Dutch authorities before they could board a vessel for the UK from 1 January to 30 June 2016**

Country	Port	Port total	Country total
Belgium	Zeebrugge	736	736
Netherlands	Hook of Holland	131	197
	Europort	66	
<b>Overall total</b>			<b>933</b>

- 9.15 While pre-departure checks by the Belgian and Dutch authorities should ensure that no-one is concealed in the searched vehicles at that point, they are not a guarantee that no-one has managed to do so after embarkation. This would require complete security of the vehicle decks throughout the loading, sailing, docking and unloading stages. It is possible, for example, that someone who had embarked on foot with a fraudulent passport, or had managed to get on

<sup>50</sup> Europort is a designated part of the larger Port of Rotterdam.

<sup>51</sup> Hull receives passenger and freight arrivals from Belgium (Zeebrugge), whereas Harwich only receives freight arrivals.

<sup>52</sup> <https://www.gov.uk/government/news/immigration-minister-signs-joint-declaration-with-dutch-and-belgian-governments>.

board some other way, could try to access the vehicle deck in order to conceal themselves, possibly with the help of a driver. Inspectors were given no indication that Border Force had done any testing of the possibility of someone evading the pre-departure checks.

## Encountering clandestine arrivals at the UK ports

- 9.16 The ports visited as part of this inspection are all ‘controlled zones’,<sup>53</sup> within which responsibilities for safety, security and other port functions are shared between various agencies and parties. Border Force was first to encounter roughly a third (34) of the 95 clandestine arrivals in the file sample. The majority (65) were discovered on board vessels, or were encountered in or just outside the port by port staff or police. This emphasises Border Force’s reliance on working effectively with others, and it must ensure that others are alive to the possibility of encountering clandestine arrivals and know what to do with them.
- 9.17 Of those found still concealed, 53 were in driver-operated freight vehicles. Home Office records of the vehicles involved with clandestine arrivals are not complete, but they do show that soft-sided freight is overwhelmingly the vehicle of choice. They can be entered by cutting a flap in the roofing, which is not visible from the ground and which leaves any customs seals intact. Drivers tend to stop for refreshments at services once they are clear of the port, so anyone who is concealed can then cut their way out. This method of concealment and escape requires a knife or sharp tool, which argues for Border Force to adopt a more consistent approach to the use of body armour particularly when searching soft-sided freight.

## Arrest and prosecution of complicit drivers

- 9.18 Inspectors asked for information about the prosecution of drivers who appeared to have knowingly facilitated clandestine arrivals. Between 1 January and 30 June 2016, Border Force made five arrests, the (limited) details of which suggest some inconsistency in the Crown Prosecution Service’s charging standards. Of the five:
- two drivers were released due to insufficient evidence (one driver having been found with a single individual hidden in their vehicle, and the other with five individuals);
  - a third driver was arrested for having facilitated four individuals and was granted bail after interview, but failed to answer his bail; and
  - of the two remaining cases, one driver admitted the offence and was sentenced to 12 months imprisonment, and one driver was awaiting trial at time of the inspection.
- 9.19 Given the small numbers involved, and the difficulties of securing a successful prosecution, it is hard to imagine that drivers tempted to facilitate clandestine entry would be deterred by the risk of arrest and prosecution.

## Record keeping

- 9.20 A number of the records for the 95 sampled cases were missing key details, such as the times of actions or notes on why a vehicle was checked (for example, whether it was an intelligence target or was searched because an officer was suspicious). This hampered detailed analysis by inspectors, but more importantly poor record keeping reduces the value of the records for intelligence and assessment purposes and in terms of operational learning.

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<sup>53</sup> With security fencing and access controls for vehicles and people.

## Profile of clandestine arrivals

9.21 However, the sampled files did illustrate the diverse nature of the clandestine arrivals encountered, as the following examples show.

