

**Consultation on the draft Designation Orders implementing the Port Security Regulations 2009 (S.I. 2009/2048) at the Ports of Barrow, Cardiff, Falmouth, Glasgow (now “Clyde”), Hull, Goole, Immingham and Grimsby, Liverpool, the Manchester Ship Canal, Newhaven, Southampton, Sullom Voe, Swansea (“the Listed Ports”).**

## **SUMMARY OF RESPONSES**



Department  
for Transport

March 2013

# Introduction

## **Background**

1. This consultation concerned the implementation of EU Directive 2005/65/EC (hereafter “the Directive”) on enhancing port security. The purpose of the Directive is to improve security coordination in the wider port<sup>1</sup> area (as opposed to security at port facilities which is covered by Regulation (EC) 725/2004). The Directive was transposed into UK law by the Port Security Regulations 2009<sup>2</sup> (hereafter “the PSRs”) which came into force on 1 September 2009.
2. The PSRs require the establishment of Port Security Authorities (PSAs) at ports at which the requirements of the Directive apply (“in-scope ports”) and the appointment of a Port Security Officer (PSO). The Department’s port security compliance team has already been assisting some ports with the carrying out of the port security risk assessment (PSRA) and preparation of the port security plan (PSP) based on it. In the consultation further ports were invited to avail themselves of this assistance and a number have requested it. Once the PSP is in place the PSA will be responsible for implementing and maintaining it.
3. The boundary of the port and the designation of the Port Security Authority are set out in a Designation Order (DO) to allow the relevant provisions of the PSRs to be applied.

## **Informal consultation**

4. Departmental port security policy officials carried out comprehensive pre-consultation discussions with key interested parties at the Listed Ports and followed this up with Stakeholder Workshops. Written comments were also invited subsequently from all interested parties.

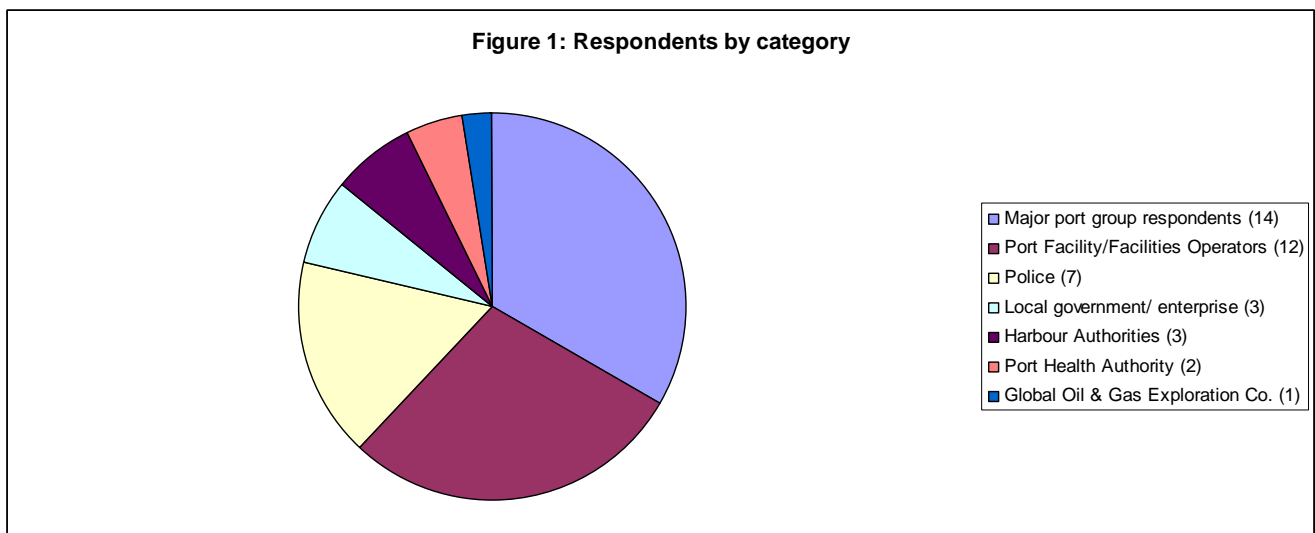
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<sup>1</sup> In Article 3.1 (Definitions) of Directive 2005/65/EC “port” means “any specified area of land and water, with boundaries defined by the Member State in which the port is situated, containing works and equipment designed to facilitate commercial maritime transport operations”.

