

Title: Impact Assessment for the Ports of Londonderry

IA No: DfT00272

Lead department or agency:
Department for Transport

Other departments or agencies:

Impact Assessment (IA)

Date: 28/02/14

Stage: Final

Source of intervention: EU

Type of measure: Secondary legislation

Contact for enquiries: Caroline Wall
Tel: 020 7944 6251
E-mail: caroline.wall@dft.gsi.gov.uk

Summary: Intervention and Options

RPC: RPC Opinion Status

Cost of Preferred (or more likely) Option

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
-0.16m	-0.16m	0.02m	No	NA

What is the problem under consideration? Why is government intervention necessary?

The terrorist incidents in the US (2001), Madrid (2004) and London (2005) highlighted the vulnerability of, and threat to, transport systems world-wide. The UK port industry is an important part of the UK economy, and essential node between transportation modes. Therefore a security incident involving the maritime transport system may have impacts falling beyond the immediate risks and consequences faced by port owners, such as the cost of human injury. As such effects are unlikely to be faced directly by port owners they may under invest in security measures. Government intervention by way of implementation of Directive 2005/65/EC is therefore required to ensure a consistent, proportionate port security regime across the UK.

What are the policy objectives and the intended effects?

Policy objective is to enhance security at the Port of Londonderry to complement measures to help prevent maritime terrorist incidents. The intended effect is to designate a Port Security Authority (PSA) for the Port of Londonderry, which will be responsible for the preparation and implementation of a port security plan, based on findings of a port security assessment, and for co-ordinating security within the Port of Londonderry.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1. Do nothing .

PREFERRED Option 2. Introduce a Statutory Instrument delineating the boundary of the Londonderry Port Security Authority (PSA) and formally designating the Londonderry PSA for the purposes of Directive 2005/65/EC as transposed by S.I. 2009/2048 the Port Security Regulations 2009 (as amended by S.I. 2013/2815 the Port Security (Amendment) Regulations 2013). This is a preferred option as it puts in place at the Port of Londonderry new security measures not covered by the current regime which apply beyond the immediate ship/port interface to the wider port area. This will contribute to reducing the UK's vulnerability to maritime terrorist incidents. The Directive is in the process of being implemented progressively to designate 34 port security authorities (reduced from 40+ as some of the PSAs cover more than one port) for ports considered in-scope of the Directive. Please see evidence base, paragraph 4 for option development.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 12/2018

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

..... Stephen Hammond Date: 01/05/2014

Summary: Analysis & Evidence

Policy Option 2

Description: Introduce S.I.'s defining PSA boundaries for each of the Listed Ports for the purposes of the Directive

FULL ECONOMIC ASSESSMENT

Price Base FY 2014	PV Base FY 2013	Time Period 10 years	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: -0.16

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	0.019	0.017	0.16

Description and scale of key monetised costs by 'main affected groups'

Port Security Officer estimated to cost £25,080 in the start-up year and £12,540 per annum thereafter
 Security Risk Assessment estimated cost £9651 in the 1st year and £3,860 per annum thereafter
 Port Security Plan estimated to cost £1206 in the 1st year and £482 per annum thereafter
 The extra costs of £19,055 in the 1st year that are over and above those that recur thereafter have been presented as transition costs (see footnote to Table 2a on page 10). See Annex A for individual port cost schedules

Other key non-monetised costs by 'main affected groups'

There are no additional key non-monetised costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

Description and scale of key monetised benefits by 'main affected groups'

There are no key monetised benefits.

Other key non-monetised benefits by 'main affected groups'

Improved security measures will reduce the chances of successful maritime terrorist incidents – bringing benefits of a prevented terrorist incident such as saved human injuries and no disruption of the movement of goods and people that could have a material impact on the UK economy. These measures will also lead to better co-ordination and support between various security institutions such as the police and the government by combining existing activities into a single regime.

Key assumptions/sensitivities/risks

The figures for the Listed Ports are based on the Department's evaluation of cost information supplied by UK ports. For a breakdown of costs per Listed Port, please see Tables 2, 2a and 2b in the Evidence Base and Annexes A.

Discount rate (%) 3.5%

BUSINESS ASSESSMENT (Option 2)

Costs: £0.02	Benefits: 0	Net: -£0.02m	No	N/A
--------------	-------------	--------------	----	-----

Evidence Base (for summary sheets)

1. Title of Proposal

1.1 The Port Security (Port of Londonderry) Designation Order 2014.

1.2 **This Final Stage IA covers the Port of Londonderry, which is the last remaining port from 20 ports considered in scope of Directive 2005/65/EC on enhancing port security (“the Directive”) which were the subject of a single Consultation Stage IA (DfT00207). A consultation was held (ref: DfT 2013-32) on implementation of the Directive at Londonderry between Monday 2 December 2013 and Wednesday 15 January 2014. The version of the IA incorporated into the consultation document clearly highlighted yellow any references to Londonderry.**

1.3 The same standard costings are used in all port cost schedules, and, whereas the Consultation Stage IA covering the 20 remaining in-scope ports used Cromarty Firth as an example, Londonderry, the sole subject of this Final Stage IA will be used for the worked examples below.

