



PARTNERSHIP AGREEMENT

between

THE COMMISSIONERS of
HM REVENUE AND CUSTOMS

and

THE HOME OFFICE

on arrangements for the operation of customs controls by Border
Force, and frontier delivery requirements

Start date: 1st January 2016
End date: 31st December 2018

CONTENTS

Section

- 1 Introduction**
- 2 Purpose of Agreement**
- 3 Ministerial Responsibilities and Arrangements**
- 4 Governance**
- 5 Roles and Responsibilities**
- 6 Targets and Deliverables**
- 7 Information Sharing Arrangements**
- 8 Arrangements for working together**
- 9 Signatories to the Agreement**

Annex A Partnership Committee Terms of Reference

1 Introduction

- 1.1** This Agreement sets out the collaborative working arrangements between HM Revenue and Customs (HMRC) and the Home Office in respect of Border Force. Border Force is an operational command within the Home Office responsible for frontline operations at the border. In the context of this agreement, these frontline operations include:
- Collecting and protecting the revenue associated with the importation and exportation goods;
 - The regulation of International Trade;
 - Preventing the exportation of strategic goods and technology subject to sanctions; and
 - Detecting the importation of goods that contravene Intellectual Property Rights
 - Operating the EU Safety and Security System
- 1.2** Border Force anti-smuggling activities form a key part of HMRC's tobacco, alcohol, Strategic Exports, Intellectual Property Rights and customs anti-fraud strategies.
- 1.3** The Borders, Citizenship and Immigration (BCI) Act 2009 provides the legislative framework for Border Force staff, designated as customs officials, to exercise customs powers.
- 1.4** The BCI Act vests general (non-revenue) customs functions in the Secretary of State. Customs revenue functions are vested in a statutory office holder, the Director of Border Revenue. This preserves the long standing constitutional principle that the administration of tax matters should not be vested directly in Ministers.
- 1.5** The Partnership Agreement took effect from 5 August 2009, the date on which the Secretary of State and Director of Border Revenue began to exercise their customs powers, and staff from HMRC transferred to the Home Office. For the avoidance of doubt, references in this document to the Home Office include Border Force and the Director of Border Revenue, as appropriate.

2 Purpose of Agreement

- 2.1** This agreement sets out the framework within which HMRC and the Home Office work together to ensure Border Force contributes to HMRC objectives, as part of the wider Border Force purpose to secure the UK border. It also sets out how together, HMRC and Border Force meet the UK's commitments within the EU customs

union and its other international obligations in respect of international trade and security.

- 2.2 The partnership is based on an understanding of each other's objectives and priorities, mutual trust and support, and working together.

3 Ministerial Responsibilities and Arrangements

- 3.1 The Commissioners of HMRC have statutory responsibility for the collection and management of the revenue. The Commissioners are subject to the general directions of the Treasury which sets fiscal policy. The Chancellor sets out the department's priorities in the Annual Remit for HMRC. HMRC is accountable to Parliament for operational delivery through nominated Treasury ministers responsible to the Chancellor of the Exchequer. The Chancellor is responsible for determining the fiscal policy framework for the operational delivery of the revenue protection functions of Border Force and for approving the Border Force Business Plan in respect of customs revenue requirements at the border.
- 3.1 Border Force has dual reporting lines; to the Home Secretary in respect of general customs matters and, in respect of customs revenue matters, to the Chancellor of the Exchequer. The Director General of Border Force holds the statutory office of the Director of Border Revenue, because the customs revenue functions of Border Force are vested in the Director rather than the Secretary of State. This mirrors the statutory position of the Commissioners of HMRC. The Director General of Border Force, in their capacity as Director of Border Revenue, is accountable to the Chancellor of the Exchequer for Border Force delivery in revenue matters. The Director General of Border Force is appointed by the Home Secretary and is confirmed as Director of Border Revenue by the Chancellor.
- 3.3 The Director of Border Revenue and designated customs revenue officials will exercise functions at the border in relation to customs revenue matters, including customs duties, excise duties and VAT where these relate to the export of goods from, or the import of goods to the United Kingdom. The Director is, like the Commissioners, subject to the general directions of the Treasury. In addition the Director is required to act in accordance with the Commissioners' policies in order to ensure the consistent administration of taxes across HMRC and Border Force.
- 3.4 The Home Secretary has overall responsibility for the business of the Home Office and its policies and has ministerial responsibility for setting the strategic direction, objectives and targets of Border Force.

