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NATIONAL
ASSEMBLY CONSTITUTION OF 4 OCTOBER 1958
TWELFTH LEGISLATURE

Registered at the Office of the President of the National Assembly on 21 November 2003.

P R O J E T D E L O I
ADOPTED BY THE SENATE

authorizing the approval of the Treaty between the Government of the **French Republic** *and the Government of the* **United Kingdom** *of* **Great Britain** *and* **Northern Ireland** *relating to the* **Implementation border controls** *in the* **Channel** *and* **North Sea seaports** *of both countries,*

transmitted by
the Prime Minister to

the President of the National
Assembly (Referred to the Committee on Foreign Affairs, in the absence of the establishment of a special committee within the time limits laid down in Rules 30 and 31 of the Rules of Procedure.)

The Senate adopted, on first reading, the following bill:
See the following numbers:
Senate: **433** rectified (2002-2003), **8** and T.A. **12** (2003-2004).

Single article

The approval of the Treaty between the Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland on the implementation of border controls in the Channel and North Sea seaports of the two countries, signed at Le Touquet on 4 February 2003, the text of which is annexed to this Law, is hereby authorised.
Deliberated in public session in Paris on 20 November 2003.

The President,
signed: Christian PONCELET

T R A I T E between the Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland on the implementation of border controls in the Channel and North Sea seaports of the two countries

The Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland have agreed on the following provisions:

TITLE I
GENERAL PROVISIONS
Article 1

1. The Contracting Parties shall, within the framework of this Treaty, take the necessary measures to facilitate the exercise of border controls in Channel and North Sea seaports situated in the territory of the other Party.
2. To this end, the Parties may set up national control offices juxtaposed in the control areas of the Channel and North Sea seaports of the two countries. Consequently, these authorise the officials in post of each State

to carry out their duties on the territory of the other State, within the framework of this Treaty.
3. The designation of seaports under the present Treaty, and the establishment, modification or withdrawal of offices, control zones and restricted zones in the seaports of each State, shall be determined by the competent authorities of the two countries.
4. The arrangements provided for in paragraph 3 shall initially be limited to the exercise of border controls by the immigration authorities of each State at the seaports in question.
5. The arrangements provided for in paragraph 3, in so far as they concern juxtaposed control bodies expressly authorised to carry out border control missions under an international agreement, shall be confirmed by the exchange of diplomatic notes, except in cases of immediate operational need. These shall enter into force, as the case may be, upon completion of the formalities provided for by the national law of each State. Where there is an operational need, local representatives of the authorities concerned may agree to temporarily implement any necessary changes to the delimitation of control zones. Any such arrangement shall be effective immediately and shall be in writing.

Article 2

In this Treaty, the term:
(a) "Border Control" means the application by the Signatory Parties, within the Area of Control, of all legal and regulatory provisions relating to immigration controls and investigations.
(b) "State of departure" means the State in whose territory the control of the other State is carried out.
c) "State of arrival" means the other State.
(d) "Control Zones" means that part of the territory of the State of departure in which the officials of the State of arrival are authorised to carry out controls.
e) "Restricted areas" refers to the port areas of the Channel and the North Sea of each State subject to special security measures.
(f) "Serving officers" means the officers responsible for border controls by each government.
(g) "Offices" means offices with national controls juxtaposed, including control booths and other facilities directly used for control missions.
(h) "Seaports" means the Channel and North Sea commercial ports of the two countries from which persons travel by sea to the other State.

Article 3

1. Within the area of control, each government shall authorize the officials of the other State to act on its territory in accordance with the powers conferred on them in relation to border controls.
2. The regulations of the State of arrival relating to border controls shall apply in the control zone as well as in its own territory. This regulation is applied by the agents of the receiving State in the same way and with the same consequences as in their own State.
3. Infringements of the rules relating to border controls of the State of arrival found in the control zone of the State of departure shall be punished by the law of the State of arrival as if they had been committed in that territory.
4. Where an offence of another nature is committed in the area of control of the State of departure, that State shall have jurisdiction.

Article 4

1. The purpose of immigration checks carried out by the authorities of the State of departure is to verify that the person is able to leave the territory of that State.
2. The purpose of immigration controls carried out by the authorities of the State of arrival is to verify that persons leaving the State of departure fulfil the conditions and obligations in relation to border control laid down by the State of arrival and may be authorised to travel to the State of arrival.
3. The authorities of the State of departure and the authorities of the State of arrival shall carry out their inspections in accordance with this Treaty, their laws and regulations and the international commitments to which they are parties.
4. The checks referred to in the preceding paragraphs must not interfere with the customs and security checks carried out by the State of departure.