2. Purpose and intended effect of measure

2.1 The Port Security (Port of Londonderry) Designation Order 2014 aims to introduce a set of new EU measures to enhance security at the Port of Londonderry which will contribute towards an improvement in the overall level of port security in the UK to prevent terrorist incidents and in fulfilment of UK's EU obligation to implement the Directive (as transposed by S.I. 2009/2048, the Port Security Regulations 2009 (“**the PSRs**”). The order will designate a PSA for the Port of Londonderry which will be responsible for the preparation and implementation of Port Security Plan (“**PSP**”) based on the findings of the Port Security Risk Assessments (“**PSRAs**”) at the Port of Londonderry along with co-ordinating security within the port. These measures will extend the existing port security regime in place under Regulation (EC) 725/2004 on enhancing ship and port security (“**the EC Regulation**”).

3. Background

3.1 The terrorist incidents in the US (2001), Madrid (2004) and London (2005) highlighted both the vulnerability of, and threat to, transport systems world-wide.

3.2 The International Maritime Organization (“**IMO**”) responded by developing new security requirements for ships and port facilities to counter the threat of acts of terrorism. These requirements are set out in amendments to the Convention on the Safety of Life at Sea 1974 (“**SOLAS**”) and an International Ship and Port Facility Security Code (“**ISPS Code**”). The SOLAS amendments and the ISPS Code were formally adopted by contracting governments in December 2002 and came into force on 1 July 2004. The measures related principally to ships and the interface between ships and ports but not wider port activity as this was not within the jurisdiction of the IMO.

3.3 At European level, the Council and European Parliament adopted the EC Regulation which provided the legal basis for the implementation of the IMO ISPS Code) requirements in all EU Member States. They also examined the parallel issue of wider port security (which was beyond the IMO jurisdiction) and this led to the Directive. In the Directive, “port” is defined as “*any specified area of land and water, with boundaries defined by the Member State in which the port is situated, containing works and equipment designed to facilitate commercial maritime transport operations.*”.

Rationale for government intervention:

3.4 In the UK 95% by volume of imports and exports¹ comes by sea. UK seaports handled over half a billion tonnes of goods² in 2011, and in 2012 the maritime sector's direct contribution to the economy is estimated at between £8.0bn and £13.8bn, as measured by Gross Value Added³. This makes the UK port industry an important part of the UK economy, as well as an essential node between other modes of transportation. A serious security incident involving the maritime transport system could therefore have impacts that fall beyond the immediate risks and consequences faced by port owners.

3.5 Such wider impacts could include considerable reduction in the ability to move goods and people that could have a material impact on the UK economy and / or wider social impacts such as the cost of human injury. As such effects are unlikely to be faced directly by port owners they may under-invest in

¹ Focus on Ports 2006 (DfT)

² Port Freight Statistics 2011 (DfT)

³ Sea Passenger Statistics 2012

security measures and thus government intervention is justified to ensure that consistent and proportionate port security measures are in place across the UK.

Port Security Directive and Regulation:

3.6 The consultation⁴ on the Ship and Port Facility (Security) Regulations 2004 (S.I. 2004/1495) and the Ship and Port Facility (Security) (Amendment) Regulations 2005 (S.I. 2005/1434) provides background to the development of the EC Regulation and the consultation⁵ on PSRs for transposing the Directive.

3.7 Six options were identified for implementing the Directive in the UK. All but Option 1 entailed introducing secondary legislation to designate port boundaries, appoint PSAs and Port Security Officers (“**PSOs**”) and establish PSRAs and PSPs. Legislation would also create compliance offences for industry and criminal offences to support port security. The options were as follows:

Option 1: Do nothing and therefore do not implement the Directive (since the current regime does not suffice to comply with the Directive): Continue with the Aviation and Maritime Security Act 1990 (“**AMSA**”) and EU security-regulatory regimes.

Option 2: Implement a centralised regime, where the PSA is the Secretary of State, separate from the industry; a single PSP is developed for the entire UK port industry covering baseline measures and response, which would have to be adopted by all ports.

Option 3: Implement a regionalised regime, establishing 12-15 centrally funded PSAs with statutory powers, but separate from the industry.

Option 4: Implement a localised regime, with around 150 designated “ports” each with its own PSA made up of industry representatives, based upon recognisable port or estuary areas, or other identifiable structures such as police force areas, Maritime and Coastguard Agency (“**MCA**”) areas, geographical boundaries or unitary authorities.

Option 5: Build on existing measures – with significant ports being designated in their own right and with a number of strategic PSAs covering other port areas (originally estimated to be 100 PSAs in total but now estimated to be up to around 40). Existing lead Port Facility Security Officers (“**PFSOs**”) are likely to become PSO’s, and existing security/response port facility plans become a part of an overall port security plan.

Option 6: ‘Direct carry over’ of existing measures; all facilities to which the EC Regulation applies (400 approx) are regarded as a ‘port’ in their own right and have their own PSA, with their existing ISPS port facility security plans (“**PFSPs**”) becoming PSPs.

3.8 A public consultation⁶ on these six options was held in 2008. Following responses it was decided that Option 5 was the best way to implement the Directive, which was then transposed into UK law by S.I. 2009/2048 the Port Security Regulations 2009. Option 5 was chosen as it minimised the bureaucratic and administration changes required to achieve the level of port security required to help prevent terrorist incidents by building on existing security measures that had already been put in place.