- One of four Indian men, found at Edinburgh on 3 June 2016 in a container from Zeebrugge, had previously been found in a trailer at Purfleet on 27 May 2016. He made no asylum claim and was removed again on 7 June 2016.
- A female from Afghanistan was one of 22 Afghan nationals in family groups concealed in a trailer that had arrived at Harwich from the Hook of Holland. She claimed asylum on behalf of all 22. One Indian male, in possession of what Border Force accepted to be his own passport, was also in the trailer with them. He also claimed asylum.
- An Albanian male was found with three others in the back of an unaccompanied trailer that had arrived at Teesport from Europort. He asked for leave to enter as a visitor and said that he would look for work. As he had no visa or work permit, he was removed.
- Two Albanian males were secreted in a lorry from Europort and found at Teesport. One admitted having been refused asylum in Germany and the other admitted having been refused asylum in the Netherlands. They made no asylum claim in the UK and were removed.

9.22 The records showed the gender of the 95 and whether they arrived as single adults, as members of a family group, or as unaccompanied minors.

**Figure 9: Profile of the 95 clandestine arrivals in the sampled files**

	Male	Female	Total
Single adults	67	5	72
Family members	5	3	8
Unaccompanied under 18 – treated as such	10	0	10
Claimed to be under 18 – assessed as adult	5	0	5
<b>Totals</b>	<b>87</b>	<b>8</b>	<b>95</b>

9.23 The preponderance of single adult males in the file sample was consistent with reports from the Home Office and from other agencies about the profile of persons encountered who have entered the UK clandestinely or have been discovered on arrival and prevented from doing so.

9.24 The eight family members in the sample belonged to three family groups. Two of these were Afghan – of which five members of one family and two of another were amongst the 95 records examined. The third family group was Iraqi. In this case, the file sample contained only one male member of the family. All eight of the family members in the file sample claimed asylum.

9.25 The records also captured the nationality (as accepted by Border Force<sup>54</sup>) of the 95 individuals – see Figure 10.

<sup>54</sup> The nationality recorded was whatever the Home Office accepted after examination or was able to determine from other information it had access to such as documents and fingerprints.

**Figure 10: Breakdown of the 95 individuals in the file sample by nationality**

Nationality	Number
Albanian	30
Iranian	18
Afghan	13
Indian	12
Syrian	6
Vietnamese	6
Iraqi	5
Bidoon (from Kuwait) <sup>55</sup>	1
Chinese	1
Pakistani	1
Palestinian	1
Somali	1
<b>Total</b>	<b>95</b>

### Outcomes for asylum claims in the sampled cases

- 9.26 Overall, 46 of the 95 individuals in the file sample made an asylum claim. In early December 2016, inspectors checked the progress of all of these claims. Asylum had been granted in ten cases - to two Afghan nationals, to four Iranians, and to four Syrian nationals. Eight of the ten were adult males, one was a female (Syrian), and the other a minor (Afghan).
- 9.27 Of the remaining 36 cases:
- Six claimants could be shown to have been in a safe third country before coming to the UK, and so could be removed under the Dublin III Regulation.<sup>56</sup> One further case was being considered under this Regulation.
  - Seven cases remained in progress (one of which involved the question of an Iraqi national's true age).
  - Two applicants had withdrawn their claims and a further three were deemed by the Home Office to have withdrawn their claims as they had absconded.
  - Seventeen individuals had been refused asylum, of which nine had lodged appeals but none of the appeals had yet been heard.

<sup>55</sup> The Bidoon (also known as bedoun, bidoun or bedouin) were considered to be without nationality by the Kuwaiti government until 1986 when the authorities reclassified them as 'illegal migrants' maintaining that the majority are nationals of other countries.

<http://icinspector.independent.gov.uk/wp-content/uploads/2014/11/IAGCI-evaluation-of-the-Home-Offices-CIG-Report-on-Kuwait.pdf>

<sup>56</sup> The Dublin III Regulation (No. 604/2013) came into force on 19 July 2013, replacing previous versions. It sets out that, in most cases, the Member State responsible for an asylum seeker will be the state through which the asylum seeker first entered the EU. It applies to all members except Denmark. Home Office guidance sets out the evidence required to use this process.

**Figure 11: Breakdown by country of origin of 46 sampled cases where asylum was claimed**

Nationality	Number
Iranian	14
Afghan	12
Syrian	6
Iraqi	5
Indian	3
Albanian	2
Bidoon (from Kuwait)	1
Somali	1
Vietnamese	1
<b>Total</b>	<b>46</b>

### No asylum claim

9.28 Roughly half (49) of the 95 individuals whose files were sampled did not claim asylum. Figure 12 breaks the 49 down by nationality. The 49 included two females, both Albanian.