<sup>2</sup> Statutory Instrument no. 2009/2048

## Formal Consultation

1. This is the second formal consultation regarding the implementation of the Directive. The consultation document appended draft DOs for all the Listed Ports incorporating draft PSA boundary plans. Further batches of ports will be likewise consulted upon in the coming months until implementation is achieved at all the in-scope ports.
2. The consultation ran for 6 weeks (19 November 2012 to 4 January 2013). The consultation documentation was published on the Department's website ([www.gov.uk/dft](http://www.gov.uk/dft)) as well as being sent by e-mail to relevant national organisations, and relevant parties at the Listed Ports. An updated version of the consultation paper was uploaded, and sent to consultees, on 6 December 2012 including revised plans for Falmouth, Liverpool, Hull, Goole, Immingham and Grimsby, Southampton and Swansea. An Addendum to the consultation was uploaded and issued by e-mail on 18 December 2012 to all consultees but particularly targeted at the Associated British Ports' (ABP) ports of Barrow and Newport, the latter being part of the proposed Cardiff DO, to inform them that replacement boundary plans would be issued for these 2 ports and due consideration time would be granted following issue of these.
3. A total of **42 responses** were received. The respondents are listed alphabetically in Annex 1. Figure 1 below shows the breakdown of respondents by category:-



4. The majority of respondents replied using a proforma Consultation Response Form. This incorporated the 14 consultation questions on which the structure of this summary of responses is based. The comments from respondents replying by e-mail have been ascribed to the most relevant question. Not all the respondents replied to all of the questions, and response totals per question reflect this.

## Consultation Responses

**Q1. For each of the Listed Ports: are you content with the proposed boundaries as set out in the draft Designation Order (DO)? YES/NO - if not, please set out your reasons for disagreement and any suggested amendments:-**

<b>Total Responses</b>	<b>35</b>	<b>YES</b>	<b>13</b>	<b>NO</b>	<b>20</b>	<b>YES/NO not specified</b>	<b>2</b>
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**No PSA boundary issues are outstanding at the following 3 ports:**

### **Falmouth**

During the consultation period Falmouth Harbour Commissioners (FHC) queried the boundaries on the boundary plan which had been submitted by the Falmouth Dock and Harbour Company (FHDC) during informal discussions on implementing the PSRs. FHDC advised the Department that their plan erroneously showed anchorage points, and submitted a revised plan showing the boundary according to their limits of jurisdiction following agreement with FHC.

### **Newhaven**

The one consultation respondent, a Port Facility Security Officer for a facility in Newhaven, registered contentment with the proposed PSA boundary. DfT compliance team members have been working closely with the port in recent months, notably with the PSO-designate there, towards the implementation of the PSRs at the port. A boundary plan has been agreed and a PSRA carried out.

### **Liverpool and Manchester Ship Canal**

Whilst a Port of Liverpool DO was included in the first batch of ports consulted on, a request was subsequently received from Peel Ports, the owners of the Port of Liverpool and the Manchester Ship Canal (MSC), to combine these two ports in a single PSA. The Department agreed to this request and Liverpool was included in the current consultation along with MSC. A specific question was inserted in the consultation seeking views on Peel Ports' preference for a single PSA (see later under Q12).

All local stakeholder responses, including that of Peel Ports, were in favour of a combined PSA. The consultation also specifically asked (Q13) whether the port facility at Tranmere should be included to which the 14 respondents, again including Peel Ports, were unanimously in favour (see later under Q13).

**However, a number of respondents had issues with the proposed PSA area of jurisdiction in the boundary plans attached to a number of the draft DOs: for example concerning the inclusion or exclusion of certain facilities or areas of land, the extent of the waterside area, encroachment on Council land, and the question of unnecessary duplication if a port facility fell subject to another security regulatory regime.**

**These plans represent early iterations of a proposed PSA area, it being recognised that DfT officials will need to proceed to a series of detailed discussions with relevant parties at individual ports or small groups of ports if a PSA encompassing 2 or more ports is envisaged, to resolve these issues, having regard to the requirements of the PSRs.**

**There are outstanding PSA boundary issues to be resolved at the following listed ports:**

ABP Barrow<sup>3</sup>  
 ABP Cardiff (including Newport<sup>3</sup> and Barry)  
 ABP Hull/Goole/Grimsby/Immingham (proposed Humber PSA incorporating all 4 ports)  
 ABP Southampton  
 ABP Swansea (including Port Talbot)

Glasgow (Clyde)  
 Sullom Voe

**Q2. For each of the Listed Ports: are you content for the relevant Port Security Authority(PSA) to be designated at that port for the purposes of the Port Security Regulations 2009? YES/NO - if not, please set out your reasons for disagreement:-**

<b>Total Responses</b>	<b>32</b>	<b>YES</b>	<b>16</b>	<b>NO</b>	<b>15</b>	<b>YES/NO not specified</b>	<b>1</b>
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Of those respondents registering a NO answer:

- 12 major port group respondents in response to Q2 cross-referred to their general position of PSA boundaries and membership set out in answer to Q8 (see below).
- A global oil exploration company, operators of a terminal at Sullom Voe, queried the need for its inclusion in a PSA for the port given its designation as a Critical National Infrastructure (CNI) site and as such already being subject to a more stringent security regulatory regime than that proposed under the PSRs. They also queried why another oil terminal sited in a Scottish island group was considered not in-scope. These concerns were shared by a local council with an interest in the port.
- A Southampton-based port facility operator gave a preference for the “smallest possible size” PSA in the interests of efficiency and more effective cost management.