Implementing the Port Security Regulations 2009:

3.9 The PSRs were made under powers contained in section 2(2) of the European Communities Act 1972, to transpose the port security measures in the Directive which have general application across all UK ports. It was not considered practicable to include in the PSRs the provisions required to apply those general measures at every relevant port in the UK. The provisions in question relate to the delineation of the boundaries of each port and the designation of a PSA for each port. To attempt to include these specific provisions for all the relevant ports in the PSRs themselves would have resulted in an impracticably long instrument containing numerous schedules of maps.

3.10 The possibility of including in the PSRs a power for the Secretary of State to at a later stage delineate the boundaries of each port, and to designate a PSA for each port was considered. This option was rejected however because it was considered that this would constitute unlawful legislative sub-delegation to the Secretary of State. Under paragraph 1(1)(c) of Schedule 2 to the European

⁴ <http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/consultations/archive/2004/regfsf/consultationpaper.doc>

⁵ <http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/consultations/archive/2008/portsecurityregulations/consultationdoc>

⁶ <http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/consultations/archive/2008/portsecurityregulations/consultationdoc>

Communities Act 1972 it is unlawful to include in an instrument made under section 2(2) of the Act a provision that sub-delegates power to legislate to another individual or body. A power to give directions as to administrative matters is not regarded as a power to legislate. However, on the basis that the delineation of port boundaries and the designation of port security authorities would give rise to legal effects it was considered that these would be regarded as legislative rather than administrative acts.

3.11 The identification of the port boundary in the Designation Order for Londonderry takes into account information resulting from the port security assessment undertaken by the Department for Transport in accordance with Annex I of the EU Directive, and informal discussions with the Londonderry Port and Harbour Commissioners prior to formal consultation and takes into account any views expressed by other stakeholders in response to the consultation. The boundary encompasses the port facilities situated within the port, and the port areas that could have an impact on the security of the port. Londonderry availed itself of the free assistance offered by the Department's port security compliance team with the carrying out of the PSRA and preparation of the PSP based on it, an offer open to all in-scope ports. Every consultation on implementation of the Directive has explicitly offered this assistance and the Department's port security compliance team subsequently made contact with those ports requesting assistance.

3.12 So essentially this means that in the UK we need to establish the PSA for Londonderry through the Designation Order process (also in exercise of the powers under section 2(2) of the European Communities Act 1972) and define the relevant boundary for that Listed Port, before the Londonderry PSA can develop a port security plan.

4. Port of Londonderry Security Regime - Options

4.1 Option 1. Do nothing. This option continues with the existing security regime based on the Aviation and Maritime Security Act 1990 (AMSA) and Regulation (EC) 725/2004 security regimes; it does not involve the incorporation of measures identified by the European Community to further improve port security to help prevent terrorist incidents which the UK having agreed to the measures as an EU Member States is now legally-obliged to do. As this option is a continuation of the *status quo* it does not have any additional benefits or costs associated with it.

4.2 Option 2. Introduce a Statutory Instrument defining the boundary of the Port of Londonderry and designating the 'Londonderry Port Security Authority' as the PSA for Londonderry for the purposes of the Directive. This is the preferred option as it has the advantages of implementing changes to the security regime at the Port of Londonderry such that it is consistent with those measures that have been identified as contributing to the removal of the existing vulnerability of port security to terrorist incidents and fulfils the UK's legal obligations under the Directive thereby enhancing UK port security in the face of the threat of maritime terrorist incidents. It does however introduce additional costs to implement the required changes and measures. These are explored in section 5 below.

4.3 There has been an ongoing process of implementing the Directive by designating 34⁷ PSAs for the 40+ ports considered in scope of the Directive, Londonderry being the last port to go through the process. To date, 28 designation orders have been made, all of which have come into force. The 28 orders are:

<i>Order</i>	<i>S.I. number</i>	<i>Date in force</i>
The Port Security (Avonmouth Dock and Royal Portbury Dock and Port of Bristol Security Authority) Designation Order 2010	2010/319	19th March 2010

⁷ With some PSAs covering more than one port (eg. Liverpool and the Manchester Ship Canal) and some ports combining to become one port, the number of PSAs has reduced from 40+ to 34.

The Port Security (Port of Dover) Designation Order 2011	2011/3045 (amended by S.I. 2013/2728 ⁸)	31st January 2012
The Port Security (Port of Aberdeen) Designation Order 2012	2012/2607 (amended by S.I. 2013/2728)	19th November 2012
The Port Security (Port of Grangemouth) Designation Order 2012	2012/2608 (amended by S.I. 2013/2728)	19th November 2012
The Port Security (Port of Portland) Designation Order 2012	2012/2609 (amended by S.I. 2013/2728)	19th November 2012
The Port Security (Port of Tees and Hartlepool) Designation Order 2012	2012/2610 (amended by S.I. 2013/2728)	19th November 2012
The Port Security (Port of Workington) Designation Order 2012	2012/2611 (amended by S.I. 2013/2728)	19th November 2012
The Port Security (Port of Milford Haven) Designation Order 2013	2013/516	1st May 2013
The Port Security (Ports of Swansea and Port Talbot) Designation Order 2013	2013/1652	2nd August 2013
The Port Security (Port of Newhaven) Designation Order 2013	2013/1655	2nd August 2013
The Port Security (Port of Falmouth) Designation Order 2013	2013/1656	2nd August 2013
The Port Security (Port of Sullom Voe) Designation Order 2013	2013/2013	10th September 2013
The Port Security (Port of Hull, New Holland, Immingham and Grimsby) Designation Order 2013	2013/2014	10th September 2013
The Port Security (Ports of Liverpool and the Manchester Ship Canal) Designation Order 2013	2013/2181	3rd October 2013
The Port Security (Port of Southampton) Designation Order	2013/2272	9th October 2013
The Port Security (Port of Barrow) Designation Order 2013	2013/3074	9th January 2014
The Port Security (Port of Cromarty Firth) Designation Order 2013	2013/3075	9th January 2014