**Figure 12: Breakdown by country of origin of 49 sampled cases where asylum was not claimed**

Nationality	Number
Albanian	28
Indian	9
Vietnamese	5
Iranian	4
Afghan	1
Pakistani	1
Palestinian	1
<b>Total</b>	<b>49</b>

9.29 Border Force officers told inspectors they believed that clandestine arrivals who agreed to prompt removal without claiming asylum would make further attempts to enter clandestinely, as their intention was to work illegally in the UK's 'shadow economy'. It was rumoured that the facilitation 'package' being sold by organised crime gangs covered three attempts to enter the UK clandestinely, and Border Force officers believed these rumours to be true.

9.30 The Home Office does not know how many irregular migrants<sup>57</sup> are managing to stay in the UK by working illegally, but ministers have expressed the view that access to illegal working constitutes a ‘pull factor’, in particular for single males.<sup>58</sup>

9.31 To counter the perceived ‘pull factor’, the Immigration Act 2016<sup>59</sup> included provisions amending the Immigration Act 1971 and making illegal working a criminal offence. The excerpt below encompasses individuals who have entered the UK clandestinely since they do not have permission to enter or to remain in the UK.

‘(1) A person (“P”) who is subject to immigration control commits an offence if—

(a) P works at a time when P is disqualified from working by reason of P’s immigration status, and

(b) at that time P knows or has reasonable cause to believe that P is disqualified from working by reason of P’s immigration status.’

## Claims to be under 18

9.32 The 10 unaccompanied individuals in the file sample treated by Border Force as under 18 were all male. They comprised:

- three Albanians
- two Iranians
- two Afghans
- one Somali
- one Chinese
- one Vietnamese

9.33 Five other males claimed to be minors but were treated as adults.

- Border Force officers disputed the age of three, leading to the removal of a Vietnamese national and to the two others (an Iraqi and an Afghan) seeking asylum as adults.
- A Palestinian was age assessed by the local authority as an adult and was removed to Belgium.
- An Iranian was accepted by the local authority as being under 18 and was placed into foster care, but subsequently admitted to being an adult and sought asylum as such.

9.34 The 2013 ICIBI inspection report ‘An Inspection into the Handling of Asylum Applications made by Unaccompanied Children’<sup>60</sup> described the benefits when making an asylum claim as a child, which explains why some older individuals try to make use of that route. The report set out the three means by which the Home Office may determine that an individual claiming to be under 18 is in fact older and may be treated as an adult:

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<sup>57</sup> Generally used to mean illegal entrants, overstayers, and those behaving otherwise than in compliance with their permission to be in the UK.

<sup>58</sup> The 2015 ICIBI inspection report ‘An Inspection of How the Home Office Tackles Illegal Working’ highlighted the predominance of single males in the illegal working population. <http://icinspector.independent.gov.uk/wp-content/uploads/2015/12/ICIBI-Report-on-illegal-working-17.12.2015.pdf>.

<sup>59</sup> [http://www.legislation.gov.uk/ukpga/2016/19/pdfs/ukpga\\_20160019\\_en.pdf](http://www.legislation.gov.uk/ukpga/2016/19/pdfs/ukpga_20160019_en.pdf).

<sup>60</sup> <http://icinspector.independent.gov.uk/wp-content/uploads/2013/10/An-Inspection-into-the-Handling-of-Asylum-Applications-Made-by-Unaccompanied-Children-FINAL.pdf>.

- ‘an existing Merton-compliant local authority age assessment<sup>61</sup> stated the applicant to be an adult;
- documentary evidence<sup>62</sup> showed the applicant to be aged 18 or over; and
- physical appearance and/or demeanour **very** strongly suggested that they were **significantly** over 18.’<sup>63</sup>

9.35 The 2013 inspection found that, in practice, Home Office staff generally used the third option (known as ‘age dispute’) when a manager’s independent assessment concurred with the original officer’s view that someone appeared to be at least 25 years of age by their appearance or their demeanour. In the majority of cases sampled by inspectors, the individual was given the benefit of the doubt, and was subsequently referred to the local authority for a formal Merton-compliant age assessment.

