



An Inspection of Border Force Freight Operations

March 2013 – July 2013



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Independent Chief Inspector of Borders and Immigration



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FOREWORD FROM JOHN VINE CBE QPM INDEPENDENT CHIEF INSPECTOR OF BORDERS AND IMMIGRATION



Every day, significant volumes of freight enter and leave UK ports and airports. The job of Border Force is to use its intelligence capability and expertise to select and examine those consignments that represent the biggest threat to our borders and to ensure that those threats are mitigated. At the same time the free flow of trade, which is essential to the UK economy, must not be interrupted. The scale of this challenge is significant.

This inspection focused upon how well Border Force identifies risks to border security, how effective physical controls were, and how much of a deterrent to criminals Border Force interventions were. It also examined the relationship between Border Force and HM's Revenue & Customs, because both need to work together effectively to ensure that deterrents are used appropriately and customs and excise duties are collected.

Border Force staff employed in freight operations were committed, knowledgeable and experienced in countering threats from freight imports. Using skills acquired over many years, staff were effective in many aspects of their roles. I saw a number of local initiatives and processes that have yielded significant successes. I also observed several high-performing teams, some of whom have been recognised as international leaders in their fields. Border Force also enjoyed a broadly positive relationship with port authorities, which yielded beneficial outcomes for both parties.

However, I was disappointed to find that there has been a breakdown in communication between Border Force and HMRC at an operational level. This meant that Border Force was not referring suitable cases to HMRC for financial penalties to be issued to those who attempt to smuggle goods into the UK. I also found that large seizures of cigarettes and alcohol were not being investigated or prosecuted. Financial penalties and prosecutions are powerful weapons in the war against those who attempt to evade customs controls and I consider that urgent action needs to be taken to ensure that these deterrents are used effectively to protect the UK economy from the threat of smuggling.

I was also concerned that Border Force was breaching its agreed operating protocols by failing to carry out physical examinations of consignments selected by HMRC. I also found that staff were not seizing small volumes of counterfeit items which contravened current guidance. There is clearly work to be done at a senior level to ensure that Border Force and HMRC are working together effectively at an operational level and staff are adhering to guidance.

While staff demonstrated a high level of expertise in certain aspects of their role I was concerned to find that there was a loss of criminal investigation skills. This meant that staff were unsure of what should be disclosed for evidential purposes. I was also extremely concerned that my inspection identified breaches of the Police and Criminal Evidence Act 1984 (PACE) in two cases where individuals were denied certain rights after they were arrested. Urgent action must now be taken to ensure that staff act in accordance with the law.

In my investigation into border security checks, which was laid before Parliament 20 February 2012, I found that record-keeping and assurance processes at the UK Border were inadequate. I recommended that improvements be made in these areas. I was therefore disappointed to find similar problems within the freight area, where record-keeping in relation to many seizure files that I

examined was poor and assurance processes were lacking. It is essential that a rigorous management assurance process is put in place so that managers can have confidence in the actions of staff at the front line.

I found that the targeting processes used to identify smuggled goods within freight consignments were inefficient. A significant amount of effort was invested in both identifying and examining large amounts of freight consignments considered low-risk, yet the success rate of these targets was 1%. Clearly this represents an inefficient use of resources. Border Force needs to improve its intelligence and targeting systems so that the threat to the UK Border is reduced.

A lack of recent recruitment has contributed to a workforce within freight environments that is increasing in age. The eventual loss of the accumulated experience of these staff, over what will undoubtedly be a relatively short period of time in the future, should be of major concern to Border Force.

The term 'secondary control point' has been used by Border Force to describe its customs responsibilities. I found that this has led to confusion amongst the public and a reduction of morale in staff working in the freight area who feel their work is less valued by Border Force senior management. 'Customs' is an internationally recognised expression understood by staff and members of the public alike. I believe Border Force should re-examine whether the term 'secondary control point' should continue to be used in view of these factors.

I have made 11 recommendations for improvement.

A handwritten signature in black ink, reading "John Vine .". The signature is written in a cursive, flowing style.

John Vine CBE QPM
Independent Chief Inspector of Borders and Immigration

1. Executive Summary

- 1.1 The control of freight at airports and seaports across the UK is a complex process that requires a range of organisations to work closely and effectively together. The key challenge for Border Force is to protect the UK border from smuggling whilst facilitating the free flow of trade.
- 1.2 The inspection examined a range of functions carried out by Border Force staff, including: the targeting of consignments for examination; the referral of cases for prosecution and financial penalties;¹ the quality of record- keeping and assurance; and the standard of fiscal and regulatory checks (known as international trade). It also examined the relationship between Border Force and HM's Revenue & Customs in order to assess whether:
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- We found that both staff and management were performing many aspects of their roles to a high standard*
-
- they were working together effectively to ensure that deterrents were being used appropriately;
 - customs and excise duties were being collected where necessary; and
 - the flow of information between both organisations was effective and resulting in positive outcomes.
- 1.3 During our inspection we found that both staff and management were performing many aspects of their roles to a high standard. Using expertise that had developed over many years, teams were adept at locating smuggled goods within freight. This was reflected in combined HMRC and Border Force alcohol and tobacco seizures which rose steadily in the three-year period between April 2010 and March 2013.
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- Border Force enjoyed a broadly positive relationship with its key stakeholders, namely port authorities*
-
- 1.4 Staff we interviewed were passionate about their roles, despite having to work in challenging conditions such as container ports and exposed examination sheds. We observed a number of freight examinations and were impressed by the knowledge and professionalism demonstrated by staff. We also saw the work of a number of specialist teams, which concentrate on a particular area of work such as port crime or international trade and have delivered some excellent results.
- 1.5 Border Force enjoyed a broadly positive relationship with its key stakeholders, namely port authorities. On more than one occasion, we were informed that the lines of communication had strengthened over recent years. The outcomes from this were of clear benefit to both Border Force and port owners. We saw some strong evidence of increased dialogue on specific issues, for example, improvement to the traffic flow at Dover.
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- We saw room for improvement in the working relationship between Border Force and HM Revenue & Customs (HMRC)*
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- 1.6 We saw room for improvement in the working relationship between Border Force and HM Revenue & Customs (HMRC). Whilst the two organisations enjoyed a strong relationship at a senior level, we saw examples at the front line that resulted in inefficiency and a breakdown of process. This applied particularly to key deterrents such as financial penalties and prosecutions. For example, we found that:

¹ Referred to as wrongdoing penalties by HMRC.

- in the financial year 2012/13, Border Force had only referred one in four potentially suitable cases to HMRC for it to consider whether a financial penalty should be issued (2,971 cases referred out of 11,839 seizures made by Border Force). HMRC confirmed that they similarly shared our concerns in relation to this matter; and
- our file sample showed that only four out of nine potentially suitable cases, involving detections of commercial quantities of excise goods such as cigarettes, were adopted for criminal investigation/prosecution.

The lack of assurance activity within Border Force made it difficult for senior managers to demonstrate that all cases were being appropriately referred for criminal investigation

1.7 Although staff and managers assured us that suitable cases were being referred for criminal investigation, our file sampling found that record-keeping was poor, with no audit trail of actions taken. This made it difficult for us in many cases to determine whether staff had in fact followed policy and guidance issued by Border Force and HMRC. The lack of assurance activity within Border Force made it difficult for senior managers to demonstrate that all cases were being appropriately referred for criminal investigation.

1.8 Contact between Border Force officers and HMRC was informal, often via a telephone call. This stems from a historic relationship between the teams, who previously operated within the same organisation. We also found that the reactive nature of the referral process meant that opportunities to protect evidence were being lost. This meant that not enough was being done to deter those attempting to smuggle goods into the UK.

We found weaknesses in the targeting of freight for examination

1.9 We found weaknesses in the targeting of freight for examination, particularly in relation to the selection of lower-risk targets and feedback from examinations. For example, while Border Force selected over 43,000 low risk consignments known as 'Category C' for physical examination in 2012/13, only 505 resulted in a positive detection – a success rate of just 1%. This resulted in:

- wasted time and effort in the selection and physical examination of these consignments; and
- a delay to the flow of legitimate trade as consignments were held up whilst they were examined.

Our inspection revealed breaches of the Police and Criminal Evidence Act 1984 (PACE) in two cases

1.10 Furthermore, we found that in many instances staff did not provide feedback from examinations. This meant that a potential source of intelligence for the development of future targets was being lost.

1.11 We found that training relating to both the criminal justice system and operational freight activity was inadequate. Whilst the expertise of targeting and searching was high, staff had lost knowledge in other areas, most notably in the criminal justice system. Our inspection revealed breaches of the Police and Criminal Evidence Act 1984 (PACE) in two cases,² where individuals were denied certain rights after they were arrested. It is of concern that arrest-trained officers were incorrectly using their powers and Border Force should ensure that these skills are refreshed as a matter of urgency.

1.12 Frontline managers also had a tendency to make a written record of their decisions in documents known as 'daybooks'. We saw various examples of daybooks during the on-site phase of the inspection. However, we were later informed by Border Force centrally that such records did not exist. The Criminal Procedure and Investigations Act 1996 (CPIA) requires all relevant material, including daybooks, to be disclosed. The existence of unofficial daybooks has the potential to undermine criminal prosecutions if they are not routinely considered for disclosure.

² Out of 18 cases examined

- 1.13 We also found that different assurance processes were being followed across the ports we inspected, including one port where a redundant HMRC assurance process was still being used by Border Force staff. We found that application of PACE and arrest procedures were not being assured by managers. The lack of training and assurance in this area is a significant risk to the organisation. Similarly to our findings in our inspection of Birmingham Airport, we found a lack of consistency and ownership relating to guidance.
- 1.14 Border Force was not meeting all its requirements as set out in the various protocols and agreements it has with HMRC, most notably the mandatory physical examination of certain consignments. In 2012 over 2,500 such consignments (68%) were not examined. This meant that opportunities to detect illegal or fraudulent imports were lost; it also meant that intelligence was not gathered and fed back to HMRC.
- 1.15 Staff were also exercising discretion when they encountered small amounts of counterfeit goods, in contravention of guidance. Whilst such pragmatism may be sensible in certain instances, the guidance must be updated to reflect this position, assuming that senior managers are comfortable with such an approach.
- 1.16 Our inspection identified some key risks that Border Force should take urgent action to address. The lack of any large-scale recruitment has resulted in a workforce that is increasing in age. We established that approximately 70% of operational staff working in Border Force regions were over the age of 40. Whilst this means that the organisation can draw on a hugely experienced workforce, the future risk to the business is significant because:
- staff approaching retirement age will not be able to complete demanding activities in the challenging environment of freight operations; and
 - skills accumulated over many years will be lost.
- 1.17 Staff had experienced significant organisational change since Border Force assumed responsibility for customs functions at the UK border. The term 'secondary control point' has been used to describe customs work. This has proven extremely unpopular with staff, who believed this to be an indication that their work was of lesser importance than immigration. It also proved to be confusing for members of the public in the freight environment, particularly lorry drivers who could not distinguish the difference between officers carrying out immigration and customs functions.
- 1.18 Border Force operations are heavily reliant on information technology. However, we found instances where equipment was either not up to standard or completely lacking. We saw examples of staff using their mobile phones to conduct internet searches and experiencing inefficiencies at Cyclamen portals where they did not have access to the Home Office computer network.

We found that application of PACE and arrest procedures were not being assured by managers

The lack of any large-scale recruitment has resulted in a workforce that is increasing in age. We established that approximately 70% of operational staff working in Border Force regions were over the age of 40

2. Summary of Recommendations

We recommend that the Home Office:

1. In conjunction with HMRC, strengthens the lines of communication between their organisations to ensure that:
 - relevant information is passed between teams and decisions by either organisation are based upon the most up-to-date information available;
 - Border Force staff are given reasons why particular cases are not adopted for criminal investigation; and
 - referrals are made to HMRC in all relevant cases so that financial penalties can be imposed.
2. Addresses poor record-keeping by implementing a robust and consistent case-handling system for all activity undertaken in the freight environment.
3. Ensures that:
 - all staff who are arrest-trained comply with the requirements of PACE, and that managers test understanding and record-keeping in these areas, urgently; and
 - assurance is carried out rigorously and consistently and that criminal investigation, PACE and arrest procedures within the detection environment are included within the framework.
4. No longer uses the term 'Secondary Control point' and considers reintroducing the word 'Customs' into Border Force corporate branding.
5. Conducts a training needs analysis of freight staff, identifying areas where benefits can be achieved from providing additional training.
6. Develops an effective and consistent feedback process to ensure that intelligence is collected from frontline freight examination staff and passed to targeting teams to improve future targeting.
7. Evaluates the merit of Category B and C targets and develops a strategy to target and test freight arriving from other low-risk routes.
8. Develops a credible strategy to address the issue of the increasing age of its workforce.
9. Develops formal processes for earlier engagement with investigators, to allow faster decision-making when detections are made.
10. Ensures that:
 - it complies with its obligations to physically examine all Route 2 alerts;
 - all feedback on CHIEF alerts is accurate and is provided in a timely manner; and
 - all breaches of rules and mis-declarations by importers are referred for further action when necessary.
11. Ensures that it is meeting its disclosure responsibilities under the Criminal Procedure and Investigations Act (CPIA).

3. The Inspection

Key terms used in this report	
Agent/freight forwarder	A third party that organises shipments for individuals or companies to deliver goods from the manufacturer or producer to the customer. The agent will make all relevant declarations to HM Revenues & Customs (HMRC).
Category A/B/C	A Border Force method of classification used to target freight, based on the likelihood of a detection of smuggled goods. Category A represents the highest likelihood of detection.
CHIEF	Customs Handling of Import and Export Freight. An IT system owned by HMRC that processes all import and export declarations for the purpose of calculating relevant duties and taxes, freight targeting and the collecting of statistical data
Civil penalty	A process owned by HMRC in which financial penalties can be imposed on importers / agents for a range of offences, including evasion of import duty and mis-declaration of goods.
Consignee	The person or organisation to which goods are delivered.
Consignor	The person or organisation that dispatches goods.
Detection / intervention / examination teams	Operational teams who are responsible for conducting physical examinations of freight.
Examination shed	A structure in which physical examination of freight takes place. These are provided by the port owner. At Heathrow, examination takes place in the Temporary Storage Facilities.
Excise	An internal tax placed on the production, sale or consumption of goods or commodities such as cigarettes or alcohol.
International trade	A complex set of fiscal and regulatory checks conducted by Border Staff on behalf of HMRC or the EU.
Illicit/restricted/prohibited goods	Goods that are liable to forfeiture.
Restoration	The return of a seized vehicle or goods to the owner, either for a payment or free of charge.
Targeting	The process by which freight consignments are selected for examination.
Scanner	An X-ray device used to scan freight. The size and mobility of the scanner enables it to scan a complete lorry and trailer in one go.
Seizure	The removal of goods from a consignment or a person when goods have not been properly imported or authorised for importation.

Role and remit of the Chief Inspector

- 3.1 The role of the Independent Chief Inspector ('the Chief Inspector') of the UK Border Agency (the Agency) was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the Agency. In 2009, the Chief Inspector's remit was extended to include customs functions and contractors.
- 3.2 On 20 February 2012, the Home Secretary announced that Border Force would be taken out of the Agency to become a separate operational command within the Home Office. The Home Secretary confirmed this change would not affect the Chief Inspector's statutory responsibilities and that he would continue to be responsible for inspecting the operations of both the Agency and the Border Force.
- 3.3 On 22 March 2012, the Chief Inspector of the Agency's title changed to become the Independent Chief Inspector of Borders and Immigration. His statutory responsibilities remained the same. The Chief Inspector is independent of the UK Border Agency and the Border Force and reports directly to the Home Secretary.
- 3.4 On 26 March 2013 the Home Secretary announced that the UK Border Agency was to be broken up and, under a new package of reforms, brought back into the Home Office reporting directly to Ministers. The Chief Inspector will continue to inspect UK immigration functions previously carried out by the Agency, border customs functions and contractors employed by the Home Office to deliver any of those functions.

Purpose

- 3.5 The aim of the inspection was to inspect the efficiency and effectiveness of Border Force's management of its freight operations at maritime and air ports for imported goods. The key issue addressed in the inspection was the effectiveness of:
- Border Force freight teams in detecting and preventing illegal activity at the border, in terms of both anti-smuggling activities and responsibilities assigned to Border Force on behalf of HMRC, e.g. evasion of customs and excise duties;
 - the flow of information between frontline operations and the targeting hubs in Border Force and HMRC, including the quality of feedback and the setting of targeting profiles on Border Force and HMRC information systems;
 - the referral process between Border Force and HMRC when positive seizures were made in the freight environment; was it consistent and were outcomes monitored and analysed? and
 - the relationship between HMRC and Border Force; what barriers existed that prevented the operations being more efficient or effective?