YES/NO not specified

- A port facilities operator based at Immingham said that the PSA effectively covered the administrative area of a major port group giving it overriding powers in the context of the proposed PSA’s administration.

**Q3. For each of the Listed Ports: are you content with the proposal that there are no port related areas for that port? YES/NO - if not, please set out your reasons for disagreement and suggest any port related areas you consider should be included with reasons:-**

<b>Total Responses</b>	<b>30</b>	<b>YES</b>	<b>27</b>	<b>NO</b>	<b>2</b>	<b>YES/NO not specified</b>	<b>1</b>
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Of the 2 respondents registering a NO answer:

- A Southampton-based port facility considered a domestic ferry terminal not so far included should be included.
- A port facility operator based on the River Trent (Humber area) added no further comment

YES/NO not specified:

- A port facilities operator based in Killingholme added no further comment

**Q4. For each of the Listed Ports: are you content with the proposed working procedures for the PSA in Schedule 2 to the draft DO? YES/NO - if not, please set out your reasons for disagreement and suggest possible amendments to the Schedule.**

<b>Total Responses</b>	<b>29</b>	<b>YES</b>	<b>26</b>	<b>NO</b>	<b>3</b>	<b>YES/NO not specified</b>	<b>0</b>
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Of the 3 respondents registering a NO answer:

- The Aberdeen-based owner company of an oil terminal in Sullom Voe re-iterated its view that the terminal should not be included in the PSA

<sup>3</sup> As indicated in the Addendum to the consultation revised boundary plans will be issued for Barrow and Newport (part of the Cardiff PSA) and due time given for consideration and comment.

- A Southampton-based port facility operator queried whether the port-owners' intention for PSA's across its ports group to be established as "bodies corporate" would conflict with the right of the Secretary of State to give notice to a member that they will cease to hold office.
- A Humber/River Trent based port facility operator added no comment.

**Q5. For each of the Listed Ports: are there other port facilities nearby that should be included within the PSA for that port? YES/NO – if not, please will you explain which facility/facilities and why?**

<b>Total Responses</b>	<b>32</b>	<b>YES</b>	<b>2</b>	<b>NO</b>	<b>29</b>	<b>YES/NO not specified</b>	<b>1</b>
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Of the 2 respondents registering a YES answer:

- A Scotland-based police respondent added no comment.
- A South Wales-based Port Health Authority re-iterated its response to Q1 querying why a marina was excluded from the PSA proposed for Swansea but that a dock which was being changed into a marina to be used solely by pleasure craft lay inside the PSA boundary, as well as querying the exclusion of a terminal and several jetties on the River Neath which trade internationally.

The respondent not specifying a YES/NO response, a port facility operator based at Killingholme on the Humber Estuary, re-iterated their query in answer to Q1 as to why an MOD site lay outside the PSA boundary especially as there was a potential sale process.

**Q6. For each of the Listed Ports: will the establishment of a PSA at that port affect a small or medium-sized business? YES/NO - if not, please will you explain how:-**

<b>Total Responses</b>	<b>26</b>	<b>YES</b>	<b>16</b>	<b>NO</b>	<b>10</b>	<b>YES/NO not specified</b>	<b>0</b>
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Of the 16 respondents giving a YES answer:

- 12 port group operators expressed the view that if numerous remote ISPS facilities are included to form a large and unwieldy PSA (as proposed for some estuary ports) rather than just ISPS facilities within the landward boundary of the port, this would likely result in additional bureaucracy and increased charges being levied through the PSA, ultimately affecting all business within the wider PSA, including SMEs.
- A port facility operator on the Humber/River Trent considered that there would be "cost implications" for SMEs.
- A North-West England based local council felt that small businesses located on one of its strategic employment sites which was adjacent to the proposed Barrow PSA could be adversely affected by the PSA, as well as the PSA undermining future development and investment from new businesses wishing to locate on this site.
- A Southampton-based port facility operator felt that, as a port often had a number of businesses within its boundaries which did not come under the ISPS code, changes with regard to the security in the port will often have a "knock-on" benefit to those businesses and that they might, therefore, be expected to contribute to the recovery of associated costs.
- Another Southampton-based port facility operator felt that there would be an additional cost of managing audit and follow up

No cost estimates were provided in any of the YES responses

**Q7. For each of the Listed Ports: are you content with the start-up and per annum cost estimates provided in the Impact Assessment for the Port Security Authority, Port Security Officer, Port Security Assessment and Port Security Plan? YES/NO - if not, please set out your reasons and suggest alternative costs.**

<b>Total Responses</b>	<b>26</b>	<b>YES</b>	<b>6</b>	<b>NO</b>	<b>19</b>	<b>YES/NO not specified</b>	<b>1</b>
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Of the 19 respondents giving a NO answer:

- 12 port group operators considered that there was no indication in the consultation material of actual cost associated with the formation and ongoing operation of the PSA's in the trial ports, or how this would affect costs relating to ISPS compliance and management. They also felt that the

Department’s interpretation and application of the regulations had the potential to influence PSA set-up and ongoing cost.

