



PARTNERSHIP AGREEMENT

between

THE COMMISSIONERS OF
HM REVENUE & CUSTOMS

and

THE HOME OFFICE

on Interim Arrangements and Frontier Delivery
Requirements for the
UK Border Agency in 2008-09

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PARTNERSHIP AGREEMENT BETWEEN THE COMMISSIONERS OF HM REVENUE & CUSTOMS AND THE HOME OFFICE

1. Introduction and context

- 1.1 This Agreement has been prepared in response to the UK Border Agency (UKBA) coming into existence in interim form on 1 April 2008 as an agency of the Home Office. UKBA brings together the Border and Immigration Agency, UKvisas and the border control operations of HM Revenue & Customs (HMRC).
- 1.2 From 1 April 2008 all of HMRC's Detection business unit and Risk and Intelligence staff working in direct support of Detection's border activity moved under the UKBA's management structure. Staff employed on inland Detection work will return to HMRC management once the new HMRC management structure for this work has been created.
- 1.3 Machinery of government discussions in 2008-09 will confirm the position on proposed additional work transfers on Prohibitions and Restrictions operational policy and criminal investigation and the extent to which corporate services may need to be moved. All of these areas will remain in HMRC pending the conclusion of the machinery of government negotiations and agreement of the proposed timetable for further transfers.
- 1.4 All parties to the Agreement recognise that this is a transition year for the Agency. The Agency is undertaking immense organisational change, yet is making significant efforts to improve performance swiftly in many areas. All parties recognise that sustained high performance is very challenging in this environment.

2. Purpose of the Agreement

- 2.1 This Agreement will facilitate delivery of HMRC's border responsibilities by UKBA during its interim period in 2008-09. It sets out:
 - the interim arrangements that will operate between HMRC and the Home Office; and
 - HMRC's and the Home Office's commitments to support the successful transition of former HMRC business into the UK Border Agency.
- 2.2 It will ultimately serve as the basis for the formal Partnership Agreement between HMRC and the Home Office once legislation is enacted to transfer the full range of HMRC powers necessary for the UKBA to deliver its frontier related responsibilities. In the meantime, this Agreement is designed to be a working agreement which sets out the arrangements under which UKBA as a responsive service provider will carry out border operations on behalf of HMRC. In particular it specifies:

- the relationships between HMRC and the Home Office;
 - the expected levels of UKBA's performance;
 - how and when it reports on performance;
 - arrangements for HMRC to supply UKBA with the information needed to provide these reports; and
 - accountability for performance.
- 2.3 The Home Office and HMRC recognise that this Agreement cannot cover every eventuality and as the Agency's operational experience evolves and as policy develops, there will need to be adjustments made during 2008-09. HMRC and the Home Office agree to approach these issues in an open and collaborative manner to best resolve them. In particular, a number of important decisions remain to be made about the precise disposition in 2008-09 of supporting resources, whether people, money or physical assets. The final Agreement will have periodic review built into it.

3. Roles and responsibilities

- 3.1 The relationship between HMRC and the Home Office is critical to the success of both organisations and to the UK as a whole. HMRC will continue to lead on providing a one-stop shop for business, fiscal and economic policy and managing the systems and audits through which revenue is collected, the tax base protected and international trade regulated.
- 3.2 The integrity of this work has to be underpinned by an ability to conduct physical checks at the border, comparing the goods and accompanying documentation to determine whether customs clearance can be granted and to seize goods where current HMRC guidance requires this action or in response to specific requests from HMRC's National Clearance Hub. UKBA will exercise this capability at the border on behalf of HMRC, as well as playing a crucial role there in improving border security, tackling smuggling and other activity that presents real risks to the integrity of the tax base, to the UK economy and to compliance with EU Customs Union requirements.
- 3.3 From 1 April 2008 HMRC will commission such border work from UKBA. The UKBA's 3-year business plan has been agreed by the Chancellor of the Exchequer, the Home Secretary and the Foreign Secretary. In line with the recommendations of the Cabinet Office Report 'Security in a Global Hub', the Chancellor may also direct the Chief Executive of UKBA to take corrective action in the event of negative impact on revenue having discussed with and notified the Home Secretary prior to this direction being issued. In this context, should the Home Office Permanent Secretary require direction to proceed with a course of action that they have advised against in their capacity of Accounting Officer, this direction will be sought from the Home Secretary. HMRC's Chief Executive Officer remains responsible for HMRC resources within the UKBA in the interim stage of the Agency. If HMRC's

Chief Executive Officer is required to act beyond Government Accounting procedures in respect of HMRC resources, direction will need to be sought from Treasury Ministers.

- 3.4 Annexes A-D of this Agreement describe in detail the main frontier deliverables HMRC expects of UKBA during the financial year 2008-09. The performance of the new arrangements for revenue-protection will be reviewed before the end of this financial year.