Methodology

- 3.6 The Chief Inspector's inspection criteria³ (set out in Appendix 1) were used to assess the efficiency and effectiveness of Border Force's handling of freight operations at UK ports under the themes of:
- Operational Delivery;
 - Safeguarding Individuals; and
 - Continuous Improvement.

3 All criteria of the Independent Chief Inspector of the UK Border Agency can be found at: <http://icinspector.independent.gov.uk/wp-content/uploads/2010/03/Inspection-Criteria.pdf>

- 3.7 We visited four ports as part of this inspection; Immingham, Felixstowe, Heathrow and Dover. A number of stages were completed prior to the on-site phase of the inspection, including:
- pre-inspection familiarisation visits to the Port of Southampton, East Midlands Airport, The Port of Felixstowe, Manchester Airport, HMRC at Southend and HMRC's National Clearance Hub (NCH) at Salford;
 - an examination of management and performance information provided by the Border Force and HMRC;
 - surveys of members of port associations; and
 - file sampling of 198 seizure files, randomly selected from a list of all seizures at the four ports that occurred in a six-month period between 1 April and 30 September 2012.
- 3.8 The on-site phase of the inspection took place between 15 and 26 April 2013 with site visits being made on the following dates:
- Immingham – 15 April to 16 April inclusive;
 - Felixstowe – 16 April to 18 April inclusive;
 - Heathrow – 22 April to 24 April inclusive; and
 - Dover – 25 April to 26 April inclusive.
- 3.9 At each of these ports we held a range of focus groups and interviews with Border Force staff and managers. We also interviewed port authorities, local police and observed freight examinations. At each location we conducted the following:
- Immingham – four focus groups, one interview, two meetings with port operators, a port tour and observations of freight examinations;
 - Felixstowe – eighteen focus groups, four interviews, one meeting with port police, a port tour and observations of freight examinations;
 - Heathrow – fifteen focus groups, four interviews, one meeting with the Metropolitan Police, one meeting with Special Branch and observations of freight examinations; and
 - Dover – eleven focus groups, four interviews, four meetings with the port authority, one meeting with port police and a tour of the port.
- 3.10 Additionally, we held a series of open sessions in which staff had the opportunity to address the inspection team. We also visited the Border Force National Post Seizure Unit (NPSU).
- 3.11 We interviewed senior managers from Border Force and HMRC including Border Force regional directors across four regions. We also interviewed senior representatives from the UK Chamber of Shipping and the British Ports Association in addition to circulating a survey to the members of these organisations.
- 3.12 On 20 May 2013, the inspection team provided feedback on emerging findings to Border Force. The inspection identified 11 recommendations to improve the efficiency and effectiveness of freight operations as managed by Border Force. A full summary of recommendations is provided on page 10 of this report.

4. Background

- 4.1. The control of freight operations at UK seaports and airports is the responsibility of both Border Force and HMRC. HMRC are responsible for the recording of import and export declarations and ensuring that relevant revenues, e.g. customs duties and excise duties are collected. All systems for recording import/export declarations are the responsibility of HMRC. Frontline operations at the border are the responsibility of Border Force.
- 4.2. In 2009 responsibility for carrying out customs functions at the border transferred from HMRC to the Home Office. The legislative framework for this transfer was set out in the Borders, Citizenship and Immigration (BCI) Act 2009. The organisation responsible for all immigration and customs functions was the UK Border Agency (UKBA). On 1 March 2012 Border functions became the responsibility of the newly created Border Force, a law enforcement command within the Home Office.
- 4.3. Intra-European Union (EU) freight movements do not require an import declaration to be made if the goods are in 'free circulation' (i.e. EU taxes and duties have been paid). These can be goods that were manufactured within the EU, or goods for which all relevant monies have been paid when they entered the EU (whether these monies were paid in the UK or elsewhere in the EU).
- 4.4. The role of Border Force staff at UK ports includes:
 - the examination of freight consignments to ensure that contents are as declared;
 - ensuring that EU legislation is being adhered to; and
 - ensuring that illicit goods are not being imported.
- 4.5. Border Force operations can be driven by their own targeting techniques, or by HMRC targeting-activity.
- 4.6. Freight can be accompanied (by a driver) or unaccompanied. It can arrive by sea, air or rail (Eurotunnel). By sea, the type of freight received can be 'bulk' (e.g. grain or aggregates), containers or roll-on/roll-off traffic ('Ro-Ro' - mainly articulated lorries and trailers using the cross-channel ferry network). By air, freight can arrive on dedicated cargo aircraft or in the hold of chartered or scheduled passenger airlines. Eurotunnel also has Ro-Ro traffic. Figure 1 shows the different types and routes of freight that leaves or enters the UK.

Figure 1: Different routes for freight to enter and leave the UK

Freight type	Mode of transport
Air	Carried in dedicated cargo flights or within the holds of passenger flights.
Bulk	Ships containing a large volume of a single commodity such as coal or grain.
Container	Sealed metal boxes, often referred to as a twenty-foot equivalent unit (TEU). Usually carried on dedicated ships.
Rail	Freight arriving via the rail network.
Roll on/roll off (Ro-Ro)	Mainly articulated lorries and trailers using the cross-channel ferry network.

- 4.7. The Border Force definition of freight also includes ‘fast parcels’ companies such as DHL, FedEx, TNT and UPS. These companies operate from specific air-freight hubs across England. This type of traffic was specifically excluded from this Inspection.

Customs Handling of Import & Export Freight (CHIEF)

- 4.8. The CHIEF computer system is owned and managed by HMRC. It controls, records and checks the movement of goods consigned between the UK and non-EU countries by land, air and sea. The system automatically calculates revenues, e.g. duties and VAT. Importers/Exporters input declarations directly on to CHIEF. The system expedites the import process by identifying goods which may require documentary checks or physical examination. This allows other consignments to be cleared automatically. In addition, CHIEF provides data for international trade statistics and helps to prevent restricted or prohibited goods from entering the country.
- 4.9. CHIEF connects to a number of independent trade systems (serving hundreds of carriers, transit sheds⁴ and freight forwarders⁵) to record and track the movement of goods within ports and airports. The result is that the freight network is linked for shipping agents, port authorities, handling agents and government departments, including HMRC and Border Force. It means that goods declared on CHIEF are checked against inventory systems and, if clearance is granted, messages can be sent between agencies to ensure that goods can be moved or cleared quickly. Alternatively, messages can be sent to ensure that goods are held for further scrutiny by Border Force.

Volume of Freight

- 4.10. During 2012, 311 million tonnes of goods arrived into the UK via seaports.⁶ The busiest ports in terms of tonnage were Grimsby & Immingham, London, Milford Haven and Southampton. The top three receive bulk freight movements including coal, oil and gas. In terms of individual unitised⁷ freight, the busiest ports are Dover, Felixstowe and Grimsby & Immingham. These ports were selected for this inspection, based upon their ranking for the amount of freight received and also because Border Force targeting teams are based in these ports.
- 4.11. The volume of freight being handled at sea ports is likely to increase significantly in the medium to long term. Investment is being made in ports to increase capacity and provide facilities for ‘mega vessels’ which carry the equivalent of 18,000 twenty-foot containers. Ports at Felixstowe, the London Gateway and Liverpool have all started growth projects to increase capacity.
- 4.12. In terms of air freight, Civil Aviation Authority data⁸ shows that 2.2 million tonnes of international air freight arrived into UK airports in 2012. Of this total, 1.5 million tonnes or 68% of the total UK international air freight was handled by Heathrow airport. As a result of this, we also selected this port for inspection.

The Work of Border Force Freight Teams

- 4.13. Border Force freight teams work on the frontline at major UK ports. They perform a range of functions ranging from generating ‘targets’ for examination to conducting searches of freight. The latter involves physical demands being placed upon them: for example at sea ports, staff often have to climb in and out of containers or trailers; at airports, staff will lift and move consignments so they can be examined.
- 4.14. Unlike the passenger environment, there are very few visual indicators to help staff detect illicit

4 An approved place situated within the appointed area of an approved port or airport, but outside the Customs approved area.

5 A third party that organises shipments for individuals or companies to get goods from the manufacturer or producer to the customer. The agent will make all relevant declarations to HMRC.

6 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/137934/port-freight-statistics-quarter-4-2012.pdf

7 A unit could be a single lorry/trailer combination, or a container on a ship.

8 http://www.caa.co.uk/docs/80/airport_data/2012Annual/Table_14_Intl_and_Domestic_Freight_2012.pdf

goods or potential revenue fraud. All containers look the same and boxes arriving on aircraft do not provide any indication of what may be held inside. Detection in freight therefore relies heavily on intelligence, targeting teams and the expertise of officers who examine manifest data.

- 4.15. Staff conducting examinations of freight have a range of equipment available to assist them. One of the most useful pieces of equipment is an X-ray scanner, known at ports simply as a 'scanner'. Scanners are fixed or mobile and are of particular use for larger items, such as containers or trailers, where the staff resource required for examination is significant. Highly experienced staff can identify suspicious items from the images that the scanner produces. This can then inform a decision to conduct a physical search.
- 4.16. If a seizure of goods is made, or revenue fraud is detected, a range of penalties are available for staff to impose on offenders, including:
- criminal prosecution, including arrest;
 - wrongdoing penalties⁹ (financial penalties imposed using civil law); or
 - the seizure of goods and any vehicles used to transport the goods.
- 4.17. Criminal investigation is managed by HMRC Criminal Investigation teams (HMRC CI) or by the Home Office Criminal and Financial Investigation (CFI) teams. HMRC CI teams investigate offences involving the evasion of duty on high value goods such as cigarettes, customs duty offences and VAT fraud. Home Office CFI teams investigate non excise offences such as the importation of drugs. These teams will eventually become part of the Border Policing Command under the National Crime Agency (NCA). Wrongdoing penalties are issued by an HMRC department known as CITEX.¹⁰ These departments are examined in more detail later in this report.
- 4.18. The flowchart in Figure 2 is typical of the selection and outcome of a freight consignment:

Figure 2: Flowchart showing typical selection and outcome of a freight consignment



⁹ Financial penalties issued by HMRC under civil law.

¹⁰ HMRC Customs, International Trade and Excise Team.

Border Force Performance

- 4.19. Figure 3 records the overall amounts of goods seized by Border Force in the financial year 2011-2012¹¹.

Figure 3: Seizures by Border Force in the financial year 2011/2012

Type of Seizure	Volume
Cigarettes	455,174,133 sticks
Hand-rolling tobacco (HRT)	508,111 kg
Alcohol (spirits, beer, wine and alco-pops)	4,202,785 litres
Cocaine	2,948 kg
Heroin	1,623 kg
Ecstasy	506,000 tablets
Amphetamines	540 kg
Herbal cannabis	17,708 kg
Cannabis resin	15, 566 kg

¹¹ <https://www.gov.uk/government/organisations/home-office/series/border-force-statistics>. These are aggregated figures of all Border Force activity.

5. Inspection Findings – Operational Delivery

Customs and immigration offences should be prevented, detected, investigated and, where appropriate, prosecuted.

- 5.1 The inspection assessed the effectiveness across a range of Border Force functions in the freight environment, with a particular focus on deterrent functions such as criminal prosecution and financial penalties. It also examined targeting, International Trade, CITES¹² and Cyclamen.¹³

Targeting

- 5.2 Targeting is a term used to determine which consignments of freight should be examined. It is based on the premise that, unlike passengers, there are very few visual indicators that might make a consignment look suspicious. The only exception to this in the freight environment is accompanied Ro-Ro traffic which has a driver to accompany the trailer.
- 5.3 Targeting is done in two ways. Border Force targeting teams are based at various locations around the country and target prohibited and restricted goods. In addition, HMRC's National Clearance Hub (NCH) in Salford processes entries that match against profiles set on the CHIEF system for fiscal and regulatory checks¹⁴. Profiles are mainly set by HMRC policy owners although some are set by the NCH Compliance and Technical Team. NCH targeting is dealt with under the section on International Trade.
- 5.4 This section of the report examines Border Force targeting.
- 5.5 The targeting teams based around the country are responsible for targeting the different modes of carrying freight. They include teams in Liverpool, Southampton and Felixstowe who target containers, a team in Dover who target accompanied and unaccompanied Ro-Ro traffic and a team at Heathrow Airport who target air freight. Other teams exist to target fast parcels and passengers, but these were outside the scope of this inspection.
- 5.6 Targeting plays an important role in the identification and seizure of goods entering the UK as freight. Between April and November 2012, targeting was responsible for;
- 58% of the total volume of cigarettes that were seized;
 - 43% of the total amount of cocaine that was seized; and
 - 76% of the total amount of Class B & C drugs that were seized.

Targeting plays an important role in the identification and seizure of goods entering the UK as freight

¹² The Convention on International Trade in Endangered Species of Wild Fauna and Flora. An international treaty that protects endangered species of plants and animals.

¹³ Cyclamen radiological and nuclear detection.

¹⁴ Fiscal checks are checks made to ensure that the correct rates of duty and VAT have been paid. Regulatory checks are those where, for example, a licence to import animal products is required or checks made under EU legislation, for example, under the Common Agricultural Policy.

- 5.7 Targeting teams use a variety of IT systems, including HMRC systems such as CHIEF, Centaur¹⁵ and the Freight Targeting System,¹⁶ to detect smuggled goods contained within freight. They also use systems that hold data on freight consignments, for example port inventory systems and shipping manifest data. They will also conduct checks against consignors, consignees and trading companies to identify any links to criminality or previous revenue evasion.
- 5.8 The result of the targeting process is the identification of freight consignments that could potentially include illicit or prohibited goods. Targets are categorised depending on the probability that a seizure will be made. Figure 4 shows the current categories of targets and what Border Force describes as the action that should be taken against each category.

Figure 4: Border Force targeting categories

Category	Definition	Response
A	High expectation of smuggling or criminal activity.	A full examination must be completed. If necessary, the consignment should be destroyed. During the examination contact must be maintained with a member of the targeting team. Full feedback of the examination should be provided.
B	Risk indicators suggest a higher risk consignment.	A full examination should be completed. However, an exception to this instruction can be granted by a duty manager. During the examination contact must be maintained with a member of the targeting team. Full feedback of the examination should be provided.
C	Profile indicators – lesser risk	Consignment should be scanned and an examination should take place if the scan gives grounds for suspicion. If no scanner is available then a senior officer should decide the level of physical examination.

- 5.9 The response shown in Figure 4 is determined by the Border Force Operating Mandate. This document, published in November 2012 and updated in April 2013, defines many of the actions that should be taken for all functions carried out by Border Force officers. We examined the performance of freight teams against the requirements of the operating mandate, which states that:
- for Category A & B targets, ‘Border Force designated customs officials must action all alerts’ because there is strong evidence (Category A) or there are specific indicators (Category B) to suggest a potential positive result and/or seizure; and
 - Category C targets ‘should be actioned where resources permit’ because there is only a reasonable suspicion of a potential positive result and/or seizure.
- 5.10 Figure 5 shows the numbers of targets sent to ports by the targeting teams, together with details of whether or not these targets were responded to by ports (referred to as ‘targets actioned’), for each category of alert between April 2012 and March 2013 inclusive. The figure also includes the ‘hit rate’, which is the proportion of targets actioned that produced a positive intervention, e.g. a seizure.

¹⁵ An HMRC intelligence system used by Border Force.

¹⁶ An IT system used to generate targets for examination.

Figure 5: Action rate for freight targets 2012-13

Category	Targets Sent to Ports	Targets Actioned	Success Rate
A	223	212 (95%)	48%
B	6,040	5,863 (97%)	14%
C	49,205	43,157 (88%)	1%
TOTALS	55,468	49,232 (89%)	2.89%

Note: This information was internal management information provided by Border Force. It had not been quality assured to the level of published National Statistics and should be treated as provisional and therefore subject to change.

- 5.11 Figure 5 shows that the hit rate for Category A targets was 48%, highlighting that high probability targets were yielding success. However, performance in relation to Category B and C targets was poor, with positive seizure rates of just 14% and 1% respectively. This meant significant resources were being utilised to produce limited results. For example, while over 43,000 Category C targets were actioned, only 505 yielded a seizure of goods.