⁸ The Port Security Designation (Amendment) Order 2013 – This extends the initial review date in six designation orders to 5 years from the coming into force date. For Grangemouth, that amendment order also makes amendments to reflect the reconstitution of the port security authority as a company limited by guarantee.

The Port Security (Port of Fowey) Designation Order 2013	2013/3076	9th January 2014
The Port Security (Port of Glasgow) Designation Order 2013	2013/3077	9th January 2014
The Port Security (Port of Great Yarmouth) Designation Order 2013	2013/3078	9th January 2014
The Port Security (Port of Peterhead) Designation Order 2013	2013/3079	9th January 2014
The Port Security (Port of Troon) Designation Order 2013	2013/3080	9th January 2014
The Port Security (Port of Tyne) Designation Order 2013	2013/3081	9th January 2014
The Port Security (Ports of Cardiff, Barry and Newport) Designation Order 2013	2013/3180	20th January 2014
The Port Security (Port of Belfast) Designation Order 2013	2013/3184	20th January 2014
The Port Security (Port of Shoreham) Designation Order 2013	2013/3185	20th January 2014
The Port Security (Port of Plymouth) Designation Order 2014	2014/8	14th February 2014
The Port Security (Port of Medway) Designation Order 2014	2014/82	17th February 2014

5. Port of Londonderry Designation Order - Costs and Benefits

Costs

Cost evidence from the UK ports industry

5.1 In the public consultation held in 2008 on the six options identified for implementing the Directive in the UK, three respondents provided their own estimates of the potential cost of the regulations: Cromarty Firth Port Authority estimated further costs of between £5,000 and £40,000 per year, and Portland Harbour Authority Ltd and Poole Harbour Commissioners estimated further costs at £50,000 per year. However, these respondents were not willing to provide supplementary evidence to justify their calculations at that time as the information was regarded as commercially sensitive.

5.2 In order to ensure it provided robust and transparent evidence on the accuracy of its cost estimates, in May 2011 the Department approached Cromarty Firth Port Authority, Portland Harbour Authority Ltd and Poole Harbour Commissioners asking if they would be willing to comment further on the Department's original cost estimates. Furthermore, the Department also approached Forth Ports Limited,⁹ the Port of Belfast, UK Major Ports Group (UKMPG) and the Port of Bristol which was in a unique position to comment as the only port at the time legally designated (the associated Designation Order came into force on 19 March 2010).

5.3 The exercise was successful in eliciting responses from the ports contacted. The detailed cost information provided by the ports has been evaluated alongside cost information provided by the Port of Dover. The estimates derived were used in the Impact Assessment (IA) for the Port Security (Port of Dover) Designation Order 2011 and have informed the Standard Rates given below as well as the estimated resource required at the Port of Londonderry over the 10 year period for this impact assessment (see Annex A for a break down of costs at Londonderry). These Standard Rates have been

⁹ Forth Ports Limited ("Forth Ports") provides handling and logistic-related services to customers. It operates seven ports - Dundee on the River Tay, Tilbury on the River Thames and five ports on the Firth of Forth - Leith, Grangemouth, Methil, Burntisland and Rosyth.

used for Londonderry as they have been for all ports at which the Directive is being implemented. The Department is of the view that the cost estimates are robust, transparent and based upon substantive evidence from the UK ports industry. However, as the Port of Londonderry may differ noticeably from the ports on which the estimates are based, the consultation on implementing the Directive at Londonderry has included a question asking stakeholders if they were content with the cost schedule produced for Londonderry. The same question has featured in all consultations held on implementation of the Directive.

5.4 These Standard Rates were used in the Consultation Stage IA for The Port of Portland, Port of Grangemouth, Port of Workington, Port of Milford Haven, Port of Liverpool, Port of Tees and Hartlepool and Port of Aberdeen Designation orders 2012, IA number 'DfT00137' and as no contradictory views on these estimates were received from the ports concerned during the consultation period (26 March to 9 May 2012) the estimates remained unchanged in the Final Stage IA as the most realistic available projection of costs to ports for complying with the Directive.