4. Governance and machinery

- 4.1 UKBA will act as a Home Office agency during the interim period. It has a shared Minister of State, in both the Home Office and Treasury, who has delegated responsibility from the Chancellor and the Home Secretary for most Ministerial business in respect of the Agency. There is a dual line of accountability from him to both Cabinet Ministers. This does not alter the responsibilities of either, other than in respect to specific functions transferred to the new Agency.
- 4.2 The Home Office Permanent Secretary, as Principal Accounting Officer, is accountable to Parliament for the Home Office's overall effectiveness and delivery. This includes responsibility for the interim Agency. The Home Secretary is the Minister publicly accountable for the Agency other than on matters where the Chancellor is specifically responsible.
- 4.3 The Home Office Permanent Secretary is the Departmental Sponsor for UKBA and in such capacity advises Ministers on the strategic direction and performance of the Agency. The Permanent Secretary also ensures that the interests of the wider Home Office and a number of Departments, particularly HMRC, HMT and FCO, are properly balanced in the Agency's business. As recommended in the Cabinet Office report, the UKBA Board includes senior representation from FCO and an HMRC Commissioner.
- 4.4 The Commissioners of HMRC retain statutory accountability for the actions of HMRC staff in the UKBA, acting on HMRC matters. Similarly, immigration staff authorised to use customs powers must do so in accordance with the Commissioners' directions. Any person authorised by the Commissioners to discharge any function is required by statute to comply with Commissioners' directions. The Commissioners are under a statutory duty to monitor the exercise of any delegated function. Therefore, in all HMRC matters the UKBA conducts on behalf of HMRC the UKBA will operate to HMRC guidance, standards and procedures during these interim working arrangements and in accordance with agreed parameters on delegated authorities for operational procedures relating to the use HMRC powers. UKBA is also bound by HMRC legal obligations including that of the confidentiality of all HMRC information. HMRC will continue to provide all legal and policy advice on customs, excise and related matters at the border and provide the UKBA with all related guidance.

- 4.5 Equally, the Home Secretary retains statutory accountability for the actions of HMRC staff in the UKBA authorised to use immigration powers. Therefore, any HMRC staff in the UKBA authorised to use immigration powers must do so in accordance with Home Office guidance, standards and procedures for the use of these delegated powers in the interim running period for the UK Border Agency.
- 4.6 HMRC and the Home Office will need to co-operate closely in many areas to mitigate fiscal, economic and trading risks to the UK as well as to ensure the smooth running of a joined-up, multi-agency approach to border control and trade facilitation. In order to support the interim working arrangements HMRC will develop in consultation with the Home Office more detailed operational protocols in any area where additional guidance may be required to ensure existing HMRC standards and procedures are complied with by HMRC staff and non-HMRC staff.
- 4.7 Protocols are under development and will eventually be managed under the governance structure supporting this Agreement. Any proposed changes to these operational procedures that will impact on the use of HMRC powers will be agreed by HMRC policy officials before being put into operation.

5. Management Liaison

- 5.1 HMRC and the Home Office 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 arrangements put in place to manage the operation of this Agreement and supporting Delivery Agreements for border enforcement activities UKBA will be delivering on behalf of HMRC;
 - 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 publicity, whether internal or external;
 - working together to improve understanding of frontier operational and policy issues and strategies for tackling specific fiscal and non-fiscal risks and of external stakeholders with interests at the border
 - liaising to track progress of outcome-based targets and indicators to measure more accurately the impact UKBA and HMRC are having; and
 - ensuring an effective transition of responsibilities so that there are no or minimal adverse effects on border controls and services to business and travellers.

- 5.2 UKBA will maintain a detailed set of performance records as agreed with HMRC policy holders to report delivery against HMRC Departmental Strategic Objectives and other agreed delivery targets to HMRC within 15 working days of the end of each calendar month, as outlined in section 10. The provision of this management information will be subject to HMRC providing UKBA with the necessary raw data within agreed deadlines.
- 5.3 Where matters arise concerning the strategic direction of UKBA, its top-level performance and its alignment with the wider Home Office and other Government Departments, the governance arrangements for managing this Partnership Agreement will be engaged.

6. Administration of the Agreement

- 6.1 It may be necessary to make amendments to this Partnership Agreement, such as upon completion of the Machinery of Government negotiations.
- 6.2 The Agreement will be administered through formal governance arrangements. A joint Partnership Committee at senior level will oversee the operation of this Agreement supported by complementary mechanisms to govern supporting Delivery Agreements for border enforcement. Day to day management of the Agreement will be effected by the appointment from HMRC of a senior Contract Manager and an Authorised Officer, and by a Client Manager who will be appointed by the Home Office. The Client Manager may also act as the Service Manager and be responsible on a day-to-day basis for the delivery of the services as specified in this Agreement.
- 6.3 The HMRC Authorised Officer and the Home Office Client Manager will ensure all relevant policy and operational managers are engaged in the governance of this Agreement and contribute where necessary to the resolution of arising issues.
- 6.4 Amendments to this Agreement may be initiated by either Department and must be agreed between the HMRC Authorised Officer and the Home Office Client Manager in writing. A timetable for the implementation of any changes will be agreed and the changes documented in a form to be agreed by HMRC and the Home Office.

7. Main deliverables and commitments from both parties

- 7.1 During 2008-09 the UKBA will be responsible for the delivery of HMRC Departmental Strategic Objective (DSO) 3 targets and other border related targets as laid out in the accompanying individual business Delivery Agreements in Annexes A-D. All of these targets and deliverables form part of wider HMRC and HMG strategies and will vary over 2008-2011. These changes will be reviewed within the framework of this Agreement and the individual business delivery targets amended to reflect such changes. These deliverables will include specific targets in areas such as Excise, VAT Fraud, Criminal Cash, and Customs & International Trade. In addition UKBA will

continue to deliver frontier intervention activity in support of HMRC's wider responsibilities.

7.2 During 2008-09, UKBA and HMRC will develop an agreed plan, within the framework of the Agreement and as a constituent part of UKBA's commissioning arrangements, for the commissioning and resourcing of future UKBA delivery on behalf of HMRC.