Revenue targets are set in agreement with the Chancellor by way of an annual Remit Letter.

- 3.5 Ministers do not have a decision making role in individual cases relating to the liability to pay duties and taxes and related penalties or forfeitures. This role is for the Director of Border Revenue subject to applying the Commissioners' guidance and interpretation of the law including any published concession.
- 3.6 The Chancellor, or delegated minister, continues to reply to all Parliamentary Questions on matters for which HMRC has lead policy responsibility - namely fiscal, customs and international trade, strategic goods and technology and sanctions and intellectual property rights.
- 3.7 Subject to taxpayer confidentiality, Ministerial correspondence and Parliamentary Questions on border operational matters fall to the Home Secretary, or designated minister. Ministerial correspondence may also be delegated to the Director General of Border Force and their deputy.
- 3.8 In cases where Parliamentary Questions, Ministerial and non-Ministerial correspondence are of mutual interest to HMRC and the Home Office, arrangements are in place to share them between the respective HMRC and Home Office ministerial teams and to send a response from the most appropriate Secretary or Minister of State. Similarly, when reporting to Select Committees on matters that are of mutual interest to HMRC and the Home Office, we take a combined approach to requests to give evidence, ensuring that briefings are coordinated.

4 Governance

- 4.1 The joint HMRC / Home Office Partnership Committee oversees delivery of all aspects of the Partnership Agreement. Its function is to aid partnership working between HMRC and Border Force, and increase mutual understanding in areas of shared responsibility, common interest and change. It is not a replacement for cross representation on other HMRC, Border Force or Home Office strategic or transformation governance groups, but it will act as a point of escalation where appropriate.
- 4.2 The key function of the Partnership Committee is to ensure that Border Force and HMRC are working together on matters of shared strategic interest. Alongside this focus on strategic work, the Committee will oversee delivery of the HMRC/Home Office Border Force Partnership Agreement. Its core focus will be on the discussion of strategic issues that are of importance to both Border

Force and HMRC. Its Terms of Reference are annexed to this document.

- 4.3 Nominated individuals in HMRC and Border Force will work closely together to ensure both organisations are engaged in the governance of the Partnership Agreement, to resolve any issues arising, to prepare for meetings of the Partnership Committee and to ensure that Committee members are properly briefed on any matters requiring their attention.
- 4.4 The Home Office will invite an HMRC Director to take a non-executive role on an appropriate and agreed strategic board.
- 4.5 The Director General Border Force will meet once every six months with the HMRC Director General Business Tax and Enforcement & Compliance, to discuss the partnership.

Administration of the Agreement

- 4.6 The Agreement will be reviewed at three year intervals, or as otherwise agreed by Partnership Committee, to ensure that it best supports the working relationship between HMRC and the Home Office in respect of Border Force.
- 4.7 Any issues between HMRC and Border Force should, as far as possible, be resolved at the appropriate working level. Disputes may be referred to the Partnership Committee if they cannot be resolved elsewhere. If there is an urgent need to resolve an issue, a special meeting of the Partnership Committee may be convened.

5 Roles and Responsibilities

- 5.1 Subject to the general direction of the Treasury, HMRC and Border Force have concurrent responsibilities for the management of customs, excise duties and VAT, where these relate to goods being imported into, and exported from the United Kingdom. HMRC's remit from the Treasury includes a co-ordinating role in setting revenue strategies and targets, agreeing respective roles and overseeing delivery.
- 5.2 Within this framework, the Commissioners and the Director of Border Revenue are independently accountable to Treasury Ministers for delivery of their respective revenue functions as set out in their business plan and remit respectively.
- 5.3 HMRC has the lead on policy relating to business, fiscal and economic matters and managing the overall systems through which

revenue is collected, the tax base is protected and international trade is regulated.