However, performance in relation to Category B and C targets was poor, with positive seizure rates of just 14% and 1% respectively

Category B and C Targets

- 5.12 We consider that the impact of very low seizures in response to Category B and C targets impacted negatively against other activities that Border Force should carry out. For example, in Immingham there may only be three or four staff conducting freight examinations. If they have Category B and C targets to examine, this diverts their resources. Each day, a ship from the Netherlands carrying up to 150 Ro-Ro vehicles docks at the port. If staff are involved in dealing with Category B and C targets, potentially 150 drivers and trailers for which no alerts have been issued can leave the port without any additional customs checks. This means that highly experienced officers are unable to conduct visual checks. During focus groups, staff informed us that this was a common occurrence.
- 5.13 The situation was exacerbated because there was no permanent scanning facility in place at the port. The scanner was a mobile unit embedded into the chassis of a lorry and was shared between all ports covering the Humber estuary. The lorry was driven to those locations where it was needed. On days when no scanner was available, staff were reliant on the information on targeting sheets and their discussions with the driver. The lack of a scanner image meant they had less information on which to base a decision to conduct an examination and were entirely reliant on information received from targeting teams.
- 5.14 This situation also applied at Heathrow airport, where we found there was no Border Force scanning facility in place for freight. Staff relied on the use of small X-ray machines owned by the companies who managed the freight sheds. Considering that approximately 70% of all UK air freight arrives into Heathrow, we consider this to be a weakness in the protection of the UK border.
- 5.15 The other impact of low-yielding Category C targets was the apathy towards them from staff. Staff at every port we inspected believed that targeting staff had to produce a certain number of targets each day. As a result, frontline staff questioned the quality of the targets. This approach was denied by senior managers of targeting teams, who informed us that all targets were driven by information only and were not driven by a need to produce a certain number of targets each day.
- 5.16 In Felixstowe, targeting teams tried to achieve 100 targets per day. Frontline staff referred to this as 'scanner fodder', a term used to denote targets being produced just to keep the scanner busy. The management team at Felixstowe informed us that the purpose of this target was to allow low-risk consignments to be confirmed as such. This lack of clarity (as to why Category C targets need to be

checked) between frontline staff and targeting teams could have a significant impact on how targets were received on the frontline.

- 5.17 Nevertheless, we also saw some good practice being conducted in Felixstowe. Twice a day, the Higher Officers of the detection teams and the targeting teams met to discuss the results of all the scans that had been carried out. These tasking and co-ordination meetings made decisions on which targets were subject to a full examination by staff. We found this to be an effective use of resources and were told that similar good practice was adopted in relation to air freight. We believe that the principle of this approach should be considered as a benchmark nationally.

Nevertheless, we also saw some good practice being conducted in Felixstowe

- 5.18 We also noted that another initiative had been developed in Border Force, known as 'Campaigns,' which was described as:

'Campaigns will be used to improve our understanding of the risks at the border. They will do this by testing the assumptions about how we currently work, gather evidence around the extent or severity of risks and provide information about the effectiveness of our current intervention activities.'

- 5.19 We did not see any evidence that Campaigns had been used in the freight environment and we believe there was much more scope for Border Force to consider using this initiative in the freight area.

- 5.20 We are aware of improvements in IT to automate some of the targeting process, particularly at one of the ports we inspected. However, we were concerned that the level of resources used to identify and examine Category B and C targets was not conducive to the result being achieved. In view of this, the routine nature of production of Category B and C targets has produced quantity over quality. This imbalance in the number of targets against positive results needs to be redressed to ensure that high quality targets are produced.

This imbalance in the number of targets against positive results needs to be redressed to ensure that high quality targets are produced

- 5.21 Border Force should consider whether there is more opportunity to develop Category A targets if they spend less time producing high-volume/low-yield Category B and C targets. Border Force should analyse data more effectively to consider the value of Category B and C targets. Monthly targeting reports are produced and these should be used to determine results and plan how best to utilise the resources in the future.

We recommend that the Home Office:

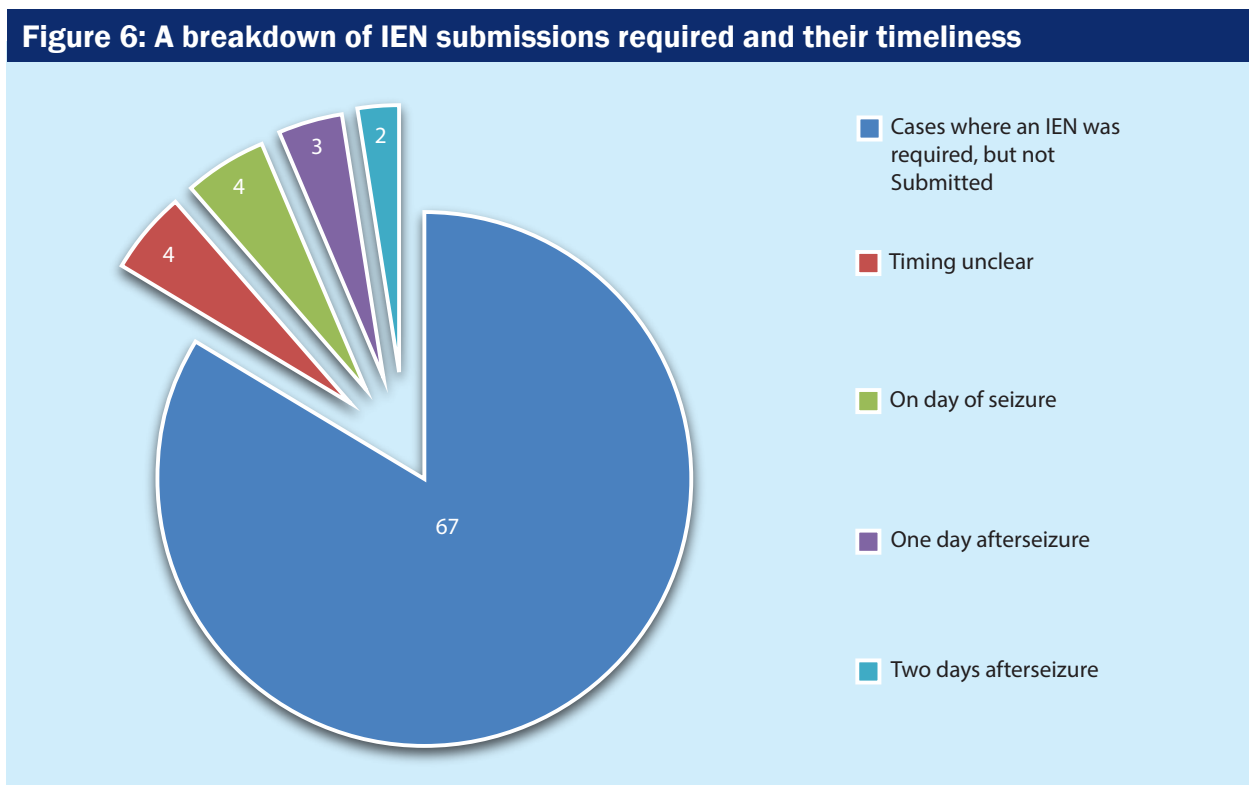
Evaluates the merit of Category B and C targets and develops a strategy to target and test freight arriving from other low-risk routes.

Feedback on freight targeting

- 5.22 In addition to the action and hit rates of targets, we also examined the level of feedback produced. Feedback is an integral part of the targeting process. Information received via feedback can be used to update systems so that future targeting is more accurate. We found that the way feedback was provided was inconsistent across the ports we inspected.

Feedback is an integral part of the targeting process

- 5.23 If a seizure is made, the most common form of feedback is the Immediate Event Notification (IEN). This is an online form that captures all relevant data about the seizure and is sent to the Border Force National Intelligence Hub (BFNIH). The form should be completed within two hours of the event, or before the end of an officer's shift at the latest. The notification is then shared amongst Border Force staff and alerts them of potential new threats or trends. An IEN is only needed if the amount of goods seized is above a certain amount.
- 5.24 In our file sampling exercise, we examined whether there was evidence that an IEN had been sent for relevant seizures. Of the 198 files that we sampled, an IEN was required in 80 cases. Figure 6 provides details of whether an IEN was submitted, together with the timeliness of any submission.



- 5.25 This shows that we only found evidence that an IEN had been produced in 13 (16%) of the 80 case files that we examined. In the remaining 13 cases the timeliness of submission was inconsistent. Evidence from the minutes of Strategic Delivery Groups (joint committees between Border Force and HMRC), also commented on the need for managers to ensure that IENs are completed when relevant. The minutes that we were given date back to 2012; however, our findings show that the situation still needed to be improved.

This shows that we only found evidence that an IEN had been produced in 13 (16%) of the 80 case files that we examined

- 5.26 If an intervention proves to be negative, feedback should also be provided. However, this can be by one of a number of methods. Targets are sent to frontline staff using a 'targeting sheet' which outlines the information about the target and the category. The sheet also includes space for frontline officers to provide feedback. Alternatively, staff can update the freight targeting system with their feedback or make telephone contact with the targeting teams.

5.27 We found there was no way to monitor or analyse whether feedback had been received. A senior manager at Dover stated that ‘feedback is very poor’ and that frontline staff have to be chased to provide necessary feedback. This finding is consistent with a HMRC Internal Audit Report from 2011, which found that feedback rates were as low as 20% and marked the process as Red on a Red, Amber and Green rating system. We were also informed that when feedback is received, it is not always of useful quality.

We found there was no way to monitor or analyse whether feedback had been received

5.28 During our file sampling, we found a case which was indicative of the generally poor process of feedback and record-keeping – Figure 7 refers.

Figure 7: Case Study – Change in feedback instructions

Border Force:

- Seized seven boxes at Heathrow Airport containing a total of 99kg of Hand-rolling tobacco as a result of targeting.

The Chief Inspector:

- Questioned what, if any, de-brief activity had taken place as a result of the seizure, given that it was an overseas consignor who may have been worthy of future targeting.

Border Force response:

- Details of the seizure would probably have been made to the Freight Targeting Team but this could not be confirmed, because at the time debriefs were verbal/face-to-face with a Targeting Team Officer; and
- Since the seizure, a new formalised system of feedback had been introduced to maintain a record of feedback.

Chief Inspector’s comments:

- The process for feedback was too informal. No records were kept to show whether feedback was provided or that any debrief took place. It is unacceptable that managers were unable to confirm whether details of certain seizures were being fed back to inform the overall intelligence picture. However, I note that, since this seizure was made, changes to the process had been introduced to resolve the situation.

5.29 At Heathrow airport, targeting staff kept a journal so they could track feedback forms and chase feedback if none had been received. This was a positive reaction to the poor process that was in place at the time of the case study in Figure 7. However, we did not see evidence of similar changes in the other ports we inspected.

5.30 There is a need for Border Force to ensure that the system for providing feedback is robust and that all relevant feedback is received in a consistent and timely manner. This will ensure that future targeting is being made using up-to-date, accurate intelligence and information.

There is a need for Border Force to ensure that the system for providing feedback is robust

We recommend that the Home Office:

Develops an effective and consistent feedback process to ensure that intelligence is collected from frontline freight examination staff and passed to targeting teams to improve future targeting.

Pre-seizure activity/engagement

- 5.31 Seizures made by Border Force activity can result in criminal investigations and prosecutions through the Criminal Justice system. This applies whether goods are accompanied by a driver or not. Successful investigations and prosecutions are based upon strong communication and engagement between all enforcement agencies.
- 5.32 One principle of investigation is the 'Golden Hour'. This is the key period after an event when evidence should be protected and potential suspects identified. In order to achieve this principle, investigators need to be informed as soon as possible after a seizure has been made. Organised Crime Groups (OCGs) are aware that delays in vehicles and consignments clearing 'Customs' can indicate that seizures have been made and/or persons arrested. Delays in investigators adopting seizures for investigation could prejudice Golden Hour principles.
- 5.33 We found that referrals to investigators were reactive, using established immediate registration procedures, i.e. they were only informed once the seizure had been made. This led to delays while decisions were made around the adoption of investigations. Typically, where files allowed us to assess timescales, the delay was only two to three hours. However, in one instance we found a delay of over two weeks before a decision was made and communicated to frontline staff.
- 5.34 We found that Border Force Criminal and Financial Investigation (CFI) teams in some of the locations we inspected were not told in advance of Category A targets where Border Force officers believed there was a high probability of a seizure based on their years of experience. CFI staff told us that advance liaison with investigators in freight environments was possible because, by the nature of freight, there was more advance notice that a consignment was due to arrive, because of the journey times involved. There are merits in gaining earlier involvement from investigation teams before the goods arrive, to ensure that Golden Hour principles are achieved and any relevant evidence is protected.

We recommend that the Home Office:

Develops formal processes for earlier engagement with investigators, to allow faster decision-making when detections are made.

Post-Seizure

- 5.35 When goods or a vehicle are seized at a port by Border Force staff, the owner can challenge this in two ways. The legality of the seizure can be contested at a Magistrate's Court: this is known as condemnation proceedings. Additionally, the owner has the right to request their vehicle or goods back: this is known as restoration. Although the general HMRC and Border Force policy is that goods are not restored, we were told that restoration is applied pragmatically, taking compassionate circumstances into account. The rights of the owner are set out in Notice 12A issued by HMRC.¹⁷ This form should be served to those who have their goods seized, at the time of seizure.
- 5.36 In most instances, the management of cases once they have been seized falls to the Border Force National Post Seizure Unit (NPSU) in Plymouth, although restoration is sometimes managed locally, primarily in the Ro-Ro environment.

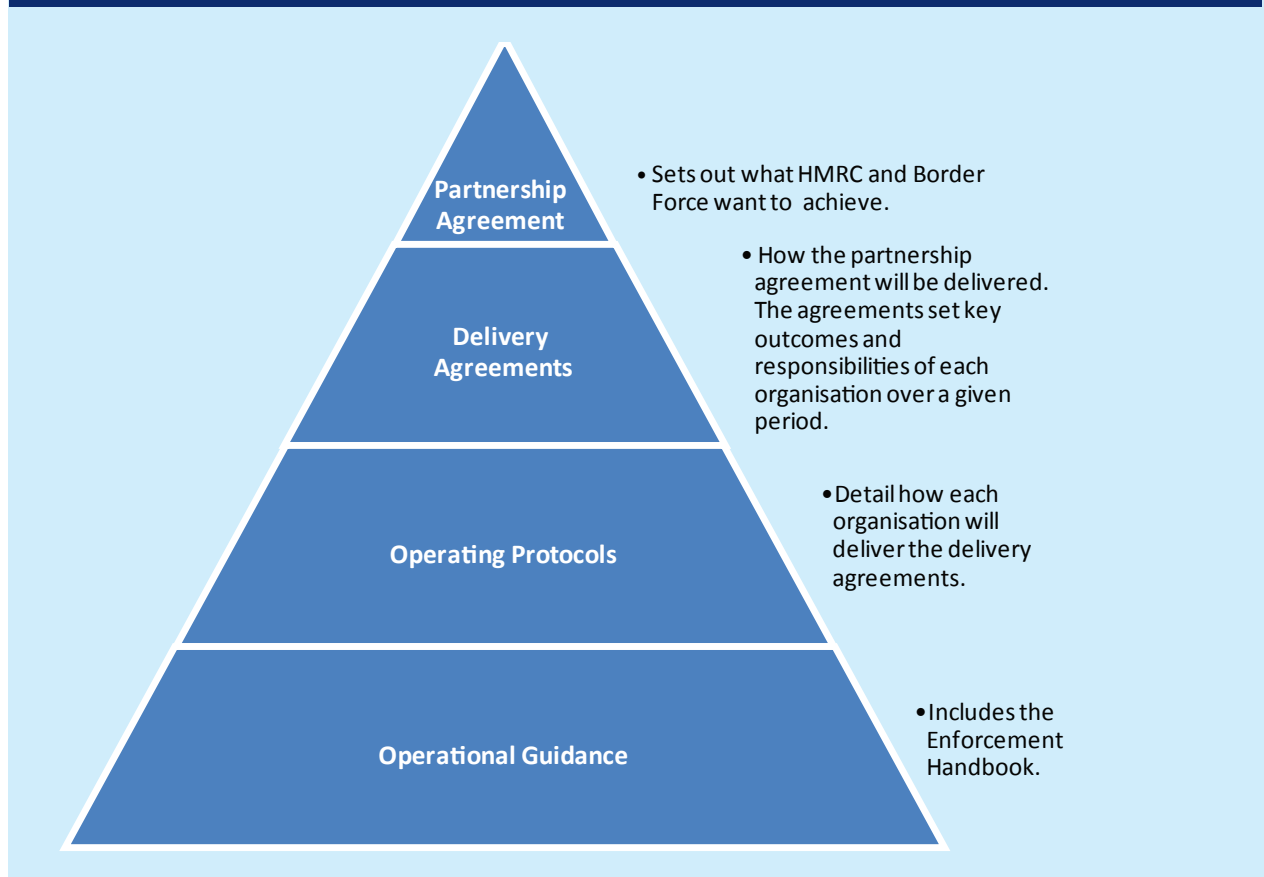
¹⁷ http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageContactUs_ShowContent&id=HMCE_CL_000854&propertyType=document