7.3 Details of individual business delivery agreements for 2008-09, performance levels and measures are at Annexes A-D of this Agreement and are also summarised in the UKBA's 3-year Business Plan published on 3 April 2008. If the interim period extends beyond 2008-09, HMRC and UKBA will agree revised delivery agreements.

7.4 The main commitments from HMRC to support delivery of the UKBA during the interim period covered by this Partnership Agreement are that:

- HMRC will continue to provide all systems and services needed to support the former Detection business, in line with current service levels where these exist. Where service levels do not currently exist these will be agreed as part of the UKBA integration programme (see below). This includes, but is not limited to, information systems, estates and facilities management, other corporate support areas, including shared services such as ERP;
- HMRC will deliver the programme of maintenance, change and new projects to systems and services that support the UKBA business, that were planned prior to the announcement of the UKBA, or have been initiated subsequently to agreed levels;
- HMRC will maintain fully resourced corporate service functions for those areas that support the former Detection business;
- HMRC will meet the costs of externally provided services including ASPIRE for IT infrastructure and Mapeley for Estates and FM;
- HMRC will offer current arrangements for business continuity for former HMRC offices where this continues to be the most pragmatic solution;
- HMRC will continue to provide a criminal investigation service to support frontier detections investigating those P&R offences laid to UKBA on a shared service basis. A joint HMRC/UKBA review will consider the long term future of such work; and that
- HMRC will provide management information, intelligence, criminal investigation and technological support to UKBA in line with the targets set for UKBA.

7.5 HMRC's main commitments to support the UKBA's integration activities are that:

- HMRC will work with the Home Office to achieve the successful transition of the former HMRC business into UKBA;
- HMRC will work with the Home Office to agree service levels for transitional systems and services as early as possible and for ongoing services by March 2009; and that
- HMRC will agree interim arrangements for engagement and consultation with the Home Office for operational services and new projects or contracts in which UKBA is a major stakeholder, and joint governance where UKBA is the principal user.

8. Performance

- 8.1 The aim of integrating the border-related functions of HMRC, Home Office and UKvisas is to deliver significantly improved performance in relation to effective border control. The strategy should deliver substantial benefits.
- 8.2 The Domestic Affairs (Borders and Migration) sub-committee (DA(BM)), chaired by the Home Secretary, may monitor performance against UKBA's strategy.
- 8.3 Performance metrics for the border-related functions of HMRC are set out in the HMRC Delivery Agreements with the UKBA for 2008-09 at Annexes A-D of this Agreement.
- 8.4 HMRC will work closely with the Home Office to ensure any HMRC funded vacancies are filled and to address resource and deployment issues for the UKBA, using existing HMRC guidelines, which may affect its capability to deliver HMRC targets at the border during 2008-09.

9. Access to and provision of management information

- 9.1 UKBA will arrange for HMRC to receive management information within 15 working days of the end of each calendar month. In doing so, the Client Manager must 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; and
 - Non-HMRC staff within UKBA are not given access to HMRC data systems or to any other form of information in respect of HMRC matters unless they are legally entitled to such access under existing legislation.
- 9.2 UKBA will also respond to any ad hoc requests for information in a shorter timescale if that is necessary and reasonable. UKBA will provide such other

information at the request of HMRC to assist in monitoring the Agreement or for other purposes.

- 9.3 HMRC will be given access to all records pertaining to delivery of HMRC requirements to enable auditing of performance. HMRC may appoint external auditors under relevant provisions. The appointed auditor(s) will be given access to all records pertaining to performance within agreed legal and data security parameters.

10. Reporting

- 10.1 The reporting structure in both HMRC and the Home Office must ensure 'line of sight' from the Government vision as described in the Cabinet Office Report 'Security in a Global Hub'. In those areas where HMRC retains lead policy responsibility they will act as a commissioning agent (alongside others, such as BERR) for UKBA operational interventions.
- 10.2 EU treaty obligations govern customs control and the movement of goods and people and there are particularly extensive and detailed EU requirements including raising revenue for the central EU budget. Reporting mechanisms must provide evidence that these EU requirements are being met.

11. Performance reviews, audits and liaison meetings

- 11.1 Reviews of performance should be carried out at agreed monthly intervals. UKBA will be responsible for keeping proper and accurate records which may be the subject of audit by HMRC's Internal Audit.
- 11.2 Liaison and other meetings may be called at any mutually agreed time by either HMRC or UKBA to discuss the Agreement and any other related matters.

12. Legal and investigative issues, including prosecutions

- 12.1 During the interim period the Commissioners of HMRC retain statutory accountability for the actions of HMRC staff working in the UKBA and for non-HMRC staff in the UKBA who are authorised to use HMRC powers as stated in paragraph 4.4 of this Agreement.
- 12.2 This means that the UKBA should continue to use the services of HMRC's Criminal Investigation, the Solicitor's Office and the Revenue & Customs Prosecution Office in line with current HMRC guidance. A Protocol on Legal Services will provide further detail on the provision of legal services by HMRC.

13. Default in performance

- 13.1 If either party to the Agreement fails consistently to achieve the commitments agreed in it or any supporting documents and, having taken all reasonable steps to improve performance, continues to fall below a standard acceptable

to the other party, then both parties to the Agreement will take such action as is mutually acceptable to review the working arrangements under this Agreement.