5.4 HMRC specifically sets policy for:

- The collection and protection of revenue;
- Detecting and deterring non-compliance and tackling activity that presents risks to the trade, the integrity of the tax base and the UK's economy;
- Supply chain integrity, strategic goods and technology and sanctions and intellectual property rights,
- The processes for ensuring the accuracy of customs declarations, manifests, licences and other documentation associated with UK or EU customs procedures;
- The form and manner in which passengers must make their declaration and the arrangements for accounting for revenue collected;
- Ensuring that the UK's customs procedures comply with EU law and international agreements relating to customs.

5.5 HMRC also has primary responsibility for:

- Processing import and export declarations and carrying out pre and post clearance customs controls at the National Clearance Hub;
- Inland assurance and post-clearance audit of traders involved in international trade;
- Inland detection work related to smuggled revenue goods;
- Intelligence and criminal investigation concerning fiscal offences and offences related to strategic goods and technology, including breaches of sanctions and trafficking and brokering, both inland and at the border.
- Providing all necessary policy advice and support to enable Border Force to properly discharge its revenue functions and to ensure the consistent administration of taxes by HMRC and the Home Office. HMRC will take account of Border Force's operational requirements in the formulation and provision of this policy advice.
- Supporting Border Force planning, including, as appropriate, investment bids (such as the provision of specialist advice).

5.6 In the customs and revenue field, Border Force has primary responsibility for:

- Enforcement policy for all customs prohibitions and restriction regimes (except for strategic goods and technology, and intellectual property rights);

- Exercising customs functions related to controlling the movement of goods, people, and means of transport at the border;
- Clearing the movement of goods and people across the UK border, subject to the completion of satisfactory checks as stipulated by HMRC, and collecting relevant taxes and duties where appropriate;
- Providing agreed levels of customer service at the border to those who wish to comply with their revenue obligations;
- Detecting and deterring non-compliance with international, EU and UK obligations, tackling smuggling and other activity that poses a risk to border security, the integrity of the tax base, the integrity of the international supply chain and the UK economy;
- Bidding for additional resources for border activity, aimed at increasing the effectiveness of border controls, in line with agreed HMRC / Border Force compliance strategies.

5.7 HMRC and Border Force will work together to identify, develop and deliver appropriate training to build and maintain their joint capability.

Collecting and Protecting UK Revenue

5.8 HMRC has primary responsibility for exercising customs revenue and general customs functions inland and for processing customs freight declarations and for the collection of associated taxes and duties.

5.9 HMRC has responsibility for the collection of duties and VAT and other taxes due on commercial freight imports and imports by couriers and parcel operators where these are made through normal electronic declaration and accounting procedures. These are collected by HMRC through established centralised payment procedures.

5.10 The Director of Border Revenue (the Director) has responsibility for customs matters relating to the protection of revenue at the UK border. The Director of Border Revenue's responsibilities also include the collection of customs duties, excise duties and VAT, where these relate to:

- goods being imported into, or exported from, the United Kingdom at the border by passengers and crew, including merchandise in baggage, and;
- goods imported and exported by post.

5.11 Under section 32 of the BCI Act, The Director of Border Revenue is required to pay money received by way of revenue or security for revenue in the exercise of the Director's customs revenue functions to the Commissioners of HMRC at such time and in such a manner as the Treasury directs, after deductions have been made in connection with drawback and repayment. The Director of Border

Revenue is also responsible for the recovery of civil and compounded penalties as well as the proceeds from forfeiture orders.

- 5.12** All money received as revenue by Border Force in respect of its customs functions is to be paid directly by Border Force into HMRC bank accounts and accounted for in HMRC systems.
- 5.13** The Director of Border Revenue is legally responsible for the repayment of any revenue collected by Border Force should a valid repayment claim be made, albeit that HMRC contribute towards, or make, the repayment on behalf of the Director where it is believed that the funds available to the Director might be insufficient to cover the repayment. Administration of repayments, applications for repayments and disputes in relation to revenue charged or collected by Border Force are to be handled by Border Force in accordance with HMRC guidance.
- 5.14** HMRC is responsible for all revenue once the money collected by Border Force is banked, ensuring that it is paid to the Treasury Consolidated Fund through existing HMRC processes in accordance with Treasury requirements.
- 5.15** HMRC is responsible for the management of the bank accounts and related banking and courier contracts, in to which revenue collected by Border Force is paid. The services of revenue handling and the accounting procedures, which Border Force and HMRC will operate in partnership are set out in the Operating Protocol on Revenue Control.