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|--|---|
| <p>5.37 We visited the NPSU and spoke to a number of staff and managers. We were impressed by a range of local practices, including a locally developed MS Access database for managing workflow, a robust assurance process and a best practice spreadsheet that was used to share success amongst the team. Additionally, a member of the team sits on the Border Force Professionalism Group and passes feedback back to the frontline. We were impressed by both the level of knowledge and enthusiasm displayed by this team.</p> | <p><i>We were impressed by both the level of knowledge and enthusiasm displayed by this team</i></p> |
| <p>5.38 We were also informed of a Pre-Condensation Assessment letter (PCAL). This letter outlines the reasons for seizure. We were told that over 50% of appellants withdraw their appeal once they receive this letter. This was a good local initiative and clearly resulted in a saving of public funds through reduction of the number of cases being heard in court.</p> | |
| <p>5.39 NPSU staff informed us that most frontline freight staff were extremely experienced and had developed a high level of expertise, a theme that continues throughout this report</p> | <p><i>This was a good local initiative and clearly resulted in a saving of public funds through reduction of the number of cases being heard in court</i></p> |
| <p>5.40 However, the NPSU team were concerned that there have been occasions when frontline staff had restored vehicles for no charge because they were satisfied that the driver/owner had taken all reasonable steps to prevent the smuggling of goods. However, a penalty had subsequently then been issued by HMRC. We found evidence of this in the cases we examined as part of our file sampling, which we cover in the next section of this report.</p> | <p><i>This was a good local initiative and clearly resulted in a saving of public funds through reduction of the number of cases being heard in court</i></p> |

Relationship and Communication with HMRC

- 5.41 We inspected how effective the working relationship between Border Force and HMRC was, and how successfully they communicated with each other at all levels. This was particularly important due to the close links in the business and outcomes of activities between the Border Force and HMRC.
- | | |
|---|--|
| <p>5.42 At a strategic level, the level of communications was good, with examples of collaborative working and joint approach to initiatives. However, at operational levels we found areas for improvement which need to be addressed in order to improve performance within Border Force.</p> | <p><i>At a strategic level, the level of communications was good</i></p> |
|---|--|
- 5.43 At strategic level, we found that Border Force was involved in numerous joint committees with HMRC, producing joint agreements for delivering objectives. Evidence provided to inspectors showed that committees met on a regular basis and were attended by staff at relevant grades from both organisations. We saw evidence of the following groups:
- Customs Health Check Committee;
 - Policy Forum;
 - Partnership Committee; and
 - Excise and Customs Partnership Group.
- 5.44 The outcome of these committees was a hierarchical structure for delivering objectives. This structure is shown in Figure 8:

Figure 8: Joint working agreements between HMRC and Border Force



- 5.45 There was also a governance structure to oversee the delivery of the objectives in the delivery agreements. High level strategic groups were supported by Strategic Delivery Groups (SDGs) for each commodity or function, for example, Tobacco and International Trade. For alcohol, HMRC chairs the Alcohol Delivery Group which is attended by Border Force. Each of these groups is linked into overall business strategies for the commodities.
- 5.46 In addition to the overall strategic view, we found that day-to-day relationships at strategic level were also being managed. HMRC had a relationship manager who liaised with Border Force National Customs Operations on an almost daily basis to deal with performance monitoring and problem solving. This ad-hoc arrangement was supported by a formal monthly meeting.
- 5.47 We found that almost all policy and guidance was owned by HMRC. The Policy Forum was designed to ensure that both organisations were represented so that policy and guidance could be agreed before it was published for use by operational staff. However, whilst agreements were reached at senior level on policy, we found that operational staff were not always aware of updates to policy and that communication of changes was inconsistent. Staff in the ports described communication as ‘hit and miss’.
- 5.48 This is an area where we considered that improvements could be made. Operational staff from Border Force were vociferous in their frustrations about the perceived lack of communication, both from HMRC and from within Border Force. We found numerous examples of this during the inspection, including:
- lack of feedback when cases were referred for criminal investigation;
 - operating in isolation of each other despite there being a common

objective; and

- lack of information when changes were made to guidance or IT systems.

5.49 During our file sampling, we found a case where the lack of communication between both organisations was significant. The case concerned the seizure of goods from an offender by Border Force. The offender in the case, and the goods seized were already subject of investigation by HMRC. The case study in Figure 9 highlights the issues.

Figure 9: Case Study – Lack of communication between Border Force and HMRC

Case Details:

- Vehicle was a Ro-Ro arrival at Dover. Vehicle was selected using self-selection by detection teams at the port. It was not a targeted selection from the targeting hub.
- Vehicle belonged to a Polish haulage company and was being driven by a Polish driver.
- 600,000 cigarettes of Polish origin and 1 tonne of HRT of Belgian origin seized. Revenue loss to the UK estimated at approximately £280,000.
- Vehicle seized and driver arrested.

Border Force:

- All records were completed and instructions followed, e.g. IEN completed. Case was referred to HMRC CI for criminal investigation; however, the case was not adopted.
- Received an appeal from the Polish haulage company asking for the vehicle to be restored because they claimed the cigarettes and tobacco had been loaded onto the vehicle without their or the driver's knowledge.
- Restored the vehicle free of charge and advised the haulage company that Border Force felt that the driver and the company had taken reasonable steps to prevent smuggling.
- Received a Data Protection Subject Access Request on behalf of the driver stating that a different section of HMRC had initiated civil proceedings against the company and driver to collect the unpaid revenue.

Chief Inspector's Comments

- Border Force referred the case to HMRC, but did not receive any feedback on whether the case had been adopted. With no interviews or case notes on record, the restoration team indicated there was no way to establish culpability.
- Border Force were unaware that HMRC had initiated any action.
- With Border Force writing to the company and providing restoration free of charge, the company and driver had reasonable grounds to defend any action from HMRC that could result in criminal proceedings or penalties.

5.50 The above case highlighted the lack of communication or formal arrangements at operational level between Border Force and HMRC. This was a consistent finding in all of the ports that we inspected. We found that, due to the legacy in place with staff on Border Force being former HMRC staff, communications lines between both organisations were often informal, e.g. often through personal contacts via a telephone call. This was particularly apparent when onward action such as prosecution was required.

This was a consistent finding in all of the ports that we inspected

Prosecution of Offences

- 5.51 Those who are apprehended at the border attempting to smuggle goods into the UK can face criminal prosecution. When used effectively, this can be a powerful deterrent. Although criminal investigations can be initiated by a number of organisations such as the Serious Organised Crime Agency (SOCA) and Trading Standards, the majority of investigations are managed by Border Force Criminal and Financial Investigation (CFI) teams and HMRC Criminal Investigation (CI) teams. CFI have responsibility for Border Force criminal investigations involving prohibited and restricted goods, such as drugs and firearms. CI will instigate HMRC investigations when high amounts of excise duty have been evaded on products such as alcohol and tobacco.
- 5.52 Once a frontline Border Force officer has made a detection of smuggled goods, they refer it to CFI or CI. The relevant organisation will then make a decision as to whether the case will be pursued (adopted). CFI and CI each have their own guidance that indicates the levels at which adoption should take place. If the case is adopted, CFI or CI will conduct further investigations before requesting the advice of the Crown Prosecution Service, which will decide whether the offender will be prosecuted.
- 5.53 In each of the four sites that we visited, both staff and management were satisfied that all suitable cases were being referred to the relevant team for criminal prosecution. In most instances referral would be via a telephone call.
- 5.54 At one site we were told that records of referrals were routinely recorded on the case file. However, as we discuss later in this report, the quality of information in seizure files varied significantly.
- 5.55 From our file sampling, 53 seizures met the criteria for referral to CFI or CI. However, only 17 files (32%) provided evidence that a referral had been made. We asked one port whether a particular case had been referred for criminal investigation and they informed us:
- However, only 17 files (32%) provided evidence that a referral had been made*
- ‘...no record is maintained of these referrals so it cannot be confirmed that this case was referred’.*
- 5.56 It was therefore impossible for local managers to know whether all cases were being referred for prosecution. Border Force should rectify this situation and ensure that local records are created so that performance in this area can be monitored effectively.
- 5.57 However, we were provided with a worksheet that was owned by CFI. It contained fields that included:
- the number of cases referred to CFI by frontline staff;
 - whether each case was adopted; and
 - a range of fields relating to the final outcome.
- 5.58 We were encouraged to see that the recommendations relating to management information in our report, ‘An Inspection of how the UK Border Agency and Border Force handle customs and immigration offences at ports’ had been adopted by CFI. Additionally, the majority of staff at all sites were satisfied at the level of adoption by CFI.

Commercial excise seizures

- 5.59 On 27 March 2012, the House of Commons debated illegal alcohol and tobacco sales. During this debate the Economic Secretary to the Treasury stated:

‘—the most significant threat that we face in relation to alcohol and tobacco fraud today comes from organised criminal gangs, which smuggle alcohol products into the UK in large commercial quantities, duty unpaid. HMRC is working closely with key partners to tackle organised crime in line with the Government’s strategic approach, which was set out in a paper published in July 2011.’¹⁸

- 5.60 ‘Measuring the Tax Gaps 2012’ is an HMRC report that estimates lost tax revenue. The tax gap is defined as the difference between tax collected and tax that should be collected (the theoretical tax liability). Figure 10 shows HMRC’s estimate of revenue loss from illicit spirits, beer, cigarettes and hand-rolling tobacco (HRT) in the financial year 2010-2011.

Figure 10: Estimated revenue losses for spirits, beer, cigarettes and HRT in 2010-2011

Commodity	Mid-point revenue loss estimate (£ million)	Trend from previous year
Spirits	230	Increasing
Beer	550	Increasing
Cigarettes	1,200	Decreasing
HRT	660	Decreasing
Total	2640	Decreasing

- 5.61 Much of this revenue loss occurs as a result of goods being smuggled across the border. In the case of alcohol, revenue loss is due to abuse of free movement of goods by diverting them onto the UK market without payment of the correct duties.
- 5.62 We were concerned that investigation and adoption levels across the four sites were not consistent with the official referral criteria and operating protocol agreed between Border Force and HMRC. This resulted in confusion amongst Border Force staff, who were not told why large excise seizures were not adopted for investigation by HMRC CI teams.
- 5.63 In most instances Border Force detection staff were simply instructed to ‘seize and report’, meaning that no further action would take place.
- 5.64 In June 2013, the National Audit Office (NAO) produced a report entitled ‘Progress in tackling tobacco smuggling’.¹⁹ The report contained management information provided by HMRC in which it was claimed that the revenue loss prevented (RLP) by HMRC as a result of its criminal investigations had increased from £313 million in 2011-2012 to £378 million in 2012-2013. The number of organised crime cases referred for prosecution over the same period had fallen from 62 to 51, a 17.7% decrease. However, the number of lower level crime cases reported for prosecution increased from 104 to 122 (up 17%).
- 5.65 Our file sampling showed that at least 20 cases were suitable for referral to HMRC CI. From these 20 cases, we only found evidence of nine referrals to HMRC CI (however, three cases were referred to CFI). Of those nine cases, five were adopted by HMRC.

In most instances Border Force detection staff were simply instructed to ‘seize and report’

¹⁸ <http://www.publications.parliament.uk/pa/cm201212/cmhansrd/cm120327/halltext/120327h0001.htm>

¹⁹ <http://www.nao.org.uk/wp-content/uploads/2013/06/10120-001-Tobacco-smuggling-Full-report.pdf>

- 5.66 The majority of staff we spoke to expressed frustration that they were not told the reasons for non-adoption for investigation by HMRC CI. This has caused both confusion and disillusionment on the frontline. Many Border Force staff believed that the deterrent factor of prosecution was being lost. The national operating protocol states that:

'Where HMRC CI does not adopt a case for investigation but where that case meets the adoption criteria, HMRC will usually provide a reason to UKBA at the time.'

- 5.67 Border Force, centrally, needs to ensure that productive communication lines at a senior level are matched on the frontline. To be consistent with the agreed referral criteria, Border Force must ensure that frontline staff understand the reasons for decisions that are made.

Border Force, centrally, needs to ensure that productive communication lines at a senior level are matched on the frontline

Excise Wrongdoing Penalties- Alcohol and Tobacco

- 5.68 In April 2010 HMRC introduced excise wrongdoing penalties. The HMRC enforcement handbook states that:

*'...anyone handling non-duty paid excise goods after the duty point is liable to pay the duty and a wrongdoing penalty. This applies to anyone intercepted by HMRC inland, and by UKBA at the border. The introduction of wrongdoing penalties complements existing sanctions such as seizure of illicit goods and any associated vehicles, and forms an integral part of HMRC's enforcement strategy.'*²⁰

- 5.69 Wrongdoing penalties can be applied in all cases where a person handles non-duty paid excise goods after the duty point, including freight and passenger traffic. The financial penalty amount is calculated based on the percentage of potential lost revenue (PLP). The HMRC CITECH team will then decide what percentage to use. They will initially assess whether the wrongdoing was:
- deliberate and concealed;
 - deliberate but not concealed; or
 - not deliberate.
- 5.70 HMRC will then reduce the penalty based on whether the offender discloses the wrongdoing. Figure 11, from an HMRC notice²¹ sets out the levels of penalties that can be issued.