14. Resolution of disputes

14.1 All disputes, differences or questions between HMRC and the Home Office pertaining to this Agreement, other than on a matter where this Agreement states that the decision is one for the Authorised Officer to make, will be resolved using the governance arrangements for managing this Partnership Agreement. If there is an urgent need to resolve a dispute a special meeting of the Partnership Committee may be called. Issues may need to be escalated to the UKBA Board, the Home Office Board HMRC's Executive Committee (Excom) or ultimately to Ministers for resolution.

15. Interim Working Arrangements for People Management

15.1 During the interim period staff from the Home Office and HMRC will remain employees of their home department. They will remain on their existing terms and conditions and be bound by existing HR policies and procedures. Throughout this period they will continue to be provided with the various people-related support services operating across their home department: in the case of HMRC, these will be services such as those provided by Online HR, the HR Business Partner network, Business & People Support and Occupational Health Services.

15.2 A separate Memorandum of Understanding establishing interim lines of authority for people management during the period of shadow Agency status has been signed between HMRC and the Home Office. This establishes the formal arrangements for the management of people issues from 1 April 2008 until such date as the relevant HMRC staff transfer to the UKBA and become Home Office employees. It authorises the exercise of day-to-day management functions by HMRC and Home Office managers over employees of the other Department and the scope of the authorities they will have to discharge their management duties. It also provides guidance on what managers may and may not do in respect of staff within the other Department.

15.3 During the interim period HMRC will continue to provide:

- legal support on HR matters related to HMRC staff;
- a payroll and pension service to all relevant employees; and
- audit and accountability for Health & Safety and that any tribunal applications and personal injury cases arising during this period will remain HMRC responsibility to manage.

15.4 HMRC will not make any changes to terms and conditions or pay during this period without advising the Home Office.

16. Interim Working Arrangements for Finance and Assets

- 16.1 Financial accountability and the authority to spend HMRC resources cannot be devolved to non-HMRC staff. During 2008-09 HMRC will work to transfer formal accountability and resources for the HMRC staff and areas of responsibility moving to the UKBA.
- 16.2 Until such time as these transfers take place HMRC will put in place governance arrangements with the Home Office for agreeing jointly further commitments with financial consequences.
- 16.3 HMRC will engage with the Home Office in respect of any investment decisions which may impact upon the Agency to ensure that its strategic objectives are considered and that the Home Office are not committed to future expenditure without its prior input and consent.
- 16.4 HMRC's financial commitments are that it will:
- ring-fence relevant resources;
 - agree key projects managed centrally by HMRC that are relevant to UKBA and include UKBA in programme governance;
 - provide financial management reports in accordance with agreed timescales; and
 - agree a threshold on future resource commitments (e.g. new projects, contracts, purchases) which require joint sign-off by HMRC and the Home Office equivalent.
- 16.5 HMRC's finance requirements for revenue collection and management at the frontier during the interim period will be a continuation of the fiscal role carried out by the former Detection business. Discharging revenue collection responsibilities should feel the same to customers and staff. HMRC staff working in the UKBA will continue to process documentation and manage tax and penalty revenue, resulting from the limited range of revenue transaction types that are an inextricable part of frontier and border related detection work. This arrangement will continue until the further legislation that is required to provide the necessary tax collecting powers to UKBA staff.
- 16.6 During the interim period, and after UKBA gains its full Agency status, HMRC will provide the UKBA with all of the facilities it needs for collecting, handling and disposing of tax revenue in any required form so that it can be properly accounted for by HMRC. Accounting for tax and penalties collected at UK borders by the UKBA will be on the basis of existing HMRC bank accounts and systems. No new bank accounts will be created and cheques and other payable instruments will continue to be payable to HMRC.

17. Interim Working Arrangements for other Corporate Services

- 17.1 During 2008-09 HMRC and the Home Office will be looking at the future provision of corporate support services and the extent to which they may either be transferred from HMRC to the Home Office or offered by HMRC on a “shared service” basis.
- 17.2 In the interim, HMRC will continue to provide corporate services to HMRC staff working in the UKBA in line with existing arrangements.

18. Interim Working Arrangements for statutory reviews and appeals

- 18.1 For legal reasons all statutory decisions relating to reviews and appeals should continue to be made in the name of the Commissioners by persons who are officers of HMRC. No authority to do this has yet been delegated to other officials.
- 18.2 During the interim period no changes should be made to the organisation of Detection review and appeals case-working in UKBA without the agreement of HMRC. All legal and policy support for decision making and the conduct of VAT & Duties Tribunal proceedings will continue to be supplied by HMRC.

19. Interim Working Arrangements on Customs Controls

- 19.1 HMRC remains the UK customs authority and continues to represent the UK on customs matters in the EU and at the World Customs Organisation. HMRC will involve the Home Office when preparing for any negotiations that will affect the Agency.
- 19.2 It is the Commissioners who are responsible for the manner in which travellers must make their declaration. This is done by Commissioners’ Directions made under section 78 of the Customs & Excise Management Act 1979 (CEMA).
- 19.3 The Commissioners also remain statutorily responsible for the collection and management of taxes including the investigation of offences at the frontier. HMRC will continue to set the framework determining the form and manner in which customs controls are exercised and their compliance with UK and EU law and international obligations. Any proposed changes in procedures will be the subject of agreement with HMRC which retains overall policy for these matters.