Protecting the UK Border

- 5.16** HMRC carries out entry clearance for third country imports and exports through its electronic entry management and control system. HMRC carries out pre-clearance documentary checks and is responsible for ensuring correct customs clearance and for ensuring that the agreed level of checks are performed on selected imports and exports, including referring appropriate cases to Border Force for physical examination at the border. HMRC and Border Force have joint responsibility for the development of risk based profiles. HMRC will support the development of Border Force systems and data acquisition in order to fortify its role at the border.
- 5.17** Border Force is responsible for anti-smuggling operations including detecting and preventing the illegal import and export of prohibited and restricted goods; protecting revenue and duty and tackling VAT and revenue fraud at the border; and referring any suspected fiscal frauds to HMRC.

Safeguarding the EU Frontier

- 5.18** HMRC remains the UK Customs authority responsible for the implementation of EU customs policy, and for UK compliance with EU customs obligations, including the collection of customs duties. HMRC leads on policy relating to EU and customs law and procedures and represents the UK at European Commission meetings and EU customs working groups. HMRC will involve Border Force directly in any negotiations likely to have an impact on Border Force operations or systems and will invite Border Force to join delegations to relevant meetings and working groups.
- 5.19** Border Force leads on customs enforcement policy relating to EU and UK legislative proposals for new and extended prohibitions and restrictions, in consultation and collaboration with HMRC as appropriate. HMRC's negotiations within the EU customs union will take into consideration the potential impact of EU policies on the ability of Border Force to detect and deter smuggling and regulatory breaches. HMRC will involve Border Force directly in appropriate negotiations within the EU customs union.
- 5.20** Border Force negotiations with lead policy departments representing the UK at EU level will take account of EU developments in customs procedures and services and consider the potential impact enforcement activity may have on the economy and the need to facilitate legitimate trade and travellers.
- 5.21** Border Force enforces EU customs regulations and legislative requirements at the border by carrying out the appropriate physical examinations and interventions required to effectively control the movement of goods crossing the EU frontier. HMRC enforces EU customs regulations and legislative requirements through carrying out pre and post clearance customs controls at the National Clearance Hub, by withholding customs clearance on behalf of other regulatory agencies and through inland assurance and post-clearance audit of traders involved in international trade activities.

Monitoring Performance and Performance Reporting

- 5.22** There is a joint understanding between the Treasury, HMRC and Border Force that HMRC liaises with Border Force to monitor revenue targets and operational delivery. HMRC and Border Force work together in relation to their responsibilities to Treasury. HMRC and Border Force will meet regularly to jointly review performance of Border Force and HMRC against the Customs and International Trade, Excise, and VAT MTIC Delivery Agreements.
- 5.23** Working collaboratively, HMRC and Border Force will identify, analyse and report on any underperformance of Border Force and HMRC, and will measure the success of remedial action taken.

HMRC and Border Force will maintain robust data capture and reporting systems to ensure performance can be accurately measured and reported. HMRC and Border Force will review the assurance processes which are in place to ensure that the data is of a high quality.

- 5.24** Border Force will arrange for HMRC to receive management information within 10 working days of the end of each calendar month. In doing so, Border Force will also provide assurance to HMRC whenever required that access to and the handling of management information data held on HMRC owned systems has been carried out in accordance with current legal parameters for the sharing of HMRC data.
- 5.25** Border Force will maintain reporting mechanisms that provide the necessary evidence that EU legal obligations governing customs control and movement of goods and people and detailed requirements including raising revenue for the central EU budget are being met. Border Force will also provide appropriate reports against any activity relating to EU operations and control actions.