Figure 11: Level of penalty based on reason for wrongdoing

Reason for wrongdoing	Disclosure	Minimum penalty	Maximum penalty
Reasonable excuse	Unprompted	No penalty	No penalty
Non-deliberate	Unprompted	10%	30%
	Prompted	20%	30%
Deliberate	Unprompted	20%	70%
	Prompted	35%	70%
Deliberate and concealed	Unprompted	30%	100%
	Prompted	50%	100%

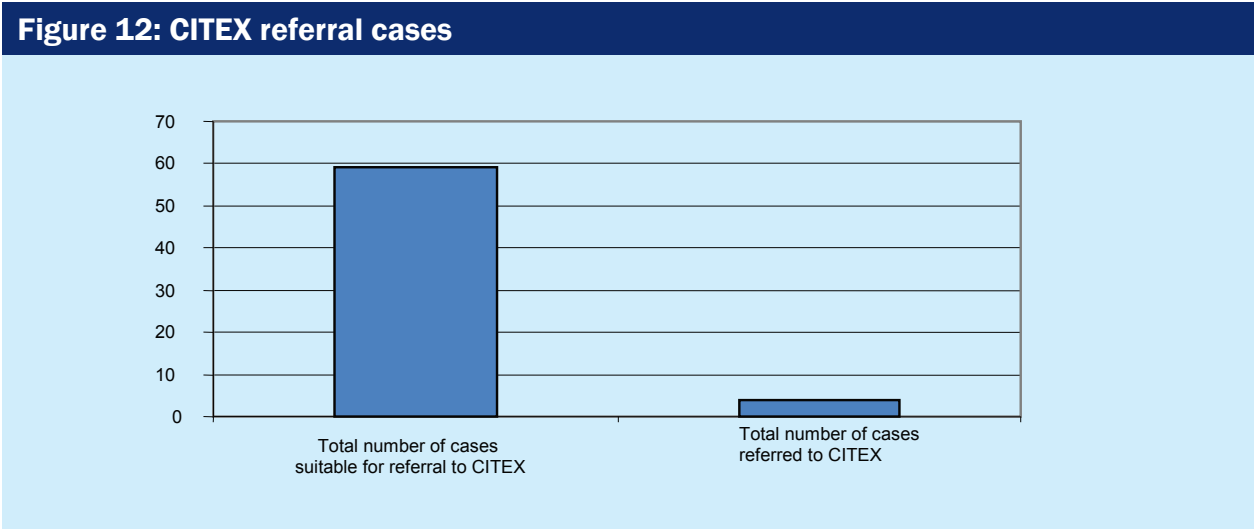
²⁰ HMRC Enforcement Handbook

²¹ www.hmrc.gov.uk/about/new-penalties/wrongdoing-penalty.pdf

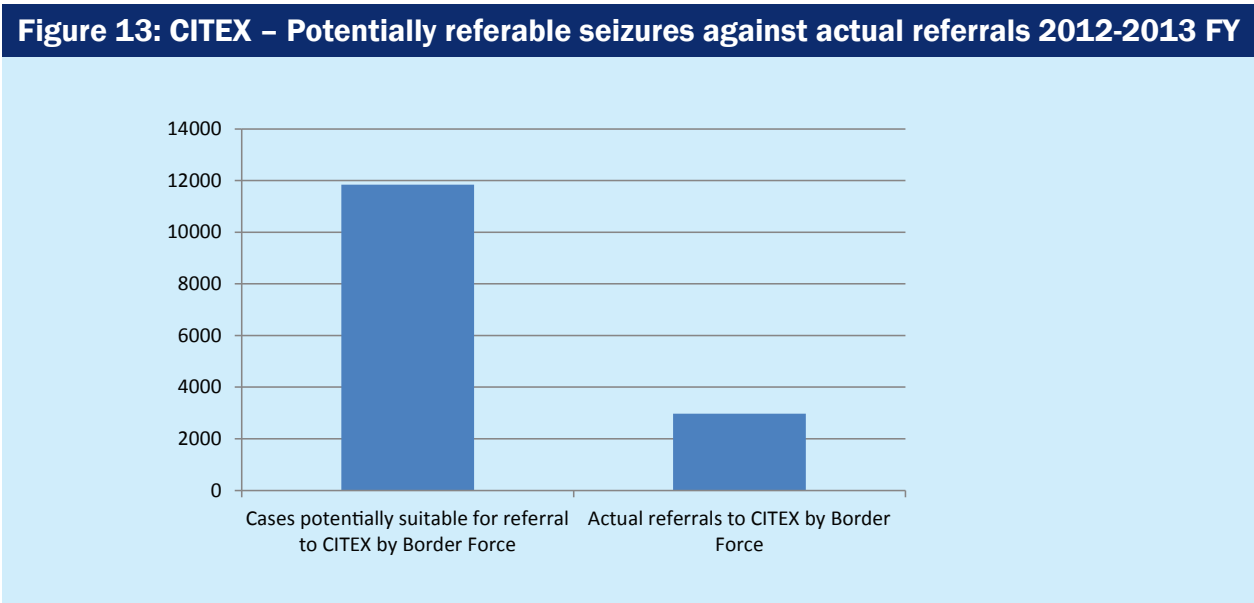
5.71 Border Force staff have the responsibility for ensuring that seizures above a certain volume are referred to CITE X so that an assessment for the duty can be issued and a wrongdoing penalty considered. The HMRC Enforcement Handbook provides instructions for Border Force officers who seize differing volumes of the most commonly seized excise products.²²

5.72 We were concerned that only a small percentage of qualifying seizures were being referred to CITE X. In our file sample of 198 cases, 59 cases were suitable for a referral. However, of these 59, we could only find evidence of four cases (7%) being referred. This is set out in Figure 12:

We were concerned that only a small percentage of qualifying seizures were being referred to CITE X



5.73 Additionally, HMRC have provided us with details of all seizures by Border Force that took place in the financial year 2012-13. Of these seizures 11,839 were above the level that made them potentially suitable for referral to CITE X. Approximately one fifth of these cases were considered by HMRC to be freight. During the same period, CITE X received 2,971 referrals from Border Force staff. This is set out in Figure 13.



22 HMRC Enforcement Handbook

- 5.74 However, we caveat this analysis in two ways. Firstly, this information did not take into account cases that may have been adopted by CI for investigation. Border Force staff would not be expected to refer such cases to CITE X for wrongdoing penalties to be issued. However, based on our findings earlier in this report, only a small minority of cases were adopted by CI.
- 5.75 Secondly, referral information was not broken down by mode of transport. However, this still supports the view that frontline Border Force staff were not referring all suitable cases to CITE X.
- 5.76 We met with a representative of HMRC who confirmed that not all cases were being referred to CITE X. The CITE X team had increased in size in order to process the anticipated increase in referrals from Border Force; however, these referrals had failed to materialise. It was suggested that this might be due to poor communication: frontline staff had not received key messages regarding wrongdoing penalties. On a positive note, we were told that the quality of referrals was high. This was due partially to the simplicity of the ‘alcohol and tobacco referral form’.²³
- 5.77 In focus groups with frontline staff and management we received mixed messages. In some groups we were told that all relevant seizures were referred to CITE X, usually by an HO team leader. Members of these groups displayed a high knowledge of both the referral process and volumes at which seizures should be referred. One senior manager told us that they hoped all staff were aware of the CITE X referral process but they had not checked personally whether this was happening. Another senior manager was aware that not all suitable cases were being referred and that this had been ‘flagged up by HMRC five weeks ago’.
- 5.78 A group of senior managers at one port told us that the guidance for referrals to CITE X was geared towards people rather than goods. A CITE X representative had visited the port to demonstrate how the penalty regime could apply to freight but the meeting had proven inconclusive. There were other instances where staff displayed a lack of knowledge about the role of CITE X.
- 5.79 Confusion was also generated by the guidance in the Enforcement Handbook which required seizures above a certain level to be referred to CI. If CI did not adopt the case, it must then be referred to CITE X. Therefore, in many instances, staff can be required to refer cases to two different HMRC departments.
- 5.80 In July 2012, the All Parliamentary Beer Group stated:

‘...as long as the rewards of smuggling outweigh the risks of detection and penalty, an incentive will be there for fraudsters minded to exploit it.’²⁴

- 5.81 It is our view that wrongdoing penalties are an important deterrent for those who are considering smuggling goods across the border. They also offer significant potential for revenue generation, contributing to a reduction in the current tax gap.

Wrongdoing penalties are an important deterrent for those who are considering smuggling goods across the border

- 5.82 It is essential that Border Force and HMRC work closely together to ensure that staff are fully aware of the processes and procedures for referring cases to CITE X. If there is confusion as to whether wrongdoing penalties can apply effectively to freight, this must be rectified urgently. Furthermore, records of these referrals should be kept and assured by managers.

²³ A form used to refer cases to HMRC CITE X

²⁴ <http://www.beertaxinquiry.co.uk/media/7900e09b1ed9d4cbffff823fd4355564.pdf>

We recommend that the Home Office:

In conjunction with HMRC, strengthens the lines of communication between their organisations to ensure that:

- relevant information is passed between teams, and decisions by either organisation are based upon the most up-to-date information available;
- Border Force staff are given reasons why particular cases are not adopted for criminal investigation; and
- referrals are made to HMRC in all relevant cases so that financial penalties can be imposed.

International Trade

- 5.83 At the four ports we visited, International Trade teams were separate from anti-smuggling or detection teams. Whereas anti-smuggling teams had responsibility for the detection of illicit goods or goods trying to evade paying revenue, e.g. cigarettes and alcohol, International Trade teams were responsible for:
- ensuring that for selected consignments, the goods had been declared correctly and matched the declaration made on CHIEF so that the correct duties and VAT were paid. These were referred to as fiscal checks;
 - ensuring that, for selected consignments, the goods were eligible for import into the EU and, where relevant, correct licences had been obtained, for example, CITES. These types of checks were referred to as regulatory checks;
 - ensuring that checks required under EU legislation, for example checks against Common Agricultural Policy requirements, were carried out. Failure to adhere to EU requirements could result in sanctions such as infraction penalties being imposed on the UK; and
 - identifying and detaining any goods that breached Intellectual Property Rights.
- 5.84 Although International Trade teams were distinct and separate from other teams at the ports we inspected, this is not the case in other Border Force locations where International Trade functions are carried out by multi-functional teams.
- 5.85 We found that the role of International Trade teams was complex and complicated. Detailed technical knowledge of EU trade legislation as well as UK legislation was required. In all ports that we inspected, staff had significant knowledge and experience of the role, with many staff having upwards of 30 years' experience. We report later about our concerns regarding the increase in average age of the workforce, which was more acute in International Trade, because we found no evidence of forward planning strategies to transfer this detailed knowledge.
-
- We found that the role of International Trade teams was complex and complicated*
-
- 5.86 International Trade teams react to the entries sent by the National Clearance Hub (NCH) in Salford. Profiles are input into CHIEF by the CHIEF Operations team in HMRC and generate entries for either Route 1 (documentary check) or Route 2 (physical examination). The full list of routes and the actions required are shown in Figure 14.

Figure 14: CHIEF routing codes²⁵

Route Code	Description
Route 0	Awaiting a response from another government system before the route is determined.
Route 1	Documentary check which requires either the entry or supporting documentation to be scrutinised.
Route 2	Requiring goods and documents to be examined.
Route 3	Implies automatic clearance after a short period of time during which the documentation must be submitted and Customs have the opportunity to examine it.
Route 6	CFSP ²⁶ paperless declaration with the entry being given immediate clearance, i.e. zero time out.
Non CFSP	Automatic clearance, documentation retained by the freight agent.

Note: Route Codes 4 & 5 are not in use.

- 5.87 The NCH refer all Route 1 and 2 profiles to the relevant port where the goods are arriving. Border Force port staff must then conduct the relevant checks as per the instructions for the route profile and complete a tracker spreadsheet to provide feedback to the NCH.

Route 2 Referrals

- 5.88 We examined Border Force performance against these requirements, particularly in relation to Route 2 entries, where selected consignments were subject to either a documentary, physical, or combined check of the goods to ensure that they matched the declaration that had been made.
- 5.89 This action was supported by the designation letter sent from HM Treasury to the Director General of Border Force in April 2012, which sets out the remit for Border Force in relation to revenue collection at the border. The letter states that:

'Border Force will carry out 100% of physical or documentary border checks referred by HMRC's declaration processing hub.'

- 5.90 Figure 15 shows the performance against this statement using data provided by HMRC regarding Route 2 referrals.²⁷

Figure 15: Breakdown of results from Route 2 referrals

Year	Physical examination carried out		Physical examination not carried out	Total
	Irregularity found	No irregularity found		
2011	554 (14%)	854 (22%)	2553 (64%)	3961
2012	507 (13%)	698 (19%)	2564 (68%)	3769

Note: This information was internal management information provided by Border Force. It had not been quality assured to the level of published National Statistics and should be treated as provisional and therefore subject to change.

²⁵ Route Codes 4 & 5 are not in use - <http://www.hmrc.gov.uk/manuals/inchpmanual/inchp04200.htm>

²⁶ CFSP – Customs Freight Simplified Procedures, refers to the access granted to traders to CHIEF to make declarations on imports/exports

²⁷ Information extracted from the NCH Tracker and relates to imports only.

5.91 In 2011 and 2012, 64% and 68% of referrals respectively were not subject to the required physical examination. Further examination of the data showed that of those cases where no examination took place, 96% in 2011 and 98% in 2012 were at Heathrow Airport. This data coincided with the observations that inspectors carried out whilst at the airport. Inspectors observed staff checking documents for Route 2 referrals and clearing the goods for import without making a physical check of the goods.

5.92 Whilst the number of referrals that were ‘cleared without exam’ was high, we found that staff were often overwhelmed by the number of referrals they received. We observed staff reviewing paperwork and using their own knowledge and experience to determine whether they considered examinations were required. In most cases, clearance was provided without any such examination where the importer was considered to be a reputable organisation. The failure to resolve this issue coincided with one of our findings on targeting, concerning the inadequate provision of feedback in many cases.

In 2011 and 2012, 64% and 68% of referrals respectively were not subject to the required physical examination

5.93 On the tracking spreadsheets, we often found entries with comments such as ‘Query Resolved’. This provided no real benefit to the NCH and meant that:

- opportunities to improve profiles and alerts on CHIEF were being missed;
- Border Force was not acting in accordance with HMRC instructions in relation to the action its staff should take in respect of Route 2 alerts; and
- resources were not being used as efficiently and effectively as they should have been.

5.94 Accuracy and relevance of profiles on the CHIEF system for generating alerts will only be achieved if accurate feedback is provided. Without any physical examination of the goods taking place, the feedback provided to the NCH is limited. Furthermore, failing to conduct physical examinations could result in mis-declared consignments being cleared for import. The result of this is a potential for lost revenue for the Treasury and missed opportunities to penalise importers who have made false declarations. We therefore make the following recommendations:

We recommend that the Home Office:

Ensures that:

- it complies with its obligations to physically examine all Route 2 alerts;
- all feedback on CHIEF alerts is accurate and is provided in a timely manner; and
- all breaches of rules and mis-declarations by importers are referred for further action when necessary.

5.95 We saw evidence in Felixstowe of the benefits of conducting documentary and physical examinations of consignments. We were informed during a focus group of an importer who had made an entry on CHIEF declaring an import of 11,200 watches. Staff informed us that, upon further inspection, the quantity of the consignment was considerably larger than that which had been declared. We subsequently examined this case file, Figure 16 refers.

Figure 16: Case study of a documentary examination with a positive outcome.

Consignment details:

- Declaration of 11,200 watches and 5,000 empty watch boxes: total value £5,757.25.

Border Force:

- Examined consignment and believed there to be more than 11,200 watches in the shipment. Contacted importer to ascertain correct quantity of watches. Importer stated that 26,000 watches were in the consignment.
- Still unhappy with the quantity, Border Force made further contact with importer. Importer finally admitted that true quantity of watches was 37,000 and that 500 iPad cases had not been declared.

Outcome:

- Importer charged additional £8,652.81 in duty & VAT before the goods were cleared and released for import.

Chief Inspector's Comments:

- The importer had clearly tried to evade duty and VAT by twice mis-declaring the true value and quantity of the consignment. Probing by Border Force staff ensured that the correct duty and VAT were paid. However, I was concerned that, despite staff completing an intelligence form, no further action was taken against the importer. For example, there was no prosecution instigated or Customs Civil Penalty imposed.

- 5.96 Satisfactory action on referrals is required to ensure that all revenue and VAT is collected and that imports are being declared correctly. We found evidence that revenue and VAT were being collected. We also found that examinations were identifying any overpayments that had been made. In one case, we found that an importer had declared the gross weight of the consignment instead of the net weight. As a result of action by Border Force staff a refund of £615 was provided to the importer.

Poor Record Keeping

- 5.97 While we saw evidence that revenue was being collected, we were concerned at the quality of records maintained by Border Force in tracker spreadsheets, which we considered poor because:
- entries from different ports were inconsistent; and
 - there were numerous blank entries where the required fields had not been completed.
- 5.98 The tracker documents also showed the value of any additional revenue or VAT that had been charged. We were unable to determine from most records whether any additional charge had been applied. This was because although 'Comments' fields on the records indicated that weights or descriptions of goods had been mis-declared, there was no corresponding entry in the 'Underpayment of Duty' field which should have shown the amount of any additional duty that had been levied.
- 5.99 We asked for further evidence of the amount of revenue that was collected as a result of Border Force activity at the border. We were provided with data for goods arriving by post, which was out of scope for this inspection. We were also informed that forms used to collect revenue did not include the originating organisation, e.g. HMRC or Border Force.

- 5.100 The identification and referral of cases to HMRC for the collection of revenue at the border via fines and penalties is a fundamental part of Border Force's remit. Therefore, we were surprised to find that Border Force could not tell us the exact contribution it had made in terms of revenue that had been collected in the freight environment.

Therefore, we were surprised to find that Border Force could not tell us the exact contribution it had made in terms of revenue that had been collected in the freight environment

Malpractice Teams

- 5.101 At Heathrow Airport, International Trade teams were complemented by a specialist team known as the Malpractice Team. The role of this team was to test the supply chain of goods passing through the airport. This involved compliance checks to ensure that the declaration of quantity or value had not been suppressed. This team also had responsibility for ensuring that Enhanced Remote Transit Sheds (ERTS)²⁸ were complying with their statutory obligations.
- 5.102 The Malpractice Team used aircraft manifest data plus local knowledge to identify potential cases. When cases were identified and mis-declarations had been made, the team would cause civil penalties to be issued. Information provided to inspectors showed that during 2012, 162 referrals were made with an average of £10,757 being collected per case. This demonstrates that the function is providing benefits. During observations with staff, we were informed that the teams had delivered some impressive results but felt they could build on their success with increased resources.