20 Interim working Arrangements for the Handling of Ministerial and MP Correspondence and Non-Ministerial Correspondence

- 20.1 Subject to taxpayer confidentiality, Ministerial correspondence and Parliamentary Questions on border operational matters will fall to the Home Secretary, who may choose to delegate responsibility to the Minister of State for Borders and Immigration. Ministerial correspondence may also be delegated to the Chief Executive and Deputy Chief Executive of the UKBA.

- 20.2 The Chancellor will continue to reply to all Parliamentary Questions on fiscal, customs & international trade, and criminal cash matters for which HMRC has lead policy responsibility. For customs and international trade policy matters, this will include Parliamentary Questions for prohibitions and restrictions policy until the point at which the regimes currently subject to machinery of government negotiations transfer out of HMRC. Current Treasury Ministers' responsibilities for the handling of ministerial correspondence on these matters will also continue to apply.
- 20.3 In cases where Parliamentary Questions, Ministerial and non-Ministerial are of mutual interest to HMRC and the Home Office arrangements should be made to share them between the respective HMRC and Home Office ministerial teams or, where appropriate, for a response to be sent by the Minister of State for Borders and Immigration. Similarly, when reporting to Select Committees on matters that are of mutual interest to HMRC and UKBA, arrangements will be made to coordinate briefings.

21. Interim Arrangements for Change Management Processes

- 21.1 HMRC and Home Office management commit themselves to involve and consult each other at the earliest practical opportunity on any change proposals that may have legal, policy and/or operational impact on the business model used to deliver frontier detection functions and associated activities so that these can be fully assessed and taken account of in the development of revised processes and handling arrangements.

22. Taxpayer Confidentiality and the Disclosure of Information

- 22.1 Nothing in the interim working arrangements shall permit non-HMRC staff to acquire or access HMRC information unless such persons are authorised in that regard by the Commissioners or where otherwise covered by lawful authority.
- 22.2 Current HMRC data security standards and procedures will continue to apply to all HMRC data. UKBA will be provided with appropriate guidance and training as agreed between HMRC and the Home Office.
- 22.3 These standards and procedures are derived from the statutory basis for HMRC as set out in the Commissioners for Revenue & Customs Act 2005. Section 18.1 of this Act states that "Revenue & Customs Officials may not disclose information which is held by Revenue & Customs in connection with a function of Revenue & Customs." This duty of confidentiality applies to HMRC officers and to Home Office officials working in the UKBA who have been given HMRC powers when they deal with information held or obtained in connection with HMRC matters. However, there are specific exceptions to this duty of confidentiality and in these cases disclosures must:

- be made in accordance with relevant statutory gateways and other lawful means of disclosure (i.e. the prescribed exceptions to the maintaining of confidentiality);
- comply with the Data Protection Act and Human Rights Act; and
- be relevant and proportionate to the purpose for which the information is sought.

23. Oversight of the UK Border Agency

23.1 Existing HMRC functions that are carried out by UKBA staff will continue to be inspected by Her Majesty's Inspectorate of Constabulary (HMIC) until legislation widening the remit of the Chief Inspector of the UKBA beyond asylum, immigration and nationality functions is introduced. HMIC will work closely with the Chief Inspector of the UKBA to ensure effective coverage of the organisation whilst avoiding duplication.

24. Parties to the Agreement

**DAVE HARTNETT, CB – ACTING CHIEF EXECUTIVE OFFICER OF HM
REVENUE & CUSTOMS**

SIR DAVID NORMINGTON – PERMANENT SECRETARY OF THE HOME OFFICE

ANNEX A

EXCISE DELIVERY AGREEMENT WITH THE HOME OFFICE FOR 2008-09

Key outcomes

UKBA will:

- Undertake a balanced range of border activity in response to agreed fiscal risks designed to ensure that excise tax gap targets for the CSR '04 years are met and at least maintained through the CSR '07 years, in particular by:
 - helping restrict the size of the UK illicit cigarette market to no more than a 13% share by seizing at least 20% of the illicit cigarettes targeted on the UK;
 - helping reduce the size of the illicit Hand Rolling Tobacco market by 1200 tonnes against 2003-04 levels by progressively raising the proportion of HRT seized to 15% and beyond;
 - helping reduce and then maintain the UK illicit spirits market to no more than 3% of the market and help prevent growth in fraud against other alcohol duties;
 - providing assurance that all modes of fiscal smuggling and fraud (e.g. freight, maritime/air passengers, postal) and all entry points are adequately covered through effective detection and deterrence techniques.

Key outputs

In 2008-09 UKBA will:

- seize in the range of 1.4 to 1.9 billion **illicit cigarettes** targeted on the UK;
- seize in the range of 175 to 375 tonnes of **illicit hand rolling tobacco** targeted on the UK;
- increase by 5% over 2007-08 totals the number of frontier interceptions of **high risk alcohol consignments which are referred for sanctions**;
- increase by 10% over 2007-08 totals the number of **seizures of commercial consignments of spirits** referred for additional sanctions against the owners or hauliers;

- action all referrals and requests for frontier activity from HMRC Criminal Investigation teams subject to detailed operating protocols on timeliness and precision of requests;
- adopt and support 60 alcohol collaborative working cases for joint working with Excise Stamps & Money Businesses, Local Compliance and other HMRC stakeholders;
- notify all qualifying seizures of tobacco to manufacturers and HMRC under the terms of the 2006 supply chain legislation within agreed timescales;
- notify all seizures of counterfeit spirits drinks to Trading Standards for analysis, in line with established operating procedures.