- An Oil and Gas Exploration Company considered that, as their terminal consisted of 4 jetties, the start up and per annum costs for the introduction of a PSA, a PSO, a PFSA and a PSP were disproportionate.
- 1 port facility operator in the Humber/River Trent area queried how any costs incurred would be explained to an additional port and what cost controls would be proposed, which costs would be on top of costs to carry out PFSO duties.
- A Southampton-based port facility operator considered that the consultation document did not give enough information by which to gauge the costs associated with the running of the PSA, and if a security manager had to give up 2 days a week to perform PSA duties, who would then fill-in to do the 2 lost days of security manager work. The respondent also felt that the costs were liable to be more than the anticipated 2 days-worth of salary indicated in the consultation document.
- A port facilities operator with terminals at Immingham made the following points:
  - as the PSA had to be a properly constituted body, officers would require insurance.
  - developing, implementing and maintaining the PSA would generate a new cost.
  - given the proposed scale of the Humber PSA , the time provided for the assessment appeared very optimistic.
  - the Impact assessment focused solely on the body costs - there should be a recognition of the costs to the employer too.
  - The establishment of the PSA would give the port owner the opportunity to defray any additional costs by charging port facility operators. The PSA would also be able to identify any “sub areas within the Port” and again seek to recoup the costs of mitigation measures from port facility operators.
  - Not clear what additional security benefit these new security regulatory requirements provide, and therefore the costs would represent poor value for money.
  - A police respondent noted that the proposed working procedures requested the attendance of a Police Officer, but did not explain how the costs incurred by the police would be met: a PSA could be spread over a number of different sites.

None of the respondents answering NO gave any cost information to support their statements.

A police respondent not specifying a YES/NO answer considered that the formula used for calculating costs appeared to be sound.

<b>Q8. For each of the Listed Ports: do you have any general comments about the draft DO not covered in the above questions? YES/NO - if not, please provide below:-</b>							
<b>Total Responses</b>	<b>27</b>	<b>YES</b>	<b>14</b>	<b>NO</b>	<b>13</b>	<b>YES/NO not specified</b>	<b>0</b>

Of the respondents giving a YES answer:

- 12 port group operators responded in identical terms making the following general points:
  - An EU-commissioned report (TAPS II – Technical Aspects of Port Area Security) did not list any UK ports as having been visited by the researchers. The report also did not recognise that the UK port industry, being largely privatised, was structured differently from European mainland ports which were mostly publicly-owned. However, the report did make many references to the decision on the ultimate structure of the PSA being at the discretion of the Member State giving leeway for the application of the Directive to recognise the differing structures and ownership in the UK.
  - Indicated preference in response to earlier consultation of existing Port Security Committee’s (PSC’s) covering landward extent of estates forming basis for PSAs for [our] ports. Concerns about inclusion of waterside areas in PSA areas. Currently,

navigation and harbour authorities have powers of direction in relation to navigation only. Security of wider waterside responsibility of the police with numerous forces and dedicated resource and budget. Basic principle in PSA formation is that those organisations with existing security responsibilities eg. ISPS facilities bring their existing plans and resource to the table as part of the PSA. Firmly believe this should extend to the police – understand that this position now being recognised by the Association of Chief Police Officers (ACPO). This approach is essential where following the [TAPS II] guidance from May 2011 involves designating the full harbour area, which in some cases means the establishment of a “super-PSA” comprising many ISPS facilities and thousands of hectares of waterside areas.