Article 5

1. Officials of the receiving State may not arrest and detain for questioning in the area of control persons who are being examined for immigration purposes or in respect of whom there are reasonable grounds to suspect that they have committed an act in contravention of the regulations on border controls. To this end, the officials of the receiving State in charge of controls may call upon the assistance of officials of the receiving State belonging to the investigating administrations. They are also authorised to drive such persons to the territory of the country of arrival.
2. However, except in exceptional circumstances, no one may be detained for more than twenty-four hours in

the premises reserved, in the State of departure, for border controls in the State of arrival. Such detention must take place under the conditions and in accordance with the procedures laid down by the legislation of the State of arrival.
3. In exceptional circumstances, the twenty-four hour period may be extended by a further twenty-four hours under the conditions laid down by the legislation of the State of arrival. This extension of the period of detention will be notified to the authorities of the State of departure.

Article 6

1. All border controls of the State of departure must be carried out before the controls of the State of arrival.
2. Staff members in post in the State of arrival shall not be authorised to initiate such checks before the end of the checks in the State of departure. Any form of waiver of such controls will be considered control.
3. The authorities of the State of departure may no longer carry out their control once the officials in post of the State of arrival have begun their control operations. Exceptionally, operations relating to exit control may be resumed with the consent of the agents in post of the State of arrival.
4. In the event of a change in the order provided for in paragraphs 1 to 3 above during the checks for practical reasons, the officials in post of the State of arrival may make arrests only after the checks of the State of departure have been completed. If the officials of the State of arrival wish to take such measures, they must present the persons concerned to the officials of the State of departure in post, so that they can carry out the exit checks. The latter have priority if they wish to make arrests.
5. Exceptionally, border controls may be carried out by the State of arrival in the seaport located on its own territory when such controls have not been possible in the State of departure.

Article 7

If persons are refused entry by the State of arrival or if persons decide not to submit to the border controls of the State of arrival, the authorities of the State of departure may not refuse the return to their territory of these persons. The authorities of the State of departure may, however, take measures in this respect, in accordance with their national law and without imposing any obligations on the other State.

Article 8

1. Subject to the application of other international agreements, and in accordance with applicable national law, the authorities of the two States shall cooperate, assist each other and coordinate their activities to the greatest extent possible, in fulfilling their obligations relating to the operation of the offices, in particular with regard to:
(a) The respective border controls;
b) The prevention and detection of infringements of the legal and regulatory provisions of each State relating to border controls;
c) The exchange of information that may be useful for the performance of their obligations;
(d) Investigation of immigration offences.
2. At the request of the officials in post of the State of arrival, the competent authorities of the State of departure shall question witnesses and experts, carry out investigations and transmit the results of the investigations. This assistance is limited to border control offences committed and constituted in the control area and established during or immediately after their commission.

Article 9

When a person makes an application for asylum or requests any other form of protection provided for by international law or the national law of the State of departure during an examination carried out in the State of departure by officials of the State of arrival, the application shall be examined by the authorities of the State of departure in accordance with the national procedure of that State.
The same provisions shall apply where the request is made after the formalities of such an inspection have been completed and before the departure of the vessel. Where the application is made after the departure of the vessel, it shall be examined by the State of arrival in accordance with its national law.

TITLE II
AGENTS
Article 10

1. Each government shall designate the officials from among the authorities or persons who, in its territory, are responsible for the exercise of border controls.
2. Each government shall inform the other of such designations and of any changes to them.
3. The authorities of the State of departure shall grant to the officials in post of the State of arrival the same protection and assistance in the performance of their duties as those conferred on their own servants.
4. The provisions of criminal law relating to the protection of officials during the performance of their duties in

force in the State of departure shall in the same way apply to the punishment of crimes and offences committed against officials in post in the State of arrival during the performance of their duties.
5. The provisions of criminal law in force in the State of arrival, relating to the protection of its agents on duty and their property, shall apply in the control zone.

Article 11

Subject to the provisions of paragraphs 2 and 3 of Article 14, the rules provided for by the legislation of the State of departure in the field of civil and criminal law shall apply to officials in post of the State of arrival.

Article 12

1. Officials in post of the State of arrival who are called upon to carry out their duties in the control zone pursuant to this Treaty shall be authorised to cross the frontier and to go to their place of work on presentation of their identity and title on presentation of official documents.
2. The competent authorities of the State of departure reserve the right to request the authorities of the State of arrival to recall certain staff.

Article 13

Officials in post of the State of arrival who are called upon to carry out their duties in the State of departure pursuant to this Treaty may wear their national uniform or a visible distinctive symbol.
They may, in the control zone, carry their service weapon. The carrying and use of these weapons will be regulated in a separate agreement between the signatory parties.

Article 14

1. The officials in post of the receiving State shall be subject exclusively to the authorities under whose command they are placed with regard to their official activities, their reports and discipline.
2. Claims for compensation for injury or damage caused in the State of departure by or to officials of the State of arrival in the performance of their duties shall be subject to law and shall be subject to the jurisdiction of the courts of the State of arrival, as if the facts giving rise to the claim had taken place in that State.
3. Officials of the receiving State may be prosecuted by the authorities of the sending State for any offence not committed in the performance of their duties.
4. Offences committed in the exercise of their duties and in the area of control may not be prosecuted by the authorities of the State of departure.
5. The judicial authorities or the police of the State of departure which have registered the complaint or gathered the facts concerning it shall communicate all the information and documents in their possession to the competent authorities of the other State, with a view to instituting proceedings if necessary, in accordance with the national law in force of that State.