Other key activities

UKBA will:

- contribute to the development and implementation of collaborative, multi-functional strategies aimed at preventing and detecting alcohol, tobacco and oils duty evasion and fraud;
- provide appropriate support for all agreed national alcohol, tobacco and oils strategy projects;
- play a full and active part in delivery of excise strategies, including by participating in appropriate Director-level steering groups and working level delivery groups;
- follow up excise border activity efficiently and effectively, in accordance with HMRC policy (e.g. routine appeals against excise seizures, excise restoration reviews and complaints, storage /disposal of seized good);
- further increase its visibility at smaller locations including regional airports in order to reassure the public and deter excise smuggling activity;
- introduce effective, alternative techniques to ensure a wider coverage of ports and airports;
- work with HMRC to curb the use of the postal system for tobacco smuggling; and
- in line with the announcement made at Budget 2008, develop by PBR 2008 a plan for refreshing border aspects of the *Tackling Tobacco Smuggling* strategy by leveraging the benefits of the integrated UK Border Agency to enhance excise anti-smuggling performance and publish quantified improvements upon the targets set out in this document.

Inputs

UKBA will:

- deploy not less than 1500 staff years to excise border activity in 2008-09.

Procedures

UKBA will:

- undertake border fiscal activity in accordance with agreed operating procedures, including, e.g. National Operating Protocol between UKBA and HMRC Referred Investigation Teams (RITs);
- manage reputational risks associated with the enforcement of excise regimes by maintaining adequate levels of training and assurance on the application of Criminal Justice Enforcement Standards and be subject to assurance by HMRC and external regulators.

Monitoring and reporting

UKBA will:

- maintain a detailed set of performance records as agreed with HMRC's Excise, Stamps & Money Businesses Directorate covering staff year usage, activity levels and output results, utilising existing information systems;
- submit agreed monthly, quarterly and annual performance reports to Excise Stamps & Money Businesses within an agreed timetable;
- provide such other performance reports or analysis as may, from time to time, be requested by Excise Stamps & Money Businesses within agreed timescales and utilising existing information systems.

HMRC responsibilities

- Over the period from 2008-09 to 2011-12 HMRC will ensure that tobacco activity will make one of the largest single contributions to its overall objective of reducing revenue losses from criminal attacks. HMRC recognises that the UKBA seizure target is critical to this commitment, and that UKBA cannot achieve that seizure target without strong support from HMRC, especially from Investigation, Intelligence and the development of technological profiling such as the Freight Targeting System (FTS).
- Tobacco (cigarettes and HRT) is therefore among the top operational priorities for Criminal Investigation (CI) and Risk & Intelligence Services (RIS). Tasking

and co-ordination activity in both Criminal Investigation and RIS will clearly reflect this.

- HMRC RIS will continue to provide intelligence products to inform and enhance UKBA's border activities in respect of excise duty controls. These intelligence products will be derived from HMRC's ongoing responsibility for tackling excise fraud within the UK and overseas and will complement those delivered by UKBA's own intelligence capacity in respect of goods threats presented by different modes of international transport following the transfer of border-related intelligence staff from HMRC to UKBA management structures in April 2008.
- HMRC's Criminal Investigation (CI) and Risk & Intelligence Service (RIS) are strongly committed to supporting UKBA in the delivery of its frontier excise targets. Working in collaboration with UKBA representatives CI and RIS will continuously evaluate the effectiveness of their contribution to the delivery of those frontier excise targets with the aim of achieving the necessary impact on UKBA's frontier excise delivery commitments.
- In particular, HMRC RIS and UKBA Intelligence will engage regularly to agree specific risk and intelligence requirements, and will produce quantitative and qualitative measurements of the impact of HMRC and UKBA intelligence products to inform further joint planning for frontier operational activities.
- RIS will also apply its full range of intelligence collection assets, including covert sources and the Overseas Liaison Officer network, in support of its priorities which will include excise fraud.
- Criminal Investigation will aim to adopt at least 95% of frontier referrals that meet the agreed adoption criteria.
- HMRC will support UKBA in alcohol collaborative working projects, by devoting appropriate operational resources as agreed on a project-by-project basis.
- HMRC alcohol and tobacco policy leads will meet regularly with UKBA colleagues to discuss possible legislative or policy options that arise out of border activity and will actively consider any proposals from the UKBA for policy or legislative changes that would enhance border activity on alcohol and tobacco.
- HMRC will extend FTS to container traffic by October 2008.

ANNEX B

CUSTOMS AND INTERNATIONAL TRADE **DELIVERY AGREEMENT WITH THE HOME OFFICE FOR 2008-09**

Summary

UKBA will contribute effectively to the delivery of HMRC Departmental Strategic Objectives by:

- carrying out customs controls on goods, people, vessels and other means of transport at the border in accordance with current legal obligations and agreed risk priorities for tackling border related fiscal, economic, physical and social risks for which HMRC has lead responsibility;
- collecting revenue and conducting physical and documentary checks at the border to ensure compliance and the accuracy of declarations, manifests, licences and other documentation associated with UK or EU procedures; and
- detecting and deterring non-compliance through tackling smuggling and other activity that presents risks to the public, the trade, the integrity of the tax base, the UK economy and security.

Key outcomes

UKBA will:

- clear goods through the UK border, subject to the completion of satisfactory checks as stipulated by HMRC, and collect relevant taxes and duties;
- detect and prevent customs, excise and other tax fraud at the border;
- together with HMRC, balance the facilitation of legitimate travel and trade with meeting fiscal, regulatory and enforcement requirements;
- provide assurance that all modes of fiscal smuggling and fraud (e.g. freight, maritime and air conveyances, people, postal and pipelines) and all entry points are adequately covered through effective detection and deterrence techniques; and
- provide support to HMRC / UK strategic international priorities.