- Re. Humber, Liverpool and Glasgow do not see the merit of including remote geographically separate ISPS facilities to form a “super-PSA” on the basis of “shared waters” under the May 2011 [TAPS II] guidance. Will only serve to increase bureaucracy and add cost, without a tangible and demonstrable security benefit. The regulation 17 requirement for the PSA to satisfy itself, through audit or otherwise, that the port security plan and its subsidiary components are fully implemented (otherwise the PSA is subject to enforcement and sanction under regulation 26) could potentially compromise the currently discrete ISPS facilities. This is a particular issue for the proposed "super-PSAs" with extensive membership and geographical coverage.
  - Consultation material doesn’t make it clear to “compulsory” PSA members or remote ISPS facilities who have been offered the “option of joining the PSA, that their existing stand-alone ISPS responsibilities continue but by becoming a member of the PSA, they effectively take on a joint statutory responsibility under regulation 17 of the PSRs for wider compliance issues related to the PSA as a whole. Cannot see how this could be implemented without a significant increase in costs. Only limited guidance to date on how regulation 17 will be applied, and on how enforcement under regulation 26 will be applied. These concerns shared by all potential PSA members contacted by the respondents, whether they be ISPS facilities within the landward boundary of the port, or geographically remote ISPS sites with “option” of PSA membership.
  - Based on obligations in PSRs and lack of detailed guidance to date on application and enforcement, intend to progress PSAs as bodies corporate from outset as consider PSA as unincorporated association to be untenable.
- A Southampton-based port facility operator queried how, given the port owner’s intention to establish the PSA as a “body corporate”, the position might be resolved if a port facility was willing to serve on the PSA but unwilling to become part of such a body.
  - An Immingham-based port facilities operator felt no clear mechanism was given for the constitution/selection of members of a PSA – potential for lack of proper representation of diverse interests. Likewise there did not appear to be any demand for transparency in organisational costs. Also Terms of Reference are left to the PSA – danger of generating imposed obligation on operators.

**Q9. For Hull and Goole, and Immingham and Grimsby it is proposed to designate a single PSA covering all four ports (the Humber Port Security Authority) for the purposes of implementing the Directive. Do you agree? YES/NO – if not, why not? And are you able to propose a viable alternative that is compatible with the Directive, cost effective and supported by the majority of stakeholders?**

<b>Total Responses</b>	<b>18</b>	<b>YES</b>	<b>5</b>	<b>NO</b>	<b>13</b>	<b>YES/NO not specified</b>	<b>0</b>
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Of those responding YES:

- A Humber-based police force, having had sight of the port owner’s proposed alternative PSA area, strongly favoured the PSA boundary plan covering the four ports in the draft Humber PSA DO annexed to the consultation document for the following reasons:



- Benefits in keeping waterside limit boundary at the Humber Harbour Authority limits – would provide police with opportunity to use the powers of the harbour authority further out prior to any vessel entering the Humber estuary and would therefore decrease risk.
  - Think Goole should be included within the PSA – the PSRs state that where there is a PSA and where there is a shared waterway then it should be classed as a single PSA (TAPS II). Goole obviously shares a waterway. Not including the waterside area from the Humber Bridge down to Goole would present the risk of someone driving landside and putting a rhib<sup>4</sup> in on the other side of the Humber Bridge. This would not be protected against. Understand that nationally the police have assessed the risk of a small renegade vessel as the second highest risk for maritime matters.
  - Think we should be a member of the PSA (rather than merely adviser).
- An international port facilities operator with a facility in Hull added no further comment
  - A Council in South West England, not being a Humber stakeholder, added no further comment.
  - A local port health authority (PHA) added no further comment
  - A local enterprise partnership (LEP) registered its support in principle for a single Humber PSA, as being consistent with its strategic plans, including the Plan for the Humber which views the Humber ports as a single entity and calls for greater collaboration.

Of those responding NO:

- 12 port group operators made the following points:
  - that their initial proposal, prior to being alerted to the TAPS II guidance, was to establish separate PSA's for Grimsby and Immingham, and Hull and Goole as they are managed as separate units and also so as to avoid the establishment of large and inefficient PSAs with many members. However, moderated position in early November following meeting with DfT and police representatives and would now accept a single PSA for Grimsby, Immingham and Hull.
  - Although Goole has more than one facility, the operators are now considering being incorporated into the Port of Goole Security Plan, as a single OBC<sup>5</sup> facility. Feel, therefore, that Goole should not be included in Humber PSA. At the very least Goole should be treated as a separate entity being geographically remote from the other three ports.
  - Also believe that the proposed waterside boundary which follows the limits of the Competent Harbour Authority, excluding the River Trent, is too extensive for an effective Humber PSA that would have "shared waters" between Grimsby, Immingham and Hull. We feel the boundary should only include the main outer Humber estuary that services these facilities.
- A port facilities operator with a number of facilities in the Humber ports and estuary felt that a single PSA would cover a big geographical area meaning extra time and costs to attend meetings. Also the meetings would be very impracticable with a very large number of members all trying to get their individual points across, a lot of which might have no relevance to other ports. Would propose removing Goole, but failing that have separate PSAs for Grimsby/Immingham and Hull/Goole.