Control of Intellectual Property Rights goods

- 5.103 We found that the main priority for International Trade teams was the identification and detention of goods which breach Intellectual Property Rights (IPR). These goods were often referred to as counterfeit goods and impacted on government revenue through the collection of revenue from the genuine rights holders.
- 5.104 In the Strategic Delivery Group for International Trade, we found that minutes of meetings were dominated by discussions around performance against IPR targets. Performance against Routes 1 and 2 referrals did not form part of the discussions. We also found that performance reports for International Trade did not include information on revenue collection at the border. Minutes also indicated that regular intelligence briefings took place regarding IPR, with known routes and key judgements being advised in the monthly performance report.
- 5.105 In January 2013, the performance reports highlighted that overall Border Force was 23% below the target for that stage of the year, in relation to IPR goods arriving via a 'non-postal' route. This would include freight. Northern and Central regions were 52% and 65% below their IPR targets, compared to the Heathrow and Southern regions which were 11% and 64% above target respectively.
- 5.106 The current agreement between HMRC and Border Force²⁹ requires Border Force to:

'Undertake all appropriate post-detection action, including recording and reporting detections, seizures of goods, referral of cases for follow-up actions, storage and disposal of seized goods and reviews and appeals in line with the agreed guidance and protocols.'

- 5.107 It includes no minimum level below which action need not be taken.
- 5.108 Border Force Higher Officers were consistent in their view that the discretion to ignore detections

²⁸ An Enhanced Remote Transit Shed is a warehouse designated by HMRC, where goods are temporarily stored pending clearance by HMRC and prior to release into free circulation.

²⁹ 2012-13 Delivery Agreement between HMRC and Border Force/Home Office for Customs & International Trade

was not permitted. This absence of discretion was consistent with policies employed when making detections of other material, e.g. excise goods or prohibited drugs. However, through discussions in focus groups we were informed that operational staff were using their discretion and were opting to neither detain low-volume IPR detections, nor complete mandatory paperwork to notify the rights holder.

- 5.109 While it is recognised that staff resources are impacted by the time taken to manage small IPR detections, ignoring IPR goods is not permitted. Staff insisted that such pragmatism was essential. Without it, they told us, targets for detections and seizure of higher-priority goods such as cigarettes, tobacco and Class A drugs would not be met.

- 5.110 This finding mirrors findings from our inspection at Gatwick Airport,³⁰ where we found that discretion was being used regarding detections of goods on passengers. Where discretion is to be allowed, we believe this should be clearly set out in the policy and guidance governing any such approach.

Where discretion is to be allowed, we believe this should be clearly set out in the policy and guidance governing any such approach

- 5.111 The use of discretion also removes the decision to take civil court action away from the rights holder. If counterfeit items are found, the goods are detained under EU legislation and the rights holder should be contacted. It is the rights holder's decision whether a prosecution should be mounted, not Border Force's. They should make this decision within 10 working days³¹ of being notified that goods have been detained. During this time, goods are detained and stored by Border Force.
- 5.112 Staff told us that the use of discretion had increased since teams dedicated to specific commodities were amalgamated.

Relationship with port operators

- 5.113 Due to the economic importance of freight to the UK economy, it is important that Border Force interventions cause minimal disruption to daily operations at UK ports. To achieve this, it is essential that Border Force develops and maintains strong working relationships with local port operators. We were pleased to find that in most cases this had been achieved. The majority of port operators stated that they were extremely pleased with the relationship they enjoyed with Border Force. This is outlined by the following statements:

The majority of port operators stated that they were extremely pleased with the relationship they enjoyed with Border Force

- 'the relationship was never encouraged before, but it is great now';
- 'there is strong evidence of effective co-operation'; and
- 'engagement between the Port and Customs has massively improved.'

- 5.114 We saw evidence of the rewards of successful working relationships when we visited certain ports. Felixstowe had been equipped with state-of-the-art examination sheds. At Dover, we were informed about a new, locally agreed operating protocol that would improve performance. This was described by the port owner as a 'major triumph'.

- 5.115 However, we also saw instances where Border Force operations were negatively impacted. In Killingholme, a port which is covered by staff at Immingham, the layout of the port and the facilities that Border Force staff used at the control point were inadequate. We observed a booth that was in a dilapidated condition, located at the exit of a trailer park which drivers had to drive through before

30 <http://icinspector.independent.gov.uk/wp-content/uploads/2012/02/Inspection-of-Gatwick-Airport-North-Terminal.pdf>

31 http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_ShowContent&id=HMCE_CL_000244&propertyType=document#P185_20311

getting to the control point. If the scanner was in use, this had to be parked in a designated part of the trailer park. If a driver was required to attend the scanner, they were instructed to exit the trailer park and rejoin the queue for the control point, turning off for the scanner at the appropriate point. This was not an effective way for drivers to have to enter the UK.

- 5.116 We were informed that discussions were under way to improve the traffic flow at this port; however, improvements would not be instant. Any improvements to ensure that the UK is professionally represented at our borders would be welcome.
- 5.117 The inspection found that facilities varied considerably between ports. We accept that Border Force are subject to the cooperation of the port authorities, however, the ability to conduct operational activity should not vary on this basis.

Daybooks

- 5.118 Daybooks record events or other incidents that need to be written down to prevent them from being forgotten or to demonstrate the time that something happened. A simple example would be when staff are authorised to undertake a particular activity, or when contact is made with colleagues or other stakeholders about operational issues.
- 5.119 Daybooks must not be confused with notebooks; notebooks are designed for evidential records, used by operational staff, and easily transportable within pockets. Daybooks are most often used by managers who are not permanently operational (HO and above).
- 5.120 Daybooks allow staff a single location to record notes that are not appropriate for notebook inclusion yet are potentially relevant to prosecutions. Using daybooks affords better compliance with the Criminal Procedure and Investigations Act 1996 (CPIA).³² The Codes of Practice for CPIA partially define an investigation as ‘whose purpose is to ascertain whether a crime has been committed, with a view to the possible institution of criminal proceedings’. This clearly includes Border Force staff searching for prohibited or restricted items. HMRC’s guidance clearly reinforces this message:-

“Officers throughout Enforcement are in the habit of recording their daily activity in a variety of different ways. Clearly the material that is thus created falls to be considered under the Criminal Procedure and Investigation Act 1996 (CPIA). Officers must ensure that whenever they have the need to write things down they “record and retain” in accordance with the law. In keeping with the Department’s ongoing commitment to fulfil our obligations under the CPIA, it has been decided, from 1st March 2005, to introduce a system (Official Daybooks) to manage and assure the creation and retention of such material.”

- 5.121 HMRC’s daybooks are officially printed, bear unique serial numbers (including page numbers) and must be stored securely. They are officially issued and assured by managers. This system provides HMRC with reassurance that staff are recording and retaining relevant material in a durable and retrievable format. Use of these daybooks is mandatory.
- 5.122 The Border Force managers (HO-level and above) whom we spoke with often had daybooks in their possession. Others provided robust accounts of what they were used for, and why. Staff demonstrated a good understanding of the principles and reasoning behind the use of such records.
- 5.123 However, the daybooks we observed were not officially-issued – they were usually hard-cover A4 notebooks that could be purchased in high street stationery shops. They were not issued by Border Force and were not subject to any assurance.

³² <http://www.legislation.gov.uk/ukpga/1996/25/contents>

- 5.124 Copies of daybooks were requested after the on-site phase of this Inspection. We requested copies of six daybooks from each of the locations we visited, randomly selected to represent daybooks from two staff at each of the grades HO, SO and Assistant Director. We received a copy of a single daybook extract from a HO at Dover. Border Force, centrally, informed us that this was the only location we visited that uses such records. This directly contradicted the observations we made at other locations. The single daybook extract that we received contained details of seizures that had been made, staff who had been assigned to manage various post-seizure activities, and entries directly related to enforcement activity and contact with enforcement partners.
- 5.125 Our inspection demonstrated that daybooks were in daily use and discussed by the staff using them at all the locations we visited. Border Force's claim that use of these unauthorised records only occurs at one port is a sign of a lack of managerial assurance which is highlighted later in this report.
- 5.126 Meetings we had with CFI prompted concerns when frontline staff use of daybooks was mentioned. CFI told us that they make regular requests for 'unused material' from frontline staff to meet the requirements of CPIA. None of these had resulted in daybook copies being provided.
- 5.127 The absence of a daybooks policy, together with CFI being unaware that daybook use was commonplace, created a risk of disclosure failures. The relocation of CFI out of Border Force and into the Border Policing Command (BPC) may increase this risk if BPC loses familiarity with Border Force procedures.

We recommend that the Home Office:

Ensures that it is meeting its disclosure responsibilities under the Criminal Procedure and Investigations Act (CPIA).

Record Keeping

- 5.128 In relation to seizure files prepared at ports, we found there to be no minimum standard for what constitutes a record. There was no guidance on what should be created, or how and where records should be stored. Our sampling found that only 45 files (23%) contained evidence of an adequate audit trail.
- 5.129 Some of the freight files we examined were detailed and appeared to contain all relevant documentation. However, some files consisted only of a few sheets of paper. We also observed inconsistent records being kept on-site when notebook entries were being created. We observed teams who:
- made notebook entries for all freight examinations;
 - only made notebook records if prohibited or restricted goods were detected; or
 - only completed their notes on freight-targeting feedback sheets, with notebooks only being used if illicit material was discovered.
- 5.130 Border Force did not tell freight staff what records they should create, retain, or file, and so each port used discretion in how it collated material. Accurate records and the retention of relevant documents are essential for the effective prosecution of offenders. If detection environment records of the seizure are kept, if the case is adopted, an investigation or prosecution record is created. Without any detailed guidance, there are risks that not all relevant material is retained, or that documents will be misplaced or duplicated when multiple files are being created.
- 5.131 In 2002, a review of Her Majesty's Customs and Excise by the Hon. Mr. Justice Butterfield, concluded that in relation to retention and disclosure of documents in criminal proceedings:

*‘The system of recording documents seized or created in the course of an investigation was slipshod and casual. There was no effective document handling system in place. The absence of an effective system resulted in an inadequate record of what documents actually existed’.*³³

- 5.132 If Border Force does not address the manner in which it collates documents relating to its control activity, there is a risk that the errors of the past will be repeated.
- 5.133 It should be in the interests of Border Force to ensure that a single, nationally implemented system is in place that allows commonality of procedures at all locations. Such a system should consider whether all material relevant to operational activity should be available in a single location, within a consistent file structure.

We recommend that the Home Office:

Addresses poor record-keeping by implementing a robust and consistent case-handling system for all activity undertaken in the freight environment.

CITES

- 5.134 CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. The CITES database currently contains over 35,000 species of plants and animals.³⁴
- 5.135 The Home Office plays a key part in the government’s strategy to combat wildlife crime. Border Force officers are responsible for conducting CITES checks at ports across the United Kingdom. A large range of material is categorised as CITES, ranging from ivory to traditional medicine, for example herbal remedies from South East Asia.
- 5.136 We found that in the period April 2010 until December 2012 CITES seizures from the four ports we inspected were on an upward trend and reached their highest point in November 2012. This is demonstrated in Figure 17.

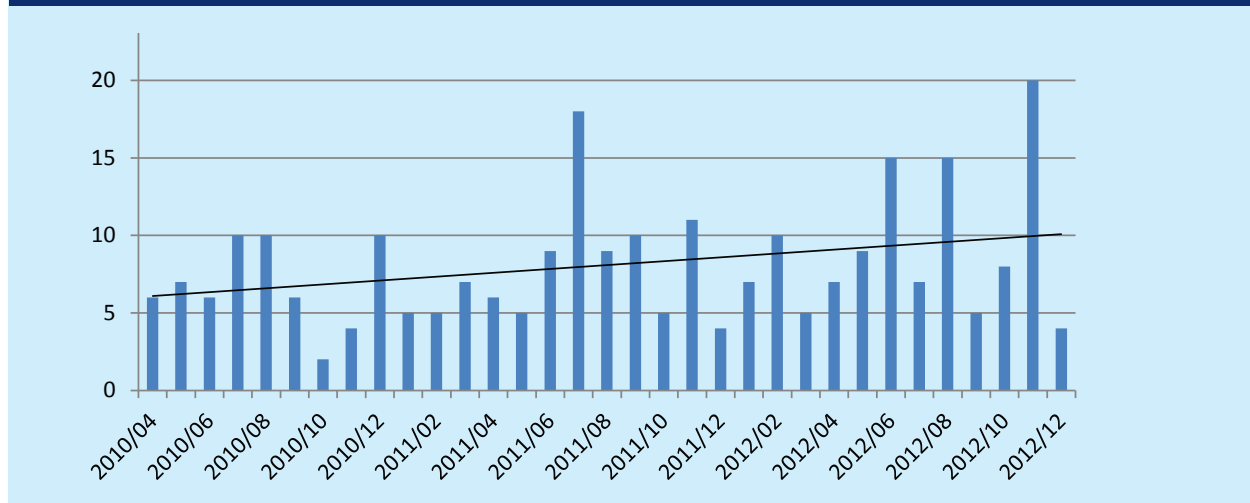
If Border Force does not address the manner in which it collates documents relating to its control activity, there is a risk that the errors of the past will be repeated

³³ Paragraph 8.18 -

http://webarchive.nationalarchives.gov.uk/+/http://www.hm-treasury.gov.uk/media/D/9/butterfield_8.pdf

³⁴ <http://www.cites.org/eng/disc/species.php>

Figure 17: Total number of CITES seizures April 2010 to December 2012 showing a rising trend line



5.137 We view this as a positive indication that Border Force has been playing an important part in tackling wildlife crime.

5.138 At Heathrow we spoke to a dedicated CITES team. We were impressed at the level of both commitment and expertise demonstrated by staff. We were told that the team developed its own intelligence, ran exercises to test risks in other locations nationally and had strong liaisons with other enforcement partners. The team was the central point of expertise for CITES work and actively engages in an international effort to increase CITES detections.

We view this as a positive indication that Border Force has been playing an important part in tackling wildlife crime

Cyclamen

5.139 Cyclamen radiological and nuclear detection is an integral part of the Government's anti-terror strategy. Ports throughout the UK are equipped with a range of fixed and mobile equipment that is used to scan goods and vehicles as they arrive in the UK. Under the Border Force Operating Mandate, Border Force officers are required to operate Cyclamen controls in accordance with a protocol informed by intelligence.

5.140 In 2012, the Home Office Internal Audit Unit (IAU) – (previously the Border Force Inspectorate) conducted a thorough review of Cyclamen. The review was given to Border Force in January 2013. It made a number of observations and concluded that risks were not being managed effectively and that strategic direction and governance was poor.

5.141 If a vehicle containing nuclear and radiological material passes through a Cyclamen portal, it triggers an alarm, known as an alert. Figure 18 shows the number of alerts at each of the ports we visited during the period October 2012 to April 2013.

Figure 18 – [REDACTED]

5.142 We saw equipment at each of the four ports we visited. At Felixstowe we were told that the current requirement for resourcing Cyclamen was 11 staff per shift. However, the introduction of remote manning was expected to lead to significant efficiency savings. Once implemented, the requirement for a team manning the Cyclamen portals would reduce from 11 staff per shift to seven. This was a positive example of Border Force using modern technology to good effect and the organisation should consider replicating such initiatives wherever possible.

5.143 - 5.146 [REDACTED]

- 5.147 At each of the four ports we visited, staff and management showed a clear understanding of the importance of Cyclamen. Using staff deployment data from the four ports that we visited, we were encouraged to find that the amount of resources dedicated to Cyclamen remained relatively stable year on year. For instance, in the final week of February 2012 a total of 4793 hours of staff time were dedicated to Cyclamen. In the same period in 2013 it was 4502 hours of staff time.
- 5.148 This supports the view that local ports are giving the correct level of priority to Cyclamen when allocating resources.
- 5.149 However, staff operating at fixed Cyclamen portals did not have access to the Home Office IT system. We observed that staff were often under-utilised between Cyclamen alerts. During the six month period, October 2012 to March 2013, one of the sites we visited experienced 390 alerts.³⁵ This represented an alert, on average, every 11.2 hours. To man this site a minimum of three staff were required. Border Force told us that a business case for STRIDE at this site had been approved since 2008 but had not been realised due to 'various funding organisation change reasons (sic)'. It is essential that issues such as this get resolved so that Border Force can offer value for money and deliver an effective service.