Article 15

Officials in post of the State of arrival who, pursuant to this Treaty, carry out their duties in the State of departure shall, in the light of the conditions relating to their domicile, regularize their status with the competent authorities in accordance with the provisions relating to the residence of foreign nationals.

TITLE III
BUREAUX
Article 16

1. The competent authorities shall determine, by mutual agreement, the facilities, service accommodation and equipment necessary for the implementation of the exercise of border controls in the control areas. The responsibility for the installation of facilities, service accommodation and equipment lies with the State of departure. Requests made by the receiving State in respect of installations shall be limited to what is strictly necessary for the effective performance of their functions.
2. The authorities of the State of arrival may use in the State of departure the service accommodation, facilities and equipment necessary for the performance of their duties. The hours of service and the allocation of offices are determined by mutual agreement of the two competent administrations.

Article 17

The premises used as offices of the State of arrival shall be identifiable by the official inscriptions and insignia of that State.

Article 18

The agents in post of the State of arrival are responsible for maintaining discipline in the premises allocated for their exclusive use and for the expulsion of persons who cause serious disturbances. They may, if necessary, request the assistance of the officials of the State of departure for this purpose.

Article 19

Unless otherwise mutually agreed by the competent administrations, prohibitions or restrictions on imports and exports shall not apply to goods necessary for the proper functioning of offices or to goods requested by officials of the State of arrival during their service in the State of departure.
This also applies to private service vehicles that staff members use in the performance of their duties in the State of departure or for their journeys between their home and their place of work.

Article 20

1. The State of departure shall allow for the installation of telephones necessary for the proper functioning of the offices of the State of arrival in the State of departure, their connection to the corresponding facilities of the State of arrival and the exchange of direct communications with those offices. These communications shall be deemed to be internal communications of the receiving State.
2. The governments of the two States agree to grant, for the same purposes and as far as possible, any facilities relating to the use of other means of communication.
3. In addition, the regulations of both States relating to the construction and use of communication facilities shall apply.
4. The State of departure shall also allow the installation and use of these facilities and the use of the computer facilities necessary for the proper functioning of the offices of the State of arrival within the State of departure, their connection to the corresponding computer facilities of the State of arrival and the exchange of direct communications between the facilities exclusively reserved for the service. Electronic communications are deemed to be internal communications of the State of arrival.
5. Finally, the receiving State shall be authorized to use electronically coding devices and software in the sending State in order to ensure the proper functioning of the facilities of the receiving State used there and their communication with the above-mentioned facilities of the receiving State.

Article 21

Letters and service packets as well as goods entering and leaving the offices of the receiving State may be transported by the agents in post of that State without being entrusted to the postal services. These packages must be sent under the official seal of the department concerned.

TITLE IV **FINAL PROVISIONS**

Article 22

1. The procedures for the implementation of this Treaty may, as far as necessary, be the subject of technical or administrative agreements between the competent authorities of the two States.
2. Any dispute relating to the interpretation or application of the present Treaty shall be settled by negotiation between the two Governments.

Article 23

1. Each signatory Party may terminate the arrangements provided for in Article 1(3) within the time limits and under the conditions agreed between the competent authorities by exchange of letters.
2. The Signatory Parties may, by exchange of notes, make such amendments to this Treaty as they deem necessary. However, the provisions of this paragraph shall not apply to the provisions of this Treaty which, by virtue of the constitutional provisions of the States, require, for their implementation, the approval of the legislative authorities.
3. Each Government may at any time request the opening of consultations with a view to revising the provisions of this Treaty in the light of new circumstances or new needs.

Article 24

Each of the Contracting Parties reserves the right to take any measure necessary to safeguard its sovereignty or security.

Article 25

1. Each Party shall inform the other of the completion of the internal procedures required for the entry into force of this Treaty, which shall enter into force on the first day of the second month following receipt of the

last notification.
2. This Treaty shall be concluded for an unlimited period of time and either Party may terminate it at any time by informing the other in writing through diplomatic channels, which shall take effect two years after the date of such notification.
In witness whereof the undersigned, duly empowered to do so by their respective Governments, have signed the present Treaty.
Done at Le Touquet, 4 February 2003, in two copies, in the English and French languages, both texts being equally authentic.

For the Government
of the French Republic:
Nicolas Sarkozy
Minister for the Interior,
Internal
Security and Local
Liberties For the Government
of the United
Kingdom of Great Britain
and Northern Ireland:
David Blunkett
Secretary to the Home Office

No. 1246 - Bill authorizing the approval of the Treaty of France and the United Kingdom of Great Britain and Northern Ireland on the implementation of frontier controls in Channel and North Sea ports

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