**Q10. For Hull and Goole and Immingham and Grimsby do you consider whether additional port facilities in the vicinity should be included in the area over which the proposed Humber PSA will have jurisdiction – for example New Holland (that is, New Holland Dock and New Holland Bulk Services), Humber Sea Terminal, the Port of Keadby, Flixborough Wharf, Guinness Wharf, the facility owned by Groveport Logistics Ltd, Kingsferry Wharf and Old Ferry Wharf? YES/NO – please set out your views and reasoning for agreeing or disagreeing.**

<sup>4</sup> rhib = rigid-hulled inflatable boat

<sup>5</sup> OBC = other bulk cargo

<b>Total Responses</b>	<b>23</b>	<b>YES</b>	<b>1</b>	<b>NO</b>	<b>22</b>	<b>YES/NO not specified</b>	<b>0</b>
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Of those giving a NO answer:-

- 12 port group operators did not see the merit of including remote geographically separate facilities to form a “super PSA” on the basis of “shared waters” under the TAPS II guidance. They felt it would only increase bureaucracy without a tangible and demonstrable benefit. The requirement under Regulation 17 of the PSRs for the PSA to satisfy itself, through audit or otherwise, that the PSP and its subsidiary components are fully implemented (or face enforcement and sanction) could compromise the currently discrete ISPS facilities.
- A port facilities operator with a port facility on the River Trent and one on the River Humber/Ouse did not consider the inclusion of these facilities to be a viable option for a number of reasons:
  - the facilities mentioned in this consultation question are in competition with each other
  - the PSO for the Humber PSA would have an area of responsibility so large with so many diverse and disparate port facilities that the service offered to the small ports would be minimal and would reduce rather than enhance their port security regime
  - a Humber PSA would be cumbersome and difficult to manage and the PSRA so large and so different, as to be useless.

The operator stated a preference for these facilities to remain, as originally planned, outside the scope of the PSRs while complying with all the requirements of the ISPS code appropriate to their facility under the guidance and supervision of their Group Security Manager. If this is not possible the next best option is for them to be part of a much more local PSA.

- a port facility operator with a facility on the south side of the Humber felt that it, and other facilities mentioned in Q10, should be excluded as the resultant Humber PSA would be too big and difficult to manage and costs, mostly through administration, would increase and be burdensome on private wharf facilities.
- A large port facility operator based at Killingholme on the south bank of the Humber thought both its facility and others listed should not be included because:
  - the PSA would be too big making it difficult and more costly to manage
  - ports in competition with each other should not have the responsibility for carrying out the PSRA and then developing, maintaining and implementing a PSP
  - there would be no resulting security benefit

The operator went on to express the view that it considers that its facility is eligible for exemption under Regulation 3(5) of the PSRs being a single facility port that effectively has the same boundary for the facility and therefore not subject to the requirements of the PSRs.

- An operator of an inland port facility on the River Trent felt the inclusion of its facility and others listed would result in an oversized, unmanageable, more costly PSA providing no tangible security benefit. As the facilities were in competition with each other it would not be commercial viable to allow access and display of warehouse, cargoes and site equipment to a competitor.
- Two operators of facilities on the River Trent were not in favour of the inclusion of the private wharves on the Trent as the port-owner who would be running the PSA was in competition with the works which would not be conducive to cooperation between the parties. The port-owner would be unwilling to take responsibility for the private wharves and they in return would be uneasy with oversight from the port-owner.
- An Immingham-based port facilities operator advocated exclusion of these extra port facilities as they are small independent ports from the owner of the Humber Ports who as PSA could impose additional obligations on an operator to undertake mitigation measures and bear any associated cost.

**Q11. For Southampton do you consider whether additional port facilities in the vicinity should be**

**included in the area over which the proposed Southampton PSA will have jurisdiction – for example Hythe Marine Park, Hamble Terminal, Solent Aggregates Burnley Wharf, Dibles Wharf, Fawley Marine Terminal, DP World Southampton and Huelin-Renouf shipping? YES/NO – please set out your views and reasoning for agreeing or disagreeing:-**

<b>Total Responses</b>	<b>16</b>	<b>YES</b>	<b>0</b>	<b>NO</b>	<b>16</b>	<b>YES/NO not specified</b>	<b>0</b>
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Of those giving a NO reply:

- 12 port group operators re-iterated their comments in response to Q10 above.
- The operator of one of the additional Southampton port facilities listed in Q11 objected to inclusion in the Southampton PSA as its facility lay 3 miles SE of the Port of Southampton with no adjoining boundaries, and its security needs (as an oil terminal) were totally different from those of a Passenger or a Container Terminal
- Another additional port facility listed considered there would be additional audit and management costs for little or no perceived benefits.
- The operators of Southampton Container facility could not see any advantages in including the other facilities, only that it would lead to an increase in the costs and bureaucracy with no real benefits to security.
- A large metals recycling facilities operator with a presence in Southampton made no additional comment.