Key outputs

Customs Clearance Process

UKBA will:

- carry out risk-based, intelligence-led targeting, selection and examination of suspect consignments at the frontier, and meet EU reporting obligations under the Risk Management Framework;
- carry out 100% of national documentary and physical checks required at the border to discharge legal obligations, or according to risk profile instructions and report results to HMRC's National Clearance Hub within agreed timescales;
- carry out charging on all relevant parcels and postal packets subject to Duty and VAT;
- process Red Channel/Points, Crew and Mechanise in Baggage declarations;
- provide Frontier Office attendance (EU); and
- provide facilities for the payment of taxes and for other frontier based customer services for import and export documentation.

Specific Targets

In 2008-09 UKBA will deliver the following HMRC DSO 3 targets:

- make at least 1174 cocaine seizures;
- seize at least 2,368 kg of cocaine;
- make at least 67 heroin seizures;
- seize at least 527 kg of heroin;
- make at least 32,703 seizures of products of animal origin;
- seize at least 237,709 kg of products of animal origin;
- meet 98% of requests for SOCA taskings for interdiction and meet 96% of requests for responding to SOCA enquiries/requests for checks using HMRC powers at the border; and
- achieve the Service Level Agreement to intercept or investigate as appropriate, 100% of traffic that alarms Cyclamen portals when in attendance.

In addition UKBA will:

- deliver a 10% increase over 2007/08 in the number of seizures of readily convertible firearms and realistic imitations and a 10% increase in the seizure of prohibited firearms*;
- handle 100% of sky marshal firearms and ammunition in accordance with the National Aviation Security Programme (NASP) at those airports where HMRC have lead responsibility;
- maintain seizures of counterfeit goods at 2007-08 levels; and
- maintain or if possible improve levels of 2007- 08 detentions and seizures of strategic export control related consignments, with particular emphasis on likely tightening of UN sanctions during 2008-09.

Other Border Control Activities

UKBA will:

- carry out control activities in respect of National and Simplified Transit movements in accordance to the Statement of Service;
- control the movement of goods within the confines of the port/airport and temporary storage locations in accordance with set guidance;
- provide operational support to OLAF led operations in agreement with C&I.
- operate the retail export scheme; and
- carry out follow-up detention and seizure action and referrals to HMRC Criminal Investigation and Evasion Referrals Team.

Other HMRC led activities that will require UKBA involvement

UKBA will:

- play a full and active part in the policy and operational development of existing and future projects and pilots focused on improving international trade and supply chain security;
- In agreement with HMRC coordinate involvement of Member States' customs services in activities supporting other law enforcement agencies in the fight against terrorism and organised crime;

* *This does not include defence sprays, stun weapons or regulatory infringements*

- implement the Counter Terrorism Project Group (CTPG) action plan and coordinate relevant operational activity;
- examine links with other relevant dossiers such as the Customs Co-operation Working Group (CCWG) Action Plan, the Hague Programme Action Plan and the Architecture for Internal Security;
- continue to make available resources for international capacity building activities under the terms of the agreed international operating protocol;
- negotiate with facility operators (air, sea, rail and land) for Trade Provided Free resources;
- provide assurance on all ports and airports approvals requests;
- work with the HMRC Olympic Games Unit to manage the border-related HMRC risks associated with the 2012 Olympics; and
- provide an operational policy contribution in relation to new and potential border prohibitions and restrictions.

Monitoring and reporting

UKBA will:

- provide assurance that EU legal obligations are being met by reporting against agreed performance monitoring mechanisms;
- maintain a detailed set of performance records as agreed with HMRC's Customs and International Directorate covering staff year usage, activity levels and output results;
- submit agreed monthly, quarterly and annual performance reports to Customs and International Directorate within an agreed timetable; and
- provide such other performance reports or analysis as may from time to time be requested by HMRC's Customs and International Business Unit and in response to internal and external audits of Customs & International trade systems and processes.

Infraction Proceedings

UKBA will:

- work with HMRC to minimise the extent of any infraction penalties that have been imposed by the European Commission as a result of a failure to discharge customs legal obligations at the border.

HMRC Commitments

HMRC will:

- provide the policy framework and support to enable UKBA to undertake Customs and International Trade activities;
- clearly and expeditiously task UKBA with the mandatory examinations that are required to discharge legal obligations, or according to risk profile instructions, and provide training, guidance and support to ensure examination reports meet required standards and timescales;
- provide the necessary policy support to enable an effective UKBA Trader Provided Free (TPF) accommodation policy;
- provide appropriate intelligence support to direct UKBA International Trade activity in those areas where Intelligence has not transferred under UKBA;
- consult with UKBA before requiring UKBA to undertake new customs activity;
- provide the necessary Criminal Investigation, legal and prosecution support to UKBA in accordance with the agreed Operating Protocol;
- provide the agreed level of ICT to support the UKBA in undertaking customs activity; and
- provide the required policy framework and, where agreed, appropriate funding to enable UKBA to deliver existing and future International Trade and Supply Chain projects.

