

EXPLANATORY MEMORANDUM ON THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF BELGIUM, CONCERNING IMMIGRATION CONTROLS ON RAIL TRAFFIC BETWEEN BELGIUM AND THE UNITED KINGDOM USING THE CHANNEL FIXED LINK

TITLE OF TREATY

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF BELGIUM, CONCERNING IMMIGRATION CONTROLS ON RAIL TRAFFIC BETWEEN BELGIUM AND THE UNITED KINGDOM USING THE CHANNEL FIXED LINK

Command Paper Number: 8807

SUBJECT MATTER

This Agreement extends the provisions of the Tripartite Agreement between the UK, the French Republic and the Kingdom of Belgium on the operation of UK Border controls at the Gare du Midi in Brussels to cover trains which make a commercial stop in another Schengen State. The legal underpinning for the operation of those controls has been undermined by changes in the commercial operating model of Eurostar. UK border controls are currently in place in relation to stopping trains at the Gare du Midi in reliance on an administrative arrangement made between the Secretary of State for the Home Department of the UK and the Minister for Home Affairs of the Kingdom of Belgium in 2004. This Agreement formalises those arrangements already in place for border controls in relation to stopping trains at the Gare du Midi and provides a clear treaty-level legal underpinning for the checks which already take place.

This Agreement covers the operation of UK immigration controls within an EU Member State and raises no human rights issues.

MINISTERIAL RESPONSIBILITY

The Home Secretary has overall responsibility for immigration policy.

The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for UK policy relating to the UK's relations with the Kingdom of Belgium.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

This bilateral Agreement concerns immigration matters which are a reserved competence so there is no direct interest for the Devolved Administrations.

POLICY CONSIDERATIONS

GENERAL

Juxtaposed immigration controls at Brussels Gare du Midi are operated under the provisions of the 1993 'Tripartite Agreement' between the UK, France and Belgium. When this Agreement was negotiated, Brussels to London Eurostar trains did not make a commercial stop between these two points and so the Tripartite Agreement specifically refers to 'non-stopping trains'. Eurostar's commercial operating model has since changed and all trains now make a commercial stop in Lille. The operation of immigration checks in relation to stopping trains is currently underpinned by an administrative arrangement between the UK and the Kingdom of Belgium dating from 2004. These operations will now be covered by this Agreement which at the request of the Belgian authorities will have the status of an international treaty.

This Agreement, together with the appropriate domestic legislation, will ensure legal coverage for all immigration checks on UK-bound passengers travelling on international rail services from Brussels on stopping trains and is worded in such a way that it will also cover passengers transiting through Brussels from other cities in mainland Europe.

REGULATORY IMPACT ASSESSMENT

No Regulatory Impact Assessment is required.

FINANCIAL

This Agreement gives legal recognition to operational processes which already take place. It will not add any further financial burdens to the UK.

RESERVATIONS AND DECLARATIONS

None.

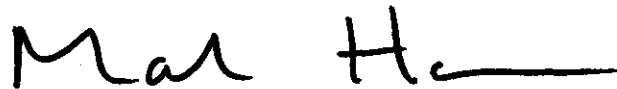
IMPLEMENTATION

Secondary legislation, an Order subject to the negative resolution procedure, will need to be introduced in order to amend the existing SI concerning the operation of UK border juxtaposed controls at the Gare du Midi in Brussels (The Channel Tunnel

(Miscellaneous Provisions) Order 1994 (S.I. 1994/1405)). The enabling power is section 11 of the Channel Tunnel Act 1987.

CONSULTATIONS

This Agreement was negotiated on behalf of the UK by the Home Office with the Belgian Ministry of the Interior. The Home Office shared the final text of this Agreement with the French Government.

A handwritten signature in black ink, appearing to read "Mark Harper". The signature is written in a cursive style with a long horizontal stroke at the end.

Mark Harper MP

Minister of State for Immigration

HOME OFFICE