**Q12. For the Manchester Ship Canal: Peel Ports would prefer a single PSA combining the Port of Liverpool and the Manchester Ship Canal. Would you prefer two separate PSAs or a single PSA combining the two? YES/NO – please indicate any preference below, giving your reasoning:-**

<b>Total Responses</b>	<b>15</b>	<b>YES</b>	<b>3</b>	<b>NO</b>	<b>12</b>	<b>YES/NO not specified</b>	<b>0</b>
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Of those giving a YES response:

- A port group operator, owner of both ports, was emphatically in favour of a single PSA for Manchester Ship Canal (MSC) and Liverpool for the following reasons:
  - the two ports had been operated as one since 2005
  - Mersey Ports Master Plan proposes 20 year growth strategy to create a 21<sup>st</sup> century logistics hub
  - Strategic synergy of Port and MSC will bring all water routes for international trade offering a comprehensive range of port facilities.
  - Liverpool and the MSC policed by own privately-funded police force managed by Chief Officer who currently chairs Port Security Committee meetings
  - A single PSA will:
    - Maintain and deliver consistent approach to security at all of the port facilities
    - Ensure PSA has oversight of all security issues over the geographic spread of the two ports
    - Maintain security oversight of geographical area and diverse port facility infrastructure which best complements the ports owner’s business model for growth to benefit of all facilities
    - Ensure management and training of all identified personnel can be delivered in a consistent, cost-effective manner
    - Help to promote and deliver consistent security messages via a clear focused communication structure
    - Ensure that all advisers and UK control authorities are able to deal effectively with one body covering a geographical area which stretches across 3 Home Office Police Forces policing area.
- 2 police respondents considered that a single PSA would be more advantageous and economical, would ensure continuity of working practices and flow of information, as well as reducing duplication of effort.

Of those giving a NO reply:

- 12 port group operators, with no business connections at either the Port of Liverpool or along the MSC, gave the same general response given in answer to Q10 and Q11.

**Q13 For Liverpool it is proposed that the port facility at Tranmere be included in the boundary that covers the Port of Liverpool as incorporated in the draft Designation Order annexed to this document. Do you agree? YES/NO – if not, please set out your reasoning:-**

<b>Total Responses</b>	<b>14</b>	<b>YES</b>	<b>14</b>	<b>NO</b>	<b>0</b>	<b>YES/NO not specified</b>	<b>0</b>
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Of those giving a YES reply

- A port group operator, owner of the Port of Liverpool indicated that they would welcome the inclusion of the Tranmere facility as it was interdependent with another facility already included in the proposed PSA boundary and therefore its inclusion would offer the most consistent approach for security at both sites.
- 12 port group operators, with no facilities in the proposed Liverpool (including Tranmere)/MSA, were in favour as it was their understanding that the Tranmere facility was in the freehold ownership of the Port of Liverpool.
- A west country-based Council also favoured Tranmere’s inclusion but added no comment

**Q14. For each of the Listed Ports: would you like Departmental assistance (at no cost) with the preparation of the port security risk assessment and the port security plan? If so, can you commit to delivery of the assessment and the plan for approval soon after the DO coming into force, such that the respective approvals can be given by December 2013? YES/NO – please provide your response below:-**

A number of the ports consulted upon requested, or were already receiving assistance from the DfT team of port security compliance inspectors. This offer remains valid for the time being.

## Consideration

The Department for Transport received 42 responses to this consultation which has ensured that we were able to consider the views of a wide range of stakeholders.

In conjunction with the individual stakeholders, the Department will endeavour to liaise and respond to their specific comments.

Our response to the general themes is detailed below.

As can be seen in the responses to the consultation questions above, just over 50% of the respondents to the question concerning the boundary were not content with the proposed boundaries as set out in the draft Designation Orders.

However, in a number of cases, DfT officials have been able to swiftly rectify the situation by providing the clarification required to the relevant stakeholders. In order to progress the Designation Orders concerned, DfT officials have worked closely with the ports. This has included taking forward a number of suggestions not least altering the composition of some of the Port Security Authorities, for example by increasing the size of the Port Security Authority and/or the number of members.

Specific comments concerning the need to form a Port Security Authority in an area covered by existing robust security regimes have also been considered. The Department wishes to reduce the regulatory burden; however, this has to be considered in conjunction with the risk to security. Accordingly, each port which already has an existing security regime covered by other legislation such as COMAH (Control of Major Accidents Hazards), critical national infrastructure or the Seveso directive will be assessed on an individual basis.

Additionally, it should also be noted that areas and/or operations which are due to change but have not yet changed (e.g. public land for future sale) were considered in their form at the time of the consultation. Unless, the changes occur or are due to occur before the port is designated in the next few months, these factors could not be considered. This is to ensure consistency of approach.

Whilst some operators commented on the fact that organisations which were in direct competition with each other should not be in the same Port Security Authority, this should not preclude this actually occurring because the focus is on enhancing security co-ordination of a whole area. Furthermore, as the actual running of the PSA is determined by the members of the PSA, issues of disproportionality should be avoided. Incorporation is also a decision to be made by the port concerned and the Department does not make any comment on this point.

