Draft Order laid before Parliament under section 34(3)(b) of the Channel Tunnel Act 1987, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2001 No.

CHANNEL TUNNEL

Channel Tunnel (International Arrangements) (Amendment No. 3) Order 2001

Made - - - - 2001

Coming into force in accordance with article 1(2)

Whereas a draft of this Order has been approved by a resolution of each House of Parliament;

Now, therefore, in exercise of the powers conferred on the appropriate Minister by section 11 of the Channel Tunnel Act 1987(**1**), the Secretary of State for the Home Department hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Channel Tunnel (International Arrangements) (Amendment No. 3) Order 2001.

(2) This Order shall come into force on the date on which the Additional Protocol between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic enters into force. That date will be notified in the London, Edinburgh and Belfast Gazettes.

(3) In this Order—

"the Additional Protocol" means the Additional Protocol to the Sangatte Protocol on the Establishment of Bureaux Responsible for Controls on Persons Travelling by Train between France and the United Kingdom, signed at Brussels on 29th May 2000(**2**);

"the principal Order" means the Channel Tunnel (International Arrangements) Order 1993(**3**).

(4) In this Order, a reference to an article or a Schedule is to an article of or Schedule to the principal Order.

(**1**) 1987 c. 53.
(**2**) Cm 5015.
(**3**) S.I.1993/1813; amendments relevant to this Order are made by S.I. 1994/1405 and 2000/1775.

Amendment of the Channel Tunnel (International Arrangements) Order 1993

2. The principal Order shall be amended as follows.

3.—(1) In article 2(1), after "international articles" insert "or the supplementary articles".

(2) After article 2(3), insert—

"(4) In this Order "the supplementary articles" means the provisions set out in Schedule 2A (being Articles of the Additional Protocol between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic), and in the supplementary articles "the Protocol signed at Sangatte" and "the Sangatte Protocol" mean the Protocol mentioned in article 1 above.

(5) In paragraph (4) and in the supplementary articles, "Additional Protocol" means the Additional Protocol to the Sangatte Protocol on the Establishment of Bureaux Responsible for Controls on Persons Travelling by Train between France and the United Kingdom, signed at Brussels on 29th May 2000(**4**).".

(3) After article 3 insert—

"**Application of supplementary articles**

3A.—(1) The supplementary articles shall have the force of law in the United Kingdom within a supplementary control zone.

(2) Without prejudice to paragraph (1), officers belonging to the French Republic who are responsible for immigration controls shall to the extent specified in the supplementary articles have rights and obligations and powers to carry out functions in the United Kingdom.

(3) Article 3(3) of this Order shall apply for the purpose of giving full effect to the supplementary articles as it applies for the purpose of giving full effect to Article 34 of the international articles.".

(4) After article 4(1A) insert—

"(1B) All immigration control enactments shall, for the purpose of enabling immigration officers to carry out immigration controls, extend to France within a supplementary control zone.".

(5) For article 4(2) substitute—

"For the purposes of section 5 of the Data Protection Act 1998(**5**) ("the 1998 Act"), data which are—

(a) processed within a control zone in France in connection with the carrying out of frontier controls by an officer belonging to the United Kingdom, or

(b) processed within a supplementary control zone in France in connection with the carrying out of immigration controls by an immigration officer,

shall be treated as processed by a data controller established in the United Kingdom in the context of that establishment (and the 1998 Act shall accordingly apply in respect of such data).".

(6) For article 4(3) substitute—

"For the purposes of section 5 of the 1998 Act, data which are—

(a) processed within a control zone in the United Kingdom in connection with the carrying out of frontier controls by an officer belonging to the French Republic, or

(b) processed within a supplementary control zone in the United Kingdom in connection with the carrying out of immigration controls by such an officer,

(**4**) Cm 5015.
(**5**) 1998 c. 29.

shall be treated as processed by a data controller established in France in the context of that establishment (and the 1998 Act shall accordingly not apply in respect of such data).".

(7) In article 5(1), after sub-paragraph (b) insert—

"or any act or omission which—

(a) takes place outside the United Kingdom in a supplementary control zone, and

(b) would, if taking place in England, constitute an offence under an immigration control enactment,".

(8) After article 5, insert—

"**Persons boarding a through train**

5A. For the purposes of the exercise of any power of an immigration officer in a supplementary control zone in France, any person who seeks to board a through train shall be deemed to be seeking to arrive in the United Kingdom through the tunnel system.".

(9) In article 7(1)—

(a) for "articles 4(1) and 5(1)" substitute "articles 4(1), 4(1B) and 5(1)", and

(b) in sub-paragraph (a), after "article 4(1)" insert "or article 4(1B)".

(10) In article 7(2), after "control zone" insert "or a supplementary control zone", and after "international articles" insert "or functions under Article 3 of the supplementary articles".

(11) After article 7(3), insert—

"(3A) As respects officers exercising their functions in a supplementary control zone paragraph (2) applies only to the number of specified officers agreed in pursuance of the supplementary articles.".

4.—(1) In Schedule 1, insert the following definitions—

""Immigration control enactment"	An Act, or an instrument made under an Act, for the time being in force, which contains provision relating to immigration controls.
"Immigration officer"	The same meaning as in the Immigration Act 1971(**6**).
"The supplementary articles"	The meaning given by article 2(4) above.
"Supplementary control zone"	An area in which a control bureau is established for the purposes of the supplementary articles.".

(2) After Schedule 2, insert—

"SCHEDULE 2A Article 2(4)

SUPPLEMENTARY ARTICLES

Article 1

Any terms defined in Article 1 of the Protocol signed at Sangatte have the same meaning in this Additional Protocol. For the purposes of this Additional Protocol, the following definitions shall be added:

(**6**) 1971 c. 77; see section 4 of the Act.