5.5 The Standard Rates were also used in the Consultation Stage IA for the Port of Barrow, Port of Cardiff, Port of Clyde (Glasgow), Port of Falmouth, Port of Hull, Goole, Immingham and Grimsby, Port of Liverpool, the Manchester Ship Canal, Port of Newhaven, Port of Southampton, Port of Sullom Voe and Port of Swansea Designation Orders 2012, DfT IA no. DfT00168. A number of respondents to this consultation (held 19 November 2012 to 4 January 2013) expressed concerns that the implementation of the Directive would lead to increased costs and bureaucracy. The Department has always made clear that there is a cost associated with the implementation of the Directive, but the existence of Port Security Committees means that the projected cost is lower than if a port was starting from scratch in establishing and running a PSA. However, none of the respondents provided revised estimates to quantify the increased costs and the consultation stage cost estimates were retained for the Final Stage IA. Consequently, the Consultation Stage IA on the 20 remaining in-scope ports used the same standard costs and resource estimates as previously used as representing the most realistic available projection of costs to ports for complying with the Directive. Clearance was obtained from the Coalition Government's Reducing Regulation Committee to consult on the 20 ports in a series of tranches.

5.6. An initial tranche of 9¹⁰ of the 20 ports was consulted on between 9 July and 16 August 2013. Of the 17 responses received, 4 respondents expressed uncertainty about the derivation of the cost and resource estimates provided in the IA Annexes. The derivation of the cost estimates is provided in paragraphs 5.1-5.3 inclusive above. The projected number of PSA members at each port was based on the number of port facilities (each with a mandatory port facility security officer) at a given port and with consideration of the port authority being a member also. The 4 respondents querying the cost and resource estimates did not provide any alternative estimates.

5.7 The standard estimates were again used for a consultation covering the ports of Great Yarmouth, Rosyth and Tyne) between 9 August to 20 September 2013. The consultation elicited three responses, two of whom commented on the costs in relation to implementation of the Directive at Rosyth querying why charges applied given that Department for Transport port security compliance officers were actively assisting the Port of Rosyth in the carrying out of the port security assessment and the drawing up of the port security plan based on it. Whilst, compliance inspector assistance will reduce the burden on ports in the start-up year it will not eliminate it completely, and there will be ongoing yearly costs falling on the port once that initial compliance assistance has been given. In subsequent years, the role of the port security compliance officer will be in inspection and approval of port security assessments and the "living document" that is the port security plan. Neither of the two respondents provided alternative cost and resource estimates and the same estimates were accordingly used in the Final Stage IA for Great Yarmouth, Rosyth and Tyne as were used in the Consultation Stage IA featuring the 3 ports (out of 20 remaining in scope ports) as the best available projection of the cost of implementing the Directive at those. The final stage IA for Great Yarmouth, Rosyth and Tyne also included a cost schedule for Glasgow, which featured in a consultation on a second batch of ports, and in the absence of alternative estimates being put forward at that time again used the standard costings.

5.8 A consultation was held on implementation of the Directive at Felixstowe/Harwich, Ipswich and Medway between 21 August and 3 October 2013 (DfT 2013-16), and Thames was out for public consultation from 28 August till 8 October 2013 (DfT 2013-19). Three out of five respondents to DfT 2013-16 expressed concerns about the costs, as did two out of three respondents to DfT 2013-19

5.9 At the time of the Belfast consultation in the summer of 2010 no IA was required. In the informal consultation held in the second half of September 2013 a schedule of the costs of implementing the

¹⁰ Barrow, Cardiff, Cromarty Firth, Fowey, Oban, Peterhead, Plymouth Shoreham and Troon

Directive at Belfast was included for comment. The informal consultation letter went to the five respondents to the 2010 consultation, other 2010 consultees and Belfast City Council. One out of three respondents to the 2013 informal consultation letter expressed concerns about cost.

5.10 However none of the respondents to the two formal consultations and one informal consultation above provided any alternative estimates and the standard costings were used in the Final Stage IA covering, Belfast, Felixstowe/Harwich, Ipswich, Medway and Thames as the best available projection of implementing the Directive at those ports.

5.11 A formal consultation was held on the implementation of the Directive at the Port of Londonderry between 2 December 2013 and 15 January 2014. Of the three respondents, one had no comment on cost, and the other two registered contentment with the start-up and ongoing year cost estimates without commenting further. Accordingly the standard cost estimates have been retained in the cost schedule for Londonderry (Annex A) in this Final Stage IA as the best available projection of the cost of implementing the Directive at Londonderry.

5.12

(£'s in FY 2013/2014 prices).

Table 1: Standard Rates

PSO/PFSO	57,000*	£/annum
Admin	21,646	£/annum
Accommodation	37.5	£/hr

* = based on £45,000 annual salary of the junior security manager at Dover with National Insurance (NI) and Superannuation added = £57, 000

Cost of the measures required under the Port of Londonderry Designation Order

5.13 The making of the Port of Londonderry Designation Order will require the following measures to be adopted at the port:

- The **appointment of a Port Security Officer (PSO)**, to act as a point of contact for port security related issues;
- The **establishment of a Port Security Authority (PSA)**, which will be responsible for the completion of a Port Security Risk Assessment and the preparation, implementation and ongoing review of a Port Security Plan based on the findings of the Port Security Risk Assessment;
- The **carrying out of a Port Security Risk Assessment (PSRA)** – a comprehensive review and assessment of the port's security risks and issues that informs the development of the Port Security Plan; and
- The **creation of a Port Security Plan (PSP)**, integrating all existing security plans and developed through the Port Security Risk Assessment.