Assurance and Audit

- 5.26** Border Force will provide access to all records, systems and information as required by HMRC Internal Audit, National Audit Office and EC Auditors where there has been Border Force involvement in the process being audited, in order to gain assurance of Border Force compliance with HMRC policy and Commissioner's directions. HMRC will allow Border Force the opportunity to see and comment on appropriate draft audit reports.
- 5.27** HMRC will provide access to all records, systems and information as required by the Independent Chief Inspector of Borders & Immigration, Home Office Internal Audit, National Audit Office and EC Auditors where there has been HMRC involvement in the process being audited. Border Force will allow HMRC the opportunity to see and comment on appropriate draft audit and inspection reports.
- 5.28** Border Force and HMRC will work together to implement recommendations made as the result of an audit where there is an inter-dependency on either department

Management Liaison

- 5.29** HMRC and Border Force management commit themselves to involve and consult each other at the earliest practical opportunity on any issues with operational consequences or policy implications. They will do this by:

- being advocates of the governance model put in place to manage the operation of this Agreement;
- supporting Delivery Agreements for the border enforcement activities that Border Force will be delivering;
- holding regular liaison meetings at both strategic and operational levels;
- notifying each other of developments, proposals or decisions affecting operational policy at the border in good time to ensure proper consideration, smooth implementation and adequate internal or external publicity;
- working together to improve understanding of border operational and policy issues and strategies for tackling specific fiscal and non-fiscal risks and of external stakeholders with interests at the border; and
- liaising to track progress of outcome-based targets and indicators to measure more accurately the impact Border Force and HMRC are having.

5.30 HMRC and Border Force will work closely together to ensure consistent, joined up messages on revenue controls and related developments at the border are communicated to external stakeholders, most notably to the private sector.

6 Targets and Deliverables

- 6.1** Border Force is responsible for the delivery of targets set by Ministers which contribute to the delivery of HMRC strategies and policies. The Chancellor sets out these targets in an annual Remit Letter to Border Force covering the expected contribution to delivery of the tobacco and alcohol strategies, the Border Force role in collecting customs duties and VAT on international trade, and the direct collection of duties and taxes on importations by passengers and in the post. These targets are also laid out in the Delivery Agreements.
- 6.2** Any in-year changes to the Border Force Remit Letter and / or the Delivery Agreements will be agreed within the framework of this Partnership Agreement, to be endorsed by Partnership Committee
- 6.3** HMRC and Border Force will ensure there is full consultation and involvement with each other during their respective annual planning rounds so that:
- Border Force activity at the border contributes effectively to delivery of current HMRC strategies and policies;
 - HMRC customs policies and operational activities contribute effectively to Border Force strategies and policies.

- 6.4 HMRC will support Border Force operational delivery of revenue controls at the border through the provision of intelligence, joint planning, advice, targeting and other professional input as appropriate.

7 Information Sharing Arrangements

- 7.1 HMRC and Border Force will disclose relevant information to each other so that we can properly exercise our respective customs functions.
- 7.2 HMRC has primary responsibility for its information assets and the policy for disclosure of HMRC information. Border Force has primary responsibility for its information assets and the policy for disclosure of Border Force information.
- 7.3 Both parties will safeguard the information that they share within the law and their own rules and requirements including Data Security standards, the handling of taxpayer information and specific procedures for disclosure. The information handling and sharing procedures which Border Force and HMRC will operate in partnership are set out in the Information Sharing and Data Security Operating Protocol.

8 Arrangements for Working Together

- 8.1 Arrangements for the sharing of border IT systems are set out in an HMRC / Home Office MOU.
- 8.2 Border Force and HMRC will involve each other in the planning process prior to the commencement of any activity that may impact on the resources or costs of the other party. HMRC and Border Force will work closely together on future border systems development, aimed at ensuring the functionality to support the objectives of both Departments is delivered.
- 8.3 The tasking of the HMRC overseas assets is the sole responsibility of HMRC. HMRC will only task its overseas assets to gather and exchange intelligence relating to responsibilities specifically assigned to Border Force with the knowledge and approval of Border Force.
- 8.4 Border Force will only task its overseas assets to gather and exchange intelligence relating to fiscal, strategic goods and technology, sanctions and Intellectual Property Rights responsibilities assigned to HMRC with the approval of the HMRC intelligence

function and the knowledge of HMRC's overseas asset network where appropriate.