³⁵ Evidence provided by Border Force

6. Inspection Findings – Safeguarding Individuals

All individuals should be treated with dignity and respect and without discrimination in accordance with the law.

Enforcement powers should be carried out in accordance with the law and by members of staff authorised and trained for that purpose.

Levels of Knowledge and Training

- | | | |
|-----|---|---|
| 6.1 | The level of knowledge amongst staff in the freight environment was very high. We found good levels of expertise as well as high levels of commitment and motivation from staff who wanted to succeed in their objectives of detecting illicit goods or identifying revenue fraud. Additionally, our observations of freight examinations revealed staff displaying a high level of professionalism. | <i>Our observations of freight examinations revealed staff displaying a high level of professionalism</i> |
| 6.2 | However, we also found that these positive traits were at risk due to staff becoming detached from certain functions and not being provided with sufficient training. | |
| 6.3 | Detection staff no longer assisted with any criminal investigation activity. The role of detection staff was to make the initial detection, protect the evidence, make a record of the seizure and, where relevant, pass the case to full-time investigators who would conduct the investigation and/or subsequent prosecution of offenders. Investigators are either CFI or CI staff. | |
| 6.4 | The interaction of detection staff with suspects was now limited to arrests made at ports and transport of the arrested person to a custody suite. This activity was particularly low in the freight environment with large volumes of freight, for example, containers or air freight, being unaccompanied. The main opportunity for freight detection staff to make an arrest was drivers of Ro-Ro units. | |
| 6.5 | Historically, detection staff would have conducted interviews under Police and Criminal Evidence (PACE) provisions, searching premises owned or controlled by suspects, and undertaking controlled deliveries of prohibited goods to alleged offenders. They would also have been involved in preparing paperwork for court. Such activity ensured a working and current knowledge of how and where their work flowed into the investigation and prosecution process. | |

- 6.6 We found that the cessation of investigation activity by detection staff had a detrimental impact on their knowledge and expertise in this area. It also had an impact on their knowledge of the criminal justice system. This was evidenced in our file sample, where we found two cases (11%) in which the provisions of PACE and official guidance had been breached. Figures 19 and 20 highlight these cases.

We found two cases (11%) in which the provisions of PACE and official guidance had been breached

Figure 19: Post-arrest questioning

Border Force:

- Arrested a lorry driver at Dover for importation of 3.85g of Class B drugs and cautioned him.
- Immediately began to question him about matters unrelated to the preservation or securing of further evidence (specifically, why he had concealed the drugs in certain places in his vehicle).
- Had not provided the arrested driver with his legal rights, under PACE, before undertaking this questioning.

Border Force response:

- Officers are confused between the different regime requirements for Criminal and Civil interviews.

Chief Inspector's comments:

- While it is commendable that the officer compiled detailed and contemporaneous notes in his notebook, it concerns me that PACE provisions were not uppermost in the officer's mind.

Figure 20: Denial of intimation

Border Force:

- Arrested a lorry driver at Immingham suspected of importing 100kg of Class B drugs. He immediately requested to notify his employer of his arrest ('intimation') but this was denied by Border Force staff.
- Repeated this denial of intimation a second time, even though nearly an hour had elapsed since the arrest took place.
- Did not seek the authorisation of CFI (or a Custody Officer) to deny intimation, and did not record the reasons for it.
- Eventually delivered the lorry driver to a designated Custody Office at Scunthorpe Police Station, over two hours after his arrest, still denied the right to notify someone of it. No records were produced to explain this continued denial of intimation.

Border Force response:

- It might have been safer to seek the approval of the appropriate grade in CFI to authorise the denial of intimation.
- Intimation was refused, in part, to secure the driver's mobile phone as evidence.

Chief Inspector's comments:

- Border Force's response overlooked the detailed guidance within the HMRC handbook (as used by Border Force), which strictly mandates CFI approval to deny intimation.
- Preservation of mobile phone evidence is not sufficient grounds to deny intimation.
- It concerns me that neither operational frontline staff nor Border Force centrally were able to apply the robust guidance for the protection of rights of detained persons.

- 6.7 The findings of our sample were confirmed by CFI staff who stated that the cessation of investigation activity resulted in:
- loss of the skills required to write effective witness statements;
 - staff being unaware when witness statements were required;
 - staff having limited awareness of chain-of-evidence and forensic principles (sometimes destroying forensic evidence when continuing to search consignments within which illicit cargos had already been detected); and
 - charging decisions by the CPS being delayed by not preparing witness statements in good time.
- 6.8 Other reasons given by staff and CFI for the loss of expertise included limitations on the duties that detection staff can undertake, fewer cases being adopted for investigation and a lack of recruitment.
- 6.9 The denial of any individual's rights was a significant concern for us. If the finding from our file sample was replicated across all arrests made by Border Force nationally, the number having their rights denied could be substantial.
- 6.10 Border Force currently operates four permanent 24-hours PACE custody suite facilities nationally.³⁶ Previously, such facilities were available at many more Border Force sea and air ports, whereas now police custody suites are utilised when necessary. We were concerned that the reduction in these facilities had not prompted Border Force to remind staff of the risk from extended periods of intimation denial.
- 6.11 We were also concerned that Border Force had not taken the opportunity to provide refresher training on the requirements taught in the initial anti-smuggling training, known as Secondary Examination Area Training (SEAT). Initial SEAT training was five weeks long and contained within the course were sections on 'Arrest and Caution' and 'Custody and PACE', with each session lasting no more than two hours each.
- 6.12 We spoke to officers who had undertaken their basic 'anti-smuggling' training many years ago, as well as staff who had recently completed this course. All staff confirmed that, despite their training, the lack of involvement in arrest and prosecutions had limited their levels of knowledge. All staff confirmed that they had not received any refresher training.
- 6.13 The only training that had been undertaken recently within freight teams was the compulsory training that all Border Force staff should complete. Some of this had little relevance to freight activity, for example 'Protecting Children'. While these courses were crucial to large parts of Border Force, they were seen as an unnecessary drain on limited freight resources.
- 6.14 We report later on the increasing age of Border Force staff involved in the detection duties on freight. This poses a risk that significant levels of expertise will be lost. However, we were also concerned that the lack of investment in training of existing staff was placing Border Force at risk from legal

36 <http://www.hmic.gov.uk/publication/border-force-customs-joint-inspection-of-custody-suites-20130501/>

challenges, litigation or compensation claims, for example, from wrongful arrest by breaches of PACE. We were also concerned that training for new recruits was passenger-centric, with very few new staff being assigned to freight duties.

- 6.15 With the investigation of offences at the border moving into the newly formed Border Policing Command of the National Crime Agency, there is an opportunity for Border Force to refresh this knowledge as part of the process and step-change into the new organisation.

We recommend that the Home Office:

Ensures that all staff who are arrest-trained comply with the requirements of PACE, and that managers test understanding and record-keeping in these areas, urgently.

Conducts a training needs analysis of freight staff, identifying areas where benefits can be achieved from providing additional training.

Guidance and Assurance

- 6.16 The Border Force Operating Mandate contains the requirement for staff to adhere to HMRC guidance for notebook procedures. This compels staff to ignore Border Force's own 'modernised guidance' relating to the same activity. If the Operating Mandate is to dictate use of specific guidance, it should focus upon achieving a recommendation, accepted by Border Force during our recent Inspection of Birmingham Airport; namely that:

'Border Force ensures that there is a single source of operational guidance, that it is maintained and kept up-to-date, incorporating any changes made by Interim Operational Instructions quickly and effectively.'

- 6.17 This recommendation is re-stated, bolstered by the suggestion that adherence to a single-source of operational guidance would make an effective inclusion for the Operating Mandate. We do not believe that Border Force guidance should be split across separate government departments (i.e. Border Force and HMRC), particularly when much of this guidance is not written for staff who operate at the border. HMRC have told us that it 'does not dictate policy to Border Force on guidance, or any other matters'; instead it expects Border Force guidance to: '(reflect) HMRC policy and (ensure) a sound legal basis'.
- 6.18 This means that Border Force can tailor guidance to its own activity without the threat of dispute from HMRC, even when undertaking work on its behalf.
- 6.19 Border Force provided this inspection with information illustrating the guidance and training available for the freight environment. However, very little of this was specific to how freight operations are undertaken on a day-to-day basis. For example, we were referred to the guidance for notebooks. This outlined minimum standards but did not extend to specific procedures for the freight environment. This is understandable because it is HMRC's notebook guidance. HMRC staff no longer work at the border in the way that they used to and so have no need of such detail.
- 6.20 We also received copies of local guidance written by individual detection staff, for Border Force staff at a single location. It duplicated central guidance and also added to it. These local additions indicated that the available guidance was in need of amendment. In response, Border Force told us there were established processes in place for frontline staff to challenge and suggest amendments to formal guidance. However, we found that staff were not following these established processes, rather they were writing their own local guidance. This is detrimental to national standards and consistency.

6.21 Guidance used by Border Force must be:

- accurate;
- located centrally and available online; and
- open to challenge and amendment by all staff.

6.22 National standards should be adhered to in all cases and there should be no need for staff to create localised guidance. Border Force should invest time and resources to ensuring that national guidance and standards are developed and adhered to. We were told by Border Force that guidance ownership issues were being addressed by a joint Border Force/HMRC guidance project.

6.23 Our recent inspection into Border Force activity at Birmingham Airport contained the following recommendation:

‘Ensures that managers undertake regular and effective audit and assurance activity to make sure that staff are complying with policy, guidance and legislation that cover their work activities’

6.24 The recommendation was made in order to build upon existing processes employed by Border Force. However, it appeared that while assurance frameworks were imposed, regional variations meant that not all staff were exposed to routine assurance activity. For example, Dover had over 300 staff working at the port across freight, cars, foot-passengers and other targeting and business-support activity. However, in the five-month period to March 2013, only eight individual notebook assurance checks had been undertaken.

6.25 We noted that every activity within the assurance report from Dover was considered ‘green’, i.e. low-risk, and that a sufficient number of notebook checks were being conducted. Conversely, other documentation provided to us demonstrated that 37 members of staff had been graded as ‘a higher than acceptable risk’ in their standard of notebook completion, i.e. staff were unsure how to use notebooks, were not completing them in line with training and policy standards, or had made other errors when completing them.

6.26 The assurance template that graded all risks as ‘green’ was either not being completed to accurately reflect the risks at the port, or suggests insufficient governance of the assurance process.

6.27 At Immingham, one notebook assurance record showed that an officer had been criticised for including, within their notebook, details of the legislation used to undertake a search. The Higher Officer levelling this criticism advised the officer to include this information on a separate, ‘sensitive’ page in the future. This instruction is incorrect and in contravention of all available guidance. This single example demonstrates poor assurance, another example of loss of expertise and insufficient knowledge of available guidance.

6.28 Another port provided us with records of completed ‘Butler 21 checks’³⁷ as proof that assurance of officers’ notebooks were taking place. Such activity, while crucial, does not check the remainder of a notebook to ensure that standards are being met. Neither does it examine whether legislation or guidance was being adhered to.

6.29 Conversely, another port copied their assurance records to us, detailing ‘Butler 21’ checks as an integral part of their notebook assurance. However, on this occasion, while the records demonstrated that physical observation of the officer’s performance had been undertaken, no assurance of the witness statement contents had been performed, i.e. these were notebook assurance records, incorrectly badged as ‘Butler 21’ checks.

³⁷ A mandated check to ensure that an officer’s notebook record matches the witness statement that an officer has made.

- 6.30 Our Inspection indicated that Border Force's assurance activity was deficient in a number of areas. Figure 21 describes this.

Figure 21: Case study – Lack of assurance activity

Border Force:

- provided assurance frameworks and records to us, covering the period October 2012 to March 2013;
- required assurance against 'Criminal Investigation' within Chapter 11 of the framework document provided. This includes checks that staff receive effective training, understand 'disclosure' and 'chain of evidence' principles, and ensures that procedures can 'withstand judicial scrutiny';
- referred only to 'immigration prosecution awareness' within Chapter 11, and not activity undertaken in the legacy-Customs areas;
- required assurance in this area only 'annually' or 'as required';
- returned little information regarding activity in these areas, instead reporting a generic requirement for managers to observe officers and notice whether their performance was deficient; and
- did not require any assurance activity for staff undertaking arrests, making use of force or handcuffs, or who were required to meet the demands of PACE.

Chief Inspector's comments:

- My Inspection strongly indicated that staff were not receiving sufficient training in, or awareness of, criminal investigation activity.
- I am disappointed to see that legacy-Customs areas have been omitted from assurance activity for criminal investigation work.
- The absence of assurance against PACE, one of the key demands placed upon criminal enforcement officers, causes me great concern.

- 6.31 It was unfortunate that assurance records showed areas where monthly-assurance activity was not taking place or, at least, had not been recorded: for example, 'Butler 21' checks, completion of IT databases, content of notebooks and security and storage of evidence. Other records simply stated that the assurance programme was being undertaken, with nothing to demonstrate that this was actually the case.
- 6.32 Some assurance records referred to details of activity being held in 'EMAF' registers. 'EMAF' was the 'Enforcement Management Assurance Framework', an assurance system previously used by HMRC. It was unclear whether this system should have been used by Border Force, or whether it should have been replaced or supported by Border Force's own programme.
- 6.33 One manager expressed a wish for 'a clearer, more structured approach confined to the key areas'. We echo this sentiment.
- 6.34 It is of concern that many of the issues identified within this report were not captured and corrected through robust assurance from managers. It is unclear whether this was as a result of:
- an absence of assurance activity;
 - the prioritisation of assurance in other areas (e.g. PCP, other than at Dover where no PCP is present); or

- a lack of knowledge and expertise.

6.35 We therefore reiterate the recommendation we made in our Birmingham Airport Inspection report (see section 6.16), coupled with a further recommendation covering assurance.

We recommend that the Home Office:

Ensures that assurance is carried out rigorously and consistently and that criminal investigation, PACE and arrest procedures within the detection environment are included within the framework.

7. Inspection Findings – Continuous Improvement

Risks to operational delivery should be identified, monitored and mitigated.

Workforce Age

- 7.1 At every location we visited, staff from all grades, including regional directors, stated they were concerned by the imbalanced age demographic of Border Force staff undertaking freight detection work. Figure 22 sets out the proportion of overall operational Border Force staff falling within defined age ranges in May 2013.

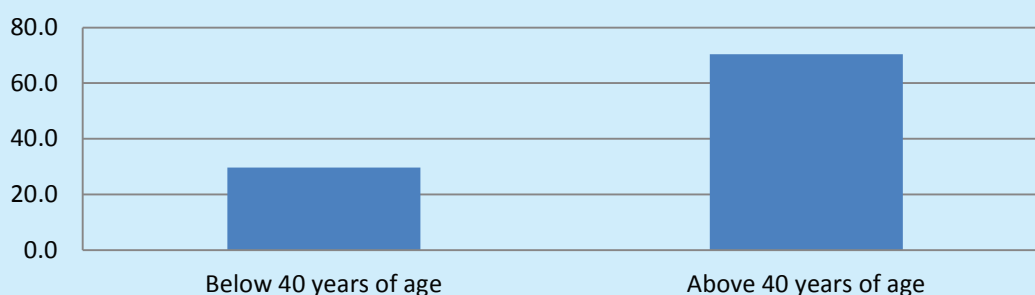
Figure 22: % average of operational Border Force staff in Regions* falling within given age ranges

Age Range									
24 & under	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65 & over
1.1%	4.9%	13.1%	10.6%	16.5%	21.3%	17.2%	10.5%	4.4%	0.5%

Note: *Central, London Heathrow, National Customs Operations, North, South, and South East and Europe. This information was internal management information provided by Border Force. It had not been quality assured to the level of published National Statistics and should be treated as provisional and therefore subject to change.

- 7.2 Border Force recorded age data by directorate and was unable to provide us with statistics specifically relating to individuals working in freight detection roles. It can be seen that an average of 15% of Border Force staff in the Regional Directorates³⁸ and National Customs Operations are 55 or older. Meanwhile, an average of only 30% of staff are under the age of 40 - Figure 23 refers.

Figure 23: % of operational Border Force staff above and below the age of 40



³⁸ Central, London Heathrow, National Customs Operations, South, North, and South East and Europe.