The Department's port security compliance team is assisting new PSAs (at no cost) with the carrying out of the PSRA and the compilation of the PSP based on it. Hitherto, the Department's compliance officers participated in informal port security committies (PSC's) set up to coordinate the security across the wider port area and the PSAs, now mandated in law, are superseding these PSCs meaning there is minimal added burden between maintaining the status quo and implementing the Directive. Additionally, operators of individual port facilities at the in-scope port are required under the EC Regulation to carry out a port facility security assessment and produce a port facility security plan. The port security assessment and port security plan required under the Directive will not re-do this work but merely reference existing security plans in the port.

5.14 The summary tables below show the Department's cost estimates of implementing these measures at Londonderry. No respondent commenting on costs in the consultation provided alternative estimates and accordingly the same estimates have been retained in this Final Stage IA as the best available projection of the cost of implementing the Directive at Londonderry. The costs shown for Londonderry are based on an estimate of the total cost for the PSO, PSA, PSRA

and PSP in the first year (Table 2a) plus the total costs for the nine years following (Table 2b). For a breakdown of costs for Londonderry, please see Annex A.

5.15

(£'s in FY 2013/2014 prices)

Table 2: Total estimated cost to Londonderry for first ten years (constant prices from 2013-2022).

	Cost
Port	1st 10 years
Londonderry	187875

Total 10 year costs above are calculated as:

Total 1st year cost (from Table 2a) + (total ongoing year costs x 9 from Table 2b)

A year by year cost breakdown for Londonderry can be found in Annex A

(£'s in FY2013/2014 prices)

Table 2a: Total estimated costs for start up year

	PSR activity				
	PSO	PSA*	PSRA	PSP	Total 1 st yr cost £s
Londonderry	25080	0	9651	1206	35937

* The PSA will replace existing Port Security Committee so there is no additional cost incurred. Please see paragraph 5.28 for more detail.

N.b the £19,054 difference between the total first year start-up costs (£35,936) and total ongoing year cost (£16,882 - see Table 2b below) has been presented as 0.019 (£m) transition costs in the Best Estimate box under Total Transition at the top of page 2 above.

(£'s in FY 2013/14 prices)

Table 2b: Estimated total ongoing annual costs after start-up year

	PSR activity				
	PSO	PSA*	PSRA	PSP	Total ongoing Yr cost £s
Londonderry	12540	0	3860	482	16882

*The PSA will replace existing Port Security Committee so there is no additional cost incurred. Please see paragraph 5.32 for more detail.

Note: The cost of the PSO includes any cost they may incur as a result of their attendance at PSA meetings.

For a detailed breakdown of costs at an example port, please see the IA for the Port Security (Port of Dover) Designation Order 2011:-

http://www.legislation.gov.uk/ukxi/2011/3045/pdfs/uksifia_20113045_en.pdf

and Annex A giving the breakdown costs for Londonderry.

5.16 **PSO:** Regulation 13 of the Port Security Regulations 2009 established the functions of the PSO as follows:

"13.-(1) A port security officer for a port -

- (a) is the point of contact for port security related issues; and
- (b) must co-operate with –

- (i) port facility security officers of port facilities situated in the port;
- (ii) directed parties of AMSA facilities (if any) situated in the port; and
- (iii) security managers of port related areas (if any) for the port.

(2) A port security officer for a port may require a port facility security officer of a port facility situated in the port, a directed party of an AMSA facility situated in the port or a security manager of a port related area for the port, to furnish him with such information as he may consider necessary to carry out his functions."

The tasks which the PSO for Londonderry will be required to undertake can be summarised as follows:

- the dissemination of security information from the PSA to PFSOs and other security personnel within the port; and
- responding to day-to-day queries on the Port Security Plan.

The PSO may also function as:

- Chair of the PSA;
- An attendee of the PSA;
- Co-ordinator of drills and exercises under the PSP;
- Assist the PSA by creating, either in whole or in part, the PSP.

5.17 The Department estimated the costs of the PSO at the port of Dover as £34,216 in the start-up year (based on half a day of a Director's time per week at an annual salary of £140,000 including NI and Superannuation, plus one and a half days of a supporting security managers time per week at an annual salary of £57,000 including NI and Super Ann in 2013 prices) with a subsequent annual cost of £21,684 (based on half a day of a Director's time per week, plus half a day of a supporting security managers time per week).

5.18 The estimates in this IA are based on those developed for the Port of Dover, which reflected views received during an information gathering exercise for the final stage IA conducted in May 2011. The same estimates were used for an assessment of the previous 7 Listed Ports in the first Multiport IA, consulted on during 26 March 2012 to 9 May 2012 which was not disputed by consultees. The same estimates were also used in the Consultation Stage version of an IA on a second batch of ports. Whilst a number of respondents to that consultation had concerns about increased costs arising from the implementation of the PSRs at their port(s), no respondent quantified what they thought these increased costs might be so the original cost estimates were retained in the Consultation Stage IA, which covered 20 remaining ports considered in scope of the Directive, as the best available projection of the cost of implementing the PSRs.