## Safeguarding

9.36 A number of the 95 sampled cases demonstrated that Border Force officers were aware of their safeguarding responsibilities.<sup>64</sup> As well as the cases involving unaccompanied minors, the sample included an Afghan female in a group of 18 found in the rear of a lorry. As she was pregnant, and was feeling unwell, officers arranged for her to be taken to hospital before interviewing her.

## Port facilities for handling clandestine arrivals

9.37 Because clandestine arrivals tend to choose freight vehicles to hide inside, many are encountered at busy freight-only ports, such as Immingham, Felixstowe and Tilbury. Inspectors observed that facilities at these ports for holding clandestine arrivals while they were assessed were not ideal and could make safeguarding more difficult. Local Border Force managers had worked with port operators to find ways to cope in the absence of purpose-built facilities, but this typically produced workarounds rather than long-term solutions, particularly in view of the increased numbers of clandestine arrivals being encountered.

9.38 The ‘Target Operating Model’ includes objectives under the heading ‘Commercial Offer’ of ‘Improved and mature relationships with port operators’ and ‘A national framework for commercial relationships’. If applied, these could be used to move local workarounds onto a more strategic and future-proofed footing.

9.39 While passenger ports will have facilities that cater for the travelling public, for example places serving food and drinks, these may not exist at freight-only ports. Border Force officers told inspectors that they often have to pay to have food brought in for individuals they have detained and to claim the money back via expenses, because a Government Procurement Card cannot be used for this purpose. The Home Office said that it is reviewing the conditions for use of the card.

<sup>61</sup> Local authority age assessment is not formalised in statute but, as the courts provided guidance in the case *B v London Borough of Merton* [2003], assessments must be ‘Merton-compliant’.

<sup>62</sup> Examples – a passport or birth certificate.

<sup>63</sup> Emboldened text as in the guidance. [https://1exagu1grkmq3k572418odo0oym-wpengine.netdna-ssl.com/wp-content/uploads/2016/06/MDA-SS - R\\_AA\\_v\\_SSHD-200616.pdf](https://1exagu1grkmq3k572418odo0oym-wpengine.netdna-ssl.com/wp-content/uploads/2016/06/MDA-SS - R_AA_v_SSHD-200616.pdf) refers to a 20 June 2016 judgement on Border Force having detained AA as an adult. He was subsequently accepted by Wolverhampton City Council Social Services as a child aged 16–17 but Border Force did not release him immediately. The case concerned whether AA was unlawfully detained after that point and entitled to damages. The court found in favour of AA concluding that for the purposes of immigration detention age is a matter of ‘objective fact’ and could not be based on physical appearance or demeanour.

<sup>64</sup> For example, section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Secretary of State, in discharging her existing immigration and asylum functions, to have regard to the need to safeguard and promote the welfare of children who are in the UK.

## Taking fingerprints

- 9.40 The 2003 'Eurodac Regulation' established an EU database holding the fingerprints of anyone processed as applying for asylum anywhere within the EU.<sup>65</sup> When they encounter someone who claims asylum, Border Force officers are required to take their fingerprints. The fingerprints are then transmitted electronically to Eurodac for storage and comparison.
- 9.41 The Border Force 'Target Operating Model' refers to the roll out of 'hand-held technology'. However, inspectors found that not all of the ports visited had the capability of taking and checking fingerprints electronically. Instead, officers were required to use the wet ink method (dating from the nineteenth century), and then to transport the inked prints to the nearest electronically-equipped Border Force base (typically an airport) for transmission to Eurodac. As the prints fall within the Data Protection Act, it requires two officers to transport them. This compounds the inefficiency of this process, and creates delays in removing clandestine entrants under the Dublin III Regulation, as well as impacting on resource availability for other tasks.
- 9.42 While extending the technology to all ports (not just on the east coast) may be costly, the evident efficiency and effectiveness gains make a compelling case for this investment, particularly in light of current and future pressures on Border Force's staff resources.