- 8.5** HMRC and Border Force will consult on operational guidance relating to the use of customs powers in order to ensure consistent application of the law. To ensure that operational expertise is maintained and necessary support is available, as agreed within the Operating Protocols, HMRC and Border Force accept that there should be opportunities for voluntary secondment and/or rotation of staff.
- 8.6** HMRC and Border Force undertake to respond flexibly and enhance collaborative working to deliver on Government commitments affecting either party when the UK is host to significant events.
- 8.7** The Operating Protocols which underpin the Partnership Agreement are designed to provide a consistent national approach and contain the framework for activities that Border Force and HMRC operate in partnership. They provide clarity and guidance to HMRC and Border Force managers and staff on the range of activities that Border Force delivers and those that HMRC are responsible for.
- 8.8** When either organisation enters into negotiations with other Government Departments to undertake new or additional customs assigned matters, they will adhere to the Treasury Consolidated Budgeting Guidance on 'Policies that affect other Department's spending' and require the originating department to meet costs, which are directly or indirectly incurred as a result of their policy.

9. Signatories to the Agreement

Signed by:

For, and on behalf of:

Her Majesty's Revenue and Customs
Director Customs



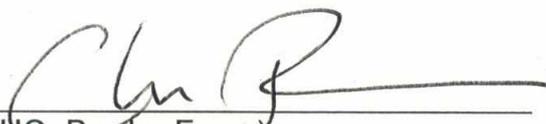
(HMRC)

18/07/2016

(Date)

For, and on behalf of,

Home Office, Border Force
Senior Director, Border Force Strategy and Transformation



(HQ, Border Force)

14/7/2016

(Date)

ANNEX A

HMRC / HOME OFFICE BORDER FORCE PARTNERSHIP COMMITTEE

TERMS OF REFERENCE

The key function of the Partnership Committee will be to ensure that Border Force and HMRC are working together on matters of shared strategic interest. Alongside this focus on strategic work, the Committee will oversee delivery of the HMRC/Home Office Border Force Partnership Agreement. Its core focus will be on the discussion of strategic issues that are of importance to both Border Force and HMRC.

It will facilitate partnership working between Border Force and HMRC and it will enable the development of a shared strategic approach in areas of shared responsibility and common interest.

Its main responsibilities will be to:

- Support the development of a common approach, where possible and appropriate, in respect of planning and strategic initiatives - whether cross-government or individual department focused - where there is a shared strategic interest.
- Identify, support and review joint working on areas of shared strategic interest.
- Oversee delivery of the partnership working arrangements between the Home Office and HMRC, as set out in the Partnership Agreement, the Delivery Agreements and Operating Protocols. This will include acting as the point of escalation and resolution for operational and corporate issues that cannot be resolved elsewhere.
- Prepare and agree discussion points for six-monthly meeting of Director Generals Border Force and HMRC.

Committee Chairing Arrangements

The Committee will meet quarterly. The meeting will be chaired on a six monthly rotating basis by HMRC's Director Customs and the Border Force Senior Director Transformation.

The Secretariat for the Committee will follow the chairing arrangements:

Frequency of Meetings

Quarterly.

Membership

Core membership will comprise of a representative from each of the following areas:

HMRC

- Customs Product & Processes
- Customs Enforcement, Engagement & Legal
- Alcohol, Tobacco and Holding & Movements
- Fraud Investigation Service
- Risk & Intelligence Service

Home Office

- Border Force Strategy and Policy
- Border Force Intelligence
- Border Force National Operations & Command Centre (NOCC)

Representation will be at SCS1/SCS2. Exceptions will be by prior agreement of the Chair. Core Partnership Committee members or their deputies must be fully empowered to take decisions on behalf of their respective organisations.

Other standing attendees

- Head of the HMRC Stakeholder Engagement Team

By invitation

- Other HMRC / BF / HO officials will be invited to attend on an agenda led basis