5.19 An initial tranche of 9¹¹ of the 20 ports was consulted on between 9 July and 16 August 2013. Of the 17 responses received, 4 respondents expressed uncertainty about the derivation of the cost and resource estimates provided in the IA Annexes. The derivation of the cost estimates is set out in paragraphs 5.1-5.3 inclusive above. The projected number of PSA members at each port was based on the number of port facilities (each with a mandatory port facility security officer) at a given port and with consideration of the port authority being a member also. None of the 4 respondents provided alternative estimates and, accordingly, the original cost and resource estimates were retained as the best available projection of the costs of implementing the Directive at the Listed Ports.

5.20 In the consultation featuring Great Yarmouth, Rosyth and Tyne no revised cost or resource estimates were provided by the 2 out of 3 respondents commenting on costs (see paragraph 5.7 above). In the Felixstowe/Harwich, Ipswich and Medway consultation, and in the Thames consultation respondents comment on costs did not provide alternative estimates so the standard costs were retained in the Final this IA for the 4 ports (see paragraph 5.8 above). The same applied to the respondent commenting on the informal consultation letter on Belfast which appended a cost schedule for the port (see paragraph 5.9 above).

5.21 A formal consultation was held on the implementation of the Directive at the Port of Londonderry between 2 December 2013 and 15 January 2014. Of the three respondents, one had no comment on cost, and the other two registered contentment with the start-up and ongoing year cost estimates without commenting further. Accordingly the standard cost estimates have been retained in the cost schedule

¹¹ Barrow, Cardiff, Cromarty Firth, Fowey, Oban, Peterhead, Plymouth Shoreham and Troon.

for Londonderry (Annex A) in this Final Stage IA as the best available projection of the cost of implementing the Directive at Londonderry.

5.22 At Londonderry, the Department for Transport expects that the PSO function will be carried out by the PSO alone with no additional cost incurred by input at director level.

The PSO costs at the Port of Londonderry are estimated as follows:

First Year

For the PSO: (57,000 (average annual salary for PSO inc. NI etc) divided by 260 (working days per annum) = £219.23 daily rate x 1.1 (for 10% expenses - % suggested by Departmental economists based on cost data supplied by the Port of Dover) x 104 (number of days that PSO required in 1st year, corresponding to 2 working days per week)

= £25,080 (Total estimated cost of PSO at Londonderry in the 1st year)

The daily cost of a PSO in the first year is £57,000 divided by 260 working days per annum x 1.1% (for 10% expenses = £241.15.

The number of PSO days estimates in this IA are based upon on those developed for the Port of Dover IA. However, in terms of sensitivity for each day less than 104 days that the PSO actually worked in the 1st year (based on a PSO working 2 days a week with 260 working days in a year) there would therefore be a saving of £241.15 per non-worked day and, conversely, for each additional day above 104 days worked there would be an additional cost of £241.15 per day for each extra day. If the PSO were to work 20 extra days in a year due to an unforeseen security incident this would involve extra costs of £4,823. Conversely, if 20 fewer days were required there would be a cost saving of the same amount.

All PSA's must appoint a PSO and the cost is the same as per the above calculated daily cost.

Annually for the next nine years

For the PSO: (57,000 (average annual salary for PSO inc. NI etc)/260 (working days per annum) = daily rate)) x 1.1 (for 10% expenses) x 52 (number of days that PSO required in 9 follow-on years)

= £12,540 (estimated annual cost of PSO at Londonderry for each of the subsequent 9 years).

The daily cost of a PSO in the first year is £57,000 divided by 260 working days per annum x 1.1% (for 10% expenses = £241.15.

The number of days estimates in this IA are based upon on those developed for the Port of Dover IA. However, in terms of sensitivity for each day less than 52 days that the PSO actually worked in each of the 9 follow-on years (based on a PSO working 1 day a week with 260 working days in a year) there would therefore be a saving of £241.15 per non-worked day and, conversely, for each additional day above 52 days worked there would be an additional cost of £241.15 per day for each extra day.

For the purposes of illustration if the number of days worked by the PSA was 20% higher this would increase the cost in 10 year NPV terms for the Port of Londonderry by around £0.024m from a cost of £0.164m to £0.188m.

While the cost of the PSO is borne by the appointee's company/organisation, once the PSA is up and running, it is responsible for setting its own rules of procedure, and there is nothing to preclude members discussing and agreeing any sharing of the PSO costs. Additionally, as there are existing Port Security Committees (**PSC's**), there is the possibility of a member/chair of the PSC becoming the PSO in the new PSA, meaning no new financial burden on their employer.

For a detailed breakdown of costs for the Port of Londonderry, please see Annex A.

5.23 **PSA:** Regulation 5 (1) of the PSRs defines the PSA as “..... a body that has been designated as a Port Security Authority for a port” The Department’s port security compliance team has been assisting ports (at no cost) with carrying out the PSRA and in preparing the PSP based on it. The PSA is responsible for reviewing and maintaining the PSP.

5.24 **The PSA must generally have at least 3 members (however this has been relaxed to 2 in the case of several ports with only two facilities as there is no minimum number of PSA members stipulated in the Directive or PSRs) and will be made up of those who are responsible for regulated security matters in the constituent facilities of a “Port”.**

These are:

- PFSO’s of port facilities in the port;
- AMSA directed parties (if applicable);
- Security managers of designated Port Related Areas - **PRAs** (if applicable);
- Possibly other parties with a security interest at the port e.g. shipping companies using the port.