## Updated guidance on the processing of illegal entrants

- 9.43 On 29 July 2016, Border Force published new guidance on how to process clandestine arrivals. It was produced to ensure a 'more consistent procedure in dealing with illegal entrants/ clandestines, and standardise the process across maritime ports'.
- 9.44 Under this guidance, all clandestine arrivals encountered at maritime port locations in a Border Force controlled area should be treated as passengers and issued with Form IS81. This is the standard formal notification to detain an individual required to submit to further examination. In line with this, clandestine arrivals may be refused leave to enter like other arriving passengers. Previous procedures were not consistent as many had been issued with Form IS151A, informing them that they were being treated as illegal entrants, which was not the case for those encountered at a port of arrival as they had not, at that stage, entered the UK.
- 9.45 Inspectors questioned Border Force officers about this change at the ports visited, and were satisfied that they were all familiar with the new guidance and were complying with it.

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<sup>65</sup> European Dactyloscopy.

[https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/identification-of-applicants\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/identification-of-applicants_en).

# Appendix 1 – Role and remit of the Chief Inspector

The role of the Independent Chief Inspector of Borders and Immigration (until 2012, the Chief Inspector of the UK Border Agency) was established by the UK Borders Act 2007. Sections 48-56 of the UK Borders Act 2007 (as amended) provide the legislative framework for the inspection of the efficiency and effectiveness of the performance of functions relating to immigration, asylum, nationality and customs by the Home Secretary and by any person exercising such functions on her behalf.

The legislation empowers the Independent Chief Inspector to monitor, report on and make recommendations about all such functions. However, functions exercised at removal centres, short-term holding facilities and under escort arrangements are excepted insofar as these are subject to inspection by Her Majesty's Chief Inspector of Prisons or Her Majesty's Inspectors of Constabulary (and equivalents in Scotland and Northern Ireland).

The legislation directs the Independent Chief Inspector to consider and make recommendations about, in particular:

- consistency of approach;
- the practice and performance of listed persons compared to other persons doing similar activities;
- the procedure in making decisions ;
- the treatment of claimants and applicants;
- certification under section 94 of the Nationality, Immigration and Asylum act 2002 (c. 41) (unfounded claim);
- the law about discrimination in the exercise of functions, including reliance on section 19D of the Race Relations Act 1976 (c. 74) (exception for immigration functions);
- the procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure);
- practice and procedure in relation to the prevention, detection and investigation of offences;
- the procedure in relation to the conduct of criminal proceedings;
- whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue;
- the provision of information;
- the handling of complaints; and
- the content of information about conditions in countries outside the United Kingdom, which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.

In addition, the legislation enables the Secretary of State to request the Independent Chief Inspector to report to her in writing in relation to specified matters.

The legislation requires the Independent Chief Inspector to report in writing to the Secretary of State. The Secretary of State lays all reports before Parliament, which she has committed to do within eight weeks of receipt, subject to both Houses of Parliament being in session. Reports are published in full except for any material that the Secretary of State determines it is undesirable to publish for reasons of national security or where publication might jeopardise an individual's safety, in which case the legislation permits the Secretary of State to omit the relevant passages from the published report.

As soon as a report has been laid in Parliament, it is published on the Inspectorate's website, together with the Home Office's response to the report and recommendations.

## Appendix 2 – Criteria used in this inspection

<b>Inspection criteria</b>
<b>Operational delivery</b>
1. Decisions on the entry stay and removal of individuals should be taken in accordance with the law and the principles of good administration.
2. Customs and immigration offences should be prevented, detected, investigated and where appropriate, prosecuted.
3. Resources should be allocated to support operational delivery and achieve value for money.
<b>Safeguarding individuals</b>
4. All individuals should be treated with dignity and respect and without discrimination in accordance with the law.
5. Enforcement powers should be carried out in accordance with the law and by members of staff authorised and trained for that purpose.
6. All border and immigration functions should be carried out with regard to the need to safeguard and promote the welfare of children.
<b>Continuous improvement</b>
7. The implementation of policies and processes should support the efficient and effective delivery of border and immigration functions.
8. Risks to operational delivery should be identified, monitored and mitigated.

# Acknowledgements

We are grateful to the Home Office for the cooperation and assistance received during the course of this inspection, and appreciate the contributions from the Border Force officers and industry stakeholders who participated.

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