In relation to the comments on costs, whilst there will be a cost to implementing this EC Directive, the Department accepts that each Port Security Authority is different. The costs have been reviewed taking into consideration the comments made. The standard costs used in the Impact Assessments had been derived from comments made by the pilot ports of Dover and Bristol in addition to cost information from other ports.

Question 14 offered consultee ports assistance from the Department's port security compliance team (at no cost) in the preparation of the PSRA and the PSP based on it. A number of ports have already received this assistance and a number of ports requested it in their consultation responses. The Department's port security compliance team has accordingly made contact with those ports requesting assistance.

## Next Steps

The Department will continue to engage with respondents and the relevant stakeholders at ports concerning their specific comments.

Over the next couple of months, the Designation Orders which have been agreed in principle will be progressed through the relevant government clearance processes before going through the parliamentary process.

Further discussions will take place with the remaining ports and groups of ports within this consultation batch to resolve boundary issues, discrepancies and any other security regulatory regimes applying. These matters will be resolved to ensure that Designation Orders can be agreed and progress through the relevant clearance and parliamentary processes over the summer.

The ports of Barrow and Cardiff will be re-consulted upon with new plans in the next batch of ports considered to be in-scope of the Directive.

The European Commission's second 5-year Evaluation Report to the European Parliament and the Council required under Article 19 of the Directive is due on 15 December 2013. The Commission is currently taking a heightened interest in Members States' compliance with the Directive and the effectiveness of the measures taken by States.

**DfT 2012-40 CONSULTATION ON IMPLEMENTATION OF PORT SECURITY DIRECTIVE (2005/65/EC)  
ALPHABETICAL LIST OF RESPONDENTS**

1	Associated British Ports (ABP) Barrow - Neil Atkinson port group operator
2	ABP Barrow – Paul Jervis port group operator
3	ABP Goole – Matt Jukes Port Director port group operator
4	ABP Immingham – John Fitzgerald, Port Director Grimsby and Immingham port group operator
5	ABP Immingham Container Terminal – Stephen Horton, PFSO ABP – Exxtor Terminal port group operator
6	ABP Humber Estuary Services – Phil Cowing Harbour Master HES port group operator
7	ABP Southampton – Martin Phipps, Southampton Harbour Master port group operator
8	ABP Swansea – Miles Chidlow ABP Harbour Master South Wales port group operator
9	ABP Port Talbot – Miles Chidlow ABP Harbour Master South Wales port group operator
10	ABP Cardiff– Miles Chidlow ABP Harbour Master South Wales port group operator
11	ABP Newport – Miles Chidlow ABP Harbour Master South Wales port group operator
12	ABP Barry – Miles Chidlow ABP Harbour Master South Wales port group operator
13	BP Exploration Operating Company Ltd, Aberdeen Global Oil and Gas exploration company (owners) Sullom Voe oil terminal)
14	BP Hamble Terminal (short e-mail response port facility/facilities operator
15	Cheshire Constabulary Counter Terrorism Branch Ports Unit [re. Liv/MSC proposed PSA designation) police
16	Clydeport Operations Ltd port group operator
17	Cornwall Council local government/enterprise
18	C.R. Ports Killingholme (formerly Simon Ports Humber Sea Terminal) port facility/facilities operator
19	Cumbria County Council local government/enterprise
20	DP World Southampton port facility/facilities operator
21	Esso Petroleum Co Ltd (Fawley) port facility/facilities operator
22	European Metals Recycling (EMR) port facility/facilities operator
23	Devon and Cornwall Police police
24	Falmouth Docks and Engineering Company port facility/facilities operator
25	Falmouth Harbour Commissioners harbour authority
26	Greater Manchester Police police
27	Groveport Logistics Ltd (privately-owned inland port complex on the River Trent) port facility/facilities operator
28	Hull and Goole Port Health Authority – PHA port health authority
29	Humber Local Enterprise Partnership (LEP) local government/enterprise
30	Humberstone Police (re Humber DO) police
31	New Holland Dock Wharfingers Ltd port facility/facilities operator
32	Poole Harbour Commissioners harbour authority
33	Northern Constabulary police
34	RMS Europe Ltd (based in Goole) port facility/facilities operator
35	PD Ports collective response from their facilities located at Keadby and Howden port facility/facilities operator
36	Peel Ports (Mersey) port group operator
37	PFSO RMS Trent Group – Flixborough Wharf Storefreight Services Ltd (Dutch River Wharf) port facility/facilities operator
38	Shetland Islands Council (Andrew Inkster – PFSO Sullom Voe Harbour Authority) harbour authority (local Council)
39	Simon Storage Ltd port facility/facilities operator
40	Strathclyde police
41	Swansea Bay Port Health Authority – PHA port health authority
42	Welsh Police Forces (4), Wales Extremism and Counter Terrorism Unit and the Wales Portal Group police