- 7.3 The large proportion of staff approaching the statutory retirement age creates a risk that replacement staff will not be equipped with the necessary skills and knowledge to undertake what is a highly specialist role. This is because staff at all locations informed us that to perform their duties they rely upon sharing of expertise between team members and particularly with long-serving colleagues. As noted earlier in this report, this type of ‘on the job’ learning is regularly used in lieu of formalised training.
- 7.4 It is therefore imperative that new staff are embedded within teams in sufficient time to enable them to benefit from working alongside experienced colleagues prior to their retirement. Conversely, newly trained staff bring knowledge of the most current practice and procedures that benefits their more experienced colleagues who may not have received the latest training.
- 7.5 The fact that Border Force does not hold specific data regarding the age of staff in freight detection suggests that it may not have considered the risks posed by this issue, with one senior manager describing it as a ‘demographic time bomb.’ We believe that Border Force should take action to mitigate this risk.
- 7.6 Staff told us that the increasing average age of staff members involved in freight detection work created potential health and safety risks because of the physical nature of freight detection roles. In all locations inspected, we observed staff climbing in and out of containers or trailers. We are aware that, in many of the locations we visited, staff who were no longer physically able to conduct examinations had been allocated to roles which did not require handling of goods, for example, becoming scanner operators.
- 7.7 Whilst the flexibility this demonstrates was to be commended, it is clear that changes in role were reactive and instigated because of the age of the staff member concerned. Also, as mentioned earlier in the report, the detailed technical expertise evident in International Trade teams was also at risk. Unless this is addressed the problem will only grow.

We believe that Border Force should take action to mitigate this risk

We recommend that the Home Office:

Develops a credible strategy to address the issue of the increasing age of its workforce.

Information Technology

- 7.8 The use of IT underpins many aspects of Border Force’s freight operations. Targeting teams in particular rely on an array of systems to help them select suitable targets for examination. However, all staff, from frontline officers to managers, required access to IT in order to ensure their operational effectiveness. We were concerned that staff in all of the locations we visited reported numerous issues regarding the quality of IT.
- 7.9 The majority of staff we spoke to expressed frustration about the fact that they were required to log in to two separate operating systems in order to access their computers (a result of the merger of the two organisations in 2009). STRIDE was the operating system owned by HMRC. Staff must first log in to STRIDE. Once this was complete they were then required to log in to the Home Office operating system, POISE. We observed the log in process that staff had to complete. Logging in to two systems was lengthy and we were informed that it can often take in excess of half an hour and frequently resulted in systems crashing. This was particularly the case when the network was busy, for example, at the beginning of shifts. Border Force and HMRC advised us that they were taking steps to improve system and performance resilience.
- 7.10 We also observed staff being unable to view some websites during their research because versions of software, in this case Internet Explorer, were outdated and did not support current programming

languages. In other instances, websites were inaccessible to staff as they were blocked for security reasons. This was affecting staff productivity and operational effectiveness.

- 7.11 Staff told us that a lack of IT in the examination sheds caused them problems. We witnessed this during our observation sessions at Immingham, Felixstowe, and Heathrow, where staff stated that the shortage of terminals often forced them to use their personal mobile phones to research the details of importing companies and shipping agents.
- 7.12 As part of its function as a law enforcement command within the Home Office, Border Force should ensure that its staff are appropriately equipped. Use of personal mobile phones may also be in breach of Home Office guidance regarding the sending of personal information over unencrypted networks.
- 7.13 This was an example of how the lack of IT ownership or lack of combined strategy between HMRC and Border Force could impact on operational delivery. Other law enforcement agencies, for example the police service, have utilised mobile data technology for over a decade with significant success. Border Force staff should not have to use their own equipment for conducting searches relevant to their roles: equipment and access to information should be provided where there is an operational need. We therefore believe that Border Force should conduct analysis into where remote access to information is required.

- 7.14 Whilst observing staff at the Border Force National Targeting Hub in Felixstowe, we were struck by the number of programs which they were required to access to uncover information regarding freight movements. Most of these programs must be accessed individually, as they do not allow information to be cross-referenced between them. As well as being time-consuming, staff informed us that this increases the potential for them to miss relevant links between individuals and companies associated with a freight movement. We therefore welcome the aim outlined in Border Force's 'Freight Targeting Technology Strategy – February 2013':

We view this as a positive development and commend Border Force for taking such proactive steps

'The strategic aim is to move from the current fragmented provision of freight targeting technology to a position where a single solution can be applied across the business. This could be a single system in itself or integration of related systems (including direct access to trader systems) which are presented to the targeter through a single interface.'

- 7.15 The report recommends the continued development of an automated system, TASPLUS, which was being piloted during our inspection at Dover in the Ro-Ro environment. A manager at Dover told us that initial trials of this system had been a great success. We view this as a positive development and commend Border Force for taking such proactive steps to confront the challenges faced in the freight environment in the future.

- 7.16 The report also highlighted an issue that was raised frequently in focus groups and interviews, namely that many systems used by Border Force are owned by HMRC. The report highlighted the Freight Targeting System (FTS) which is owned by HMRC. Border Force is the 'primary user' yet pays HMRC £3.1 million pounds per annum to use this system.

We were also told by staff that many of the HMRC-owned systems result in duplication of work

- 7.17 We were also told by staff that many of the HMRC-owned systems result in duplication of work. In one such example, detection teams are required to complete two electronic feedback mechanisms, CENTAUR (owned by HMRC) and Immediate Event Notifications (owned by Border Force). Much of the information entered into these two systems is duplicated. There is a strong case for Border Force to gain ownership of all the IT systems that it uses, or to develop joint strategies with HMRC, so that IT is delivered and used for the benefit of both organisations.

Identity and Branding

- 7.18 The management of freight operations into the UK is the responsibility of both Border Force and HMRC. In 2009 responsibility for carrying out customs functions at the border transferred from HMRC to the Home Office.
- 7.19 During this time the customs function has not changed. Staff who transferred into the new organisation from HMRC retained most of their powers. The Borders, Citizenship and Immigration Act 2009 allows concurrent exercise of customs revenue controls at the border by HMRC and the Director of Border Revenue. The role of the Director of Border Revenue is held by the Director General of Border Force.
- 7.20 However, whilst the role of frontline officers and their powers have not changed, the identity of the officers has. This has caused a number of issues, both for staff carrying out the role and for the people they interact with, including members of the public and stakeholders.
- 7.21 We found that the constant change of identity had affected morale amongst staff. During interviews, focus groups and observations, we observed staff wearing different uniforms; some were carrying UK Border Agency branding, whilst others were carrying Border Force branding. Some staff still considered themselves to be customs officers, a legacy of their original roles, but just in a different uniform.
-
- We found that the constant change of identity had affected morale amongst staff*
-
- 7.22 Agency branding also carried through to dockside areas. In this inspection it only affected drivers of Ro-Ro units who had to present themselves for inspection by Border Force Officers at sea ports, but signage around the ports still included Agency signs.
- 7.23 Inspectors observed how the branding caused confusion amongst drivers who presented themselves at the booth upon arrival. During an observation at Immingham, drivers presented passports but no documentation about the load they were carrying because they thought the checks being conducted were immigration checks. It required Border Force officers to say 'customs' before drivers realised what paperwork had to be presented.
- 7.24 In Dover, no such confusion arose because the booths where Border Force staff were located had a sign which read 'Customs – Slow' to alert drivers approaching the booth. Customs is a universally known term throughout the world and the removal of this term when the separation from HMRC took place had caused some confusion to the travelling public.
- 7.25 In addition to the branding, the way that roles were perceived was also having an impact on staff. The current structure of Border Controls, particularly around passengers, is that immigration checks are done first, with detection functions being done subsequently. As a result, they have derived the names of Primary and Secondary controls. The outcome is that staff carrying out detection roles, whether it is on passengers, traffic, or freight are known as Secondary teams.
-
- Border Force needs to take action to change this perception amongst its staff*
-
- 7.26 The impact is such that during the inspection, the term 'Secondary by name, Secondary by nature' was used in every port that we inspected. This is a clear indication of how the identity of the functions had been perceived to be eroding, with all staff highlighting the shift in priority to Primary Controls as the main factor. Border Force needs to take action to change this perception amongst its staff.

- 7.27 We examined whether there had been a shift in allocating resources to the Primary control point by reviewing statistics that showed the number of hours worked on the various functions in Border Force. Figures 24 and 25 show the differences between 2012 and 2013 in total hours worked between Primary and Secondary Controls for the periods 23-29 February and 1-7 March.

Figure 24: Comparison of hours worked across various Border Force functions for the period 23-29 February 2012 and 23-28 February 2013

Function	2012	2013	Difference
Primary Control	9897	15864	+60%
Cyclamen	4793	4502	-6%
Alcohol	479	462	-3.5%
Tobacco	6647	5724	-14%
Class A	7202	5094	-29%
Prohibited and Restricted Goods	141	127	-10%

Note: All figures have been subject to rounding. 2012 was a leap year hence 29 February. This information was internal management information provided by Border Force. It had not been quality assured to the level of published National Statistics and should be treated as provisional and therefore subject to change

Figure 25: Comparison of hours worked across various Border Force functions for the period 1-7 March in 2012 and 2013

Function	2012	2013	Difference
Primary Control	11563	14674	+27%
Cyclamen	5067	4607	-9%
Alcohol	456	566	+24%
Tobacco	7828	6494	-17%
Class A	8137	5665	-30%
Prohibited and Restricted Goods	83	59	-29%

Note: All figures have been subject to rounding. This information was internal management information provided by Border Force. It had not been quality assured to the level of published National Statistics and should be treated as provisional and therefore subject to change.

- 7.28 As can be seen, there had been significant rises in the number of hours spent on Primary Control, with Cyclamen suffering a slight drop in both years. This links in with the priorities of the Border Force control strategy, which lists PCP and Cyclamen as the top priorities. However, Secondary activities experienced reductions in time spent in all but one instance. In some cases, e.g. Class A drug detections, 30% less time was being spent by staff, compared to a third more time on Primary Controls compared to the year before. The figures were totals across all four ports, but the trend is similar for individual port data.
- 7.29 Identity and Branding was an issue for the stakeholders we consulted as part of our inspection. One stakeholder commented that Border Force as an entity was difficult to identify. As an organisation it did not have a contact telephone number, website or registered address. We also found that, despite splitting from the UK Border Agency over 12 months earlier, data relating to Border Force performance was still being published on the Agency's webpage.

7.30 There were inconsistencies across the ports we inspected regarding how staff perceived themselves and how they were perceived by members of the public and the organisation they serve. Border Force needs to re-establish the role and responsibilities of frontline staff carrying out freight duties. This should remove any confusion for members of the public and stakeholders, but also improve the morale of staff. The removal of terminology that reflects primary and secondary functions needs to be considered, along with the identification of separate Immigration and Customs roles.

Border Force needs to re-establish the role and responsibilities of frontline staff carrying out freight duties

We recommend that the Home Office:

No longer uses the term 'Secondary Control point' and considers reintroducing the word 'Customs' into Border Force corporate branding.

Appendix 1 Inspection Framework and Core Criteria

The criteria used in this inspection were taken from the Independent Chief Inspector's Core Inspection Criteria. These are shown in Figure 26.

Figure 26: Inspection criteria used when inspecting Border Force's freight operations	
Operational Delivery	
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
Safeguarding individuals	
5.	All individuals should be treated with dignity and respect and without discrimination in accordance with the law.
6.	Enforcement powers should be carried out in accordance with the law and by members of staff authorised and trained for that purpose.
Continuous Improvement	
10.	Risks to operational delivery should be identified, monitored and mitigated.

Appendix 2 Glossary

Term	Description
A	
Agent	See freight forwarder. A third party that organises shipments for individuals or companies to get goods from the manufacturer or producer to the customer. The agent will make all relevant declarations to HMRC.
Assistant Director	Senior Manager within Border Force, equivalent to a civil service Grade 7 position.
Assistant Officer	A junior operational grade in the Border Force command chain equivalent to the Home Office Administrative Officer (AO) grade.
Assurance	The process by which activities are assessed to ensure they are compliant with guidelines and the law.
B	
Border Force	A separate operational command within the Home Office, responsible for frontline operations at air, sea and rail ports.
Border Force Operating Mandate	A document that brings together guidance and instructions relating to the work of Border Force.
C	
CEMA	Customs and Excise Management Act 1979. The legislative framework that sets out the functions and powers of officers engaged in customs work.
Centaur	Legacy-Customs IT system used by Border Force to collate and manage information and intelligence. Details of seizures made at ports are stored on this system.
CHIEF	CHIEF - Customs Handling of Import and Export Freight. An HMRC IT system that processes all import and export declarations for the purpose of calculating relevant duties and taxes, freight targeting and collecting statistical data.'
Civil Penalty	A process owned by HMRC in which financial penalties can be imposed on importers/agents for a range of offences, including evasion of import duty and mis-declaration of goods.
Container	A standardised steel box used for the transportation of goods. Containers are unloaded by crane at suitably equipped ports such as Felixstowe.
Covert Examination	The examination of freight without the knowledge of the importer or the shipping agent.

CPIA	The Criminal Procedure and Investigations Act 1996. This compels the prosecution to record, retain and reveal all material generated during the course of an investigation. Courts may permit non-disclosure of sensitive material but they must first be shown the material in order to allow this.
Cyclamen	The term used to describe radiological scanning capability at UK ports.
E	
Examination	Refers to the physical examination of freight. Can range from opening a small package to emptying a large container.
Examination Shed	A facility provide by port owners in which the physical examination of freight takes place. These can be temperature-controlled to allow the examination of chilled or frozen consignments.
F	
Freight forwarder	See agent.
H	
Her Majesty's Revenue and Customs (HMRC)	UK government department responsible for customs and taxation. The HMRC customs function was one of the legacy organisations that made up the former UK Border Agency. The function is now carried out by Border Force staff at air, rail and sea ports.
Higher Officer (HO)	The first level of management in the Border Force command structure. The role is often a combination of management and operational activity. It is equivalent to the Immigration Officer (IO) grade of Chief Immigration Officer
Home Office	The Home Office is the lead government department for immigration and passports, drugs policy, crime, counter-terrorism and police.
I	
Intelligence	The material that results when information is recorded, assessed and developed by Border Force or HMRC.
International Trade	A complex set of fiscal and regulatory checks conducted by Border Staff on behalf of HMRC or the EU.
Intervention	A term used to describe the physical examination of freight containers. (See also detection and examination).
L	
Legacy-Customs functions	Term used to describe the customs functions undertaken by the former UK Border Agency, and more recently Border Force since integration.
Legacy-Immigration functions	Term used to describe the immigration functions undertaken by the former UK Border Agency, and more recently Border Force since integration.
N	
Notebook	An officially-issued notebook that is used to record details of activities undertaken during official duties. Its primary aim is to record notes of evidential activity and events.

O	
Officer	An operational grade in the Border Force command structure. Officers will be engaged in the physical examination of freight.
P	
Port	A point of legal entry to the UK, including airports, seaports and the channel rail terminals.
Passport Control, or Primary Checkpoint or Primary Control Point (PCP)	The area in an arrivals hall where Border Force staff make an initial decision on whether a passenger should be allowed entry into the UK without delay. All passengers must submit their passports/travel documentation to the officer making this decision.
R	
RIPA	The Regulation of Investigatory Powers Act 1998. This creates authorisation procedures for certain activities undertaken by investigatory and enforcement bodies. The majority of procedures authorised by RIPA are undertaken covertly, i.e. without the knowledge of the person or organisation under investigation.
Ro-Ro traffic	An abbreviation of 'Roll on-Roll Off'. It refers to freight vehicles that get onto and off vessels on their own wheels.
S	
Scanner	An X-ray device that is used to scan freight containers.
Seizure	The removal of a prohibited item, or a restricted item that has not been properly imported or authorised for importation, from a person or consignment.
Serious and Organised Crime Agency (SOCA)	An executive non-departmental public body of the Home Office responsible for proactive operations against serious and organised crime.
Senior Officer (SO)	A senior manager in the Border Force command structure. Equivalent to the Home Office grade SEO or HMI. An SO's role will be primarily of a managerial nature.
T	
Targeting	The intelligence-led process by which freight consignments are selected for examination.
Transit Shed	An approved place situated within the appointed area of an approved port or airport, but outside the Customs approved area.
U	
United Kingdom Border Agency (the Agency)	The Agency previously responsible for UK inland immigration functions. As of 1 April 2013 the Agency was abolished and its functions absorbed into the Home Office.

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