ANNEX C

CRIMINAL CASH DELIVERY AGREEMENT WITH THE HOME OFFICE FOR 2008-09

Outcomes

UKBA will undertake risk-based, intelligence-led cash detection and detention/seizure activity at the border, in particular, to:

- ensure a continuing significant contribution to the Government's overall asset recovery targets as set out in PSA 24 (Deliver a more effective, transparent and responsive Criminal Justice System for victims and the public);
- contribute to and support PSA 23 (Making communities safer) and HMRC DSOs 1 and 3;
- ensure effective operation of, and passenger compliance with, EU Regulation 1889/2005 on controls of cash entering or leaving the EU;
- provide assurance that detection activity addresses all modes of cash movement into and out of the UK/EU, adequately covers all entry and (especially) exit points, and covers cash associated with the full range of predicate criminality.

Outputs

UKBA will:

- work with HMRC to maximise cash detections and seizures at the border in line with strategic objectives and any targets set for 08-09 by the Home Office, (the lead Policy Department);
- work with HMRC to improve the adoption rate by HMRC of cash referrals made by UKBA for onward progression using the powers available in Part 5 of the Proceeds of Crime Act 2002 ("POCA");
- respond proactively to strategic, tactical and operational intelligence products relating to the international movement of suspected criminal cash;
- refer all cash detections with a criminal nexus to appropriate investigation teams for progression of cases with a view to forfeiture by the Courts and support those teams as required;
- exercise controls to ensure that passengers' obligations to declare cash on entry to, or exit from, the EU are complied with;
- ensure that cash declarations are collected and transmitted in timely fashion to Intelligence colleagues for entry on to the national database and subsequent

analysis in line with current HMRC guidance and legal parameters for the handling of data.

Other key activities

UKBA will:

- contribute to and support the development and implementation of strategies, plans and operational activities aimed at detecting and deterring the international movement of criminal cash;
- actively participate in appropriate strategic, delivery and other groups which are concerned with asset recovery and, in particular, maximising the contribution from cash seizure and forfeiture;
- follow up border activity efficiently and effectively (e.g. by arranging storage and disposal of seized cash as appropriate);
- With HMRC, develop a costed plan during 2008/09 for continuous improvement of cash detection and seizure performance.

Inputs

UBKA will:

- deploy staff in line with the separate bilateral agreement to be negotiated between HO and UKBA for 2008-09.

Procedures

UKBA will:

- undertake cash detection and seizure activity under POCA, and control the EU cash declaration system, in accordance with agreed operating procedures.

Monitoring and reporting

UKBA will:

- maintain detailed performance records within agreed parameters;
- provide performance reports to agreed frequency and standard;
- provide such other reports, contributions and support in relation to cross-border cash movements as may from time to time be required;
- provide regular and timely intelligence assessments to improve the deployments UKBA cash detection resources;

- provide specific intelligence packages on the movement on criminal cash.

HMRC will

- provide the enforcement policy framework and work with UKBA to achieve the Home Office strategic objectives for combating cross border movements of suspected criminal cash;
- undertake case work required beyond initial detection of cash that still falls under HMRC's responsibilities;
- work with UKBA to improve the adoption rate by HMRC of cash referrals made by UKBA;
- provide access to HMRC Intelligence specialists (such as CHIS teams, analysts, debriefing teams and FCLO network) to support cash detection where appropriate.

ANNEX D

VAT (MTIC) DELIVERY AGREEMENT WITH THE HOME OFFICE FOR 2008-09

Key outcomes

UKBA will:

- undertake a balanced range of activity in response to agreed fiscal risks designed to:
 - _ help identify businesses engaged in VAT MTIC, Contra and Acquisition fraud;
 - _ help identify the goods used in the above frauds; and
 - _ help identify changes in the *modus operandi* of these frauds.

Key outputs

UKBA will:

- monitor, review and agree quarterly with HMRC the MTIC profiles for CHIEF and intra-community freight manifests;
- notify HMRC of at least 1,500 import or export consignments where VAT frauds are suspected;
- where appropriate, provide HMRC with intelligence on travellers to and from high risk MTIC countries;
- where appropriate, provide HMRC with MTIC related intelligence emanating from cash seizures and merchandise in baggage;
- monitor and provide intelligence on suspected MTIC related transshipments under CPC4200;
- action MTIC related referrals and requests for frontier activity from HMRC NTSCI MTIC and Criminal Investigation teams; and
- complete agreed programme of work with HMRC under Project Lanyard.

Other key activities

UKBA will:

- contribute to the development and implementation of collaborative, multi-functional strategies aimed at preventing and detecting MTIC and similar fraud;
- provide appropriate support for all agreed national MTIC projects;
- play a full and active part in delivery of the MTIC strategy, including by participating in appropriate Director-level steering groups and working level delivery groups; and
- support HMRC's effective and efficient use of the outcomes of the MTIC border activity e.g. providing witness statements and responding to complaints.

Inputs

UKBA will:

- work with HMRC to ensure that activity levels to identify potential and deter VAT frauds are maintained throughout the year and deliver an agreed number of exercises to identify and tackle VAT fraud.

Procedures

UKBA will:

- undertake MTIC border fiscal activity in accordance with agreed operating procedures.

Monitoring and reporting

UKBA will:

- maintain a detailed set of performance records as agreed with HMRC's MTIC Core Delivery Group covering activity levels and output results.

HMRC will:

- provide the policy framework and support to enable UKBA to carry out a range of activity in response to agreed fiscal risks; and
- provide intelligence and feedback on the effectiveness of UKBA activity, and work with UKBA to improve the effectiveness of intelligence referrals.