It is desirable that the PSA is of a size sufficient to cover security issues across the port, including interaction with external agencies such as UK Border Agency, Maritime and Coastguard Agency etc, but at the same time the membership of the PSA needs to be of manageable size since it needs to be as close as possible to those practically responsible for the delivery of security in the constituent port facilities. In the case of a PSA for a large port or group of ports with a large number of facilities there is nothing in the PSRs to preclude the PSA from having an under-structure of sub-committees in the interests of efficiency. For example, at the Port of Thames their current PSC is structured such that 10 individuals essentially represent the 52 port facilities to bring it down to a more manageable size and reduces the costs overall there being fewer members. A PSA once established is responsible for its own running including the drawing up of Rules of Procedure. **At most of the ports which come under the scope of the PSRs, including Londonderry, there are already Port Security Committees (PSC) in place. In practice therefore most ports will not be forming the PSA from scratch, and existing members of the PSC for a particular port will most likely form the core membership of that port’s PSA (with the PSC most likely subsequently being disbanded). In such a scenario there will be no additional cost for the PSA, since the ports already fund their respective PSCs and the costs would simply be transferred over to the PSA. The costs in Tables 2, 2a and 2b above are therefore based on the following scenario – that there will be no costs incurred in establishing and running the PSA itself but that the PSA will be required to develop the Port Security Risk Assessment and Port Security Plan.**

5.25 Based on previous evidence supplied by the Port of Dover’s final stage IA, figures for year 1 are higher than year 2 because, in their view, a PSA will normally need to meet for a maximum of four times per year, for one working day per meeting. They also commented that in the start-up year the PSA will need to meet for longer due to the requirement to conduct the PSRA. In the consultation on the 1st batch of ports, these estimates of PSA meeting days were not disputed, and only one respondent (out of 42) to the consultation on the implementation of the Listed Ports in the consultation on a second batch of ports questioned the projected days required. The DfT has therefore continued to use this to inform calculations of cost estimates.

5.26 The Department does not agree that attendance at PSA meetings has to be at senior management e.g. Board Director-level. The PSRs only require the attendance of PFSOs or their nominated representative; AMSA directed parties (if applicable); Security Managers of designated PRAs (if applicable); and possibly other parties with a security interest at the port e.g. shipping companies using the port. This level of management is considered of a sufficient seniority to take appropriate decisions, and is the current level of seniority of attendees at the existing PSCs. In the case of Dover, in the unlikely circumstance where a decision by the Board of Directors is required, the Chair of the PSA could raise the matter with the Dover Harbour Board of Directors, which already incurs its own costs. In the public consultation of 26 March - 9 May 2012 for The Port of Portland, Port of Grangemouth, Port of Workington, Port of Milford Haven, Port of Tees and Hartlepool and Port of Aberdeen (RPC11- DfT-1215) no responses were received indicating otherwise. Likewise no respondents to DfT Consultation 2012-40 on a second batch of ports (consultation period: 19 November 2012 to 4 January 2013) indicated otherwise. Similarly, respondents to consultations DfT 2013-12, DfT 2013-16 and DfT 2013-19 and DfT 2013-32 (on implementation at Londonderry) did not indicate otherwise.

5.27 The Department considers that the Year 1 costs, during the setting up phase would be greater than for subsequent years and that costs should therefore be split into start-up and annual costs (and has done this for each of the measures specified at 5.6). The Department also agrees 6 as follows:

Daily rate PSO salary (based on the average salary of a PFSO including NI contributions and superannuation)

£57,000 divided by 260 working days = £219.23 x 1.1 (for 10% expenses) = **£241.15**

The PSA costs (bar those arising from carrying out the PSRA) are therefore:

14 attendees x 4 x £241.15 = **£13,504.40**

The costs of the 5 advisers were not included in the equation as their costs would be same in both Option 1 (“do nothing”) and Option 2 (implementing the Directive). There are existing Port Security Committees which these advisers routinely attend and bear the cost of and it is expected that these advisers will instead attend the PSA meetings in the future meaning no new financial burden.

The administrative cost is based on a Departmental administrative support grade salary of £21,646.13 (inclusive of NI and Superannuation) and on the assumption that a maximum of 8 working days per annum is required (a half-day for each meeting to make facilitation arrangements, 1 day per meeting to minute the meeting and a half-day to write-up and circulate the minutes).

For the port of Dover:

Daily admin rate = £21,646.13 divided by 260 working days x 1.1 (=10% for expenses) = £91.58

For the Port of Dover Start-up year admin costs are therefore estimated as: £91.58 x 8 days = **£733**

To this is added the costs of the hire of the meeting room including heating, lighting and IT

Having conferred with Departmental economists, we have assumed a figure of **£300 a day** (which is **£37.50 an hour** assuming an 8 hour day) for the **cost of meeting rooms, heating, lighting and communications and IT for the PSA meetings**. This is at the higher end of the typical range of such rooms one can find from a search on the internet – e.g. at the following link:

<http://www.nicva.org/conference-facilities/pricing>

Start-up year office/heating/lighting costs for Dover therefore estimated as £300 x 4 days = **£1,200**

Estimated total **PSA cost** at the Port of **Dover** for the **start-up year** was:

£13,504.40 + £732.64 + £1,200 = **£15,437.04**

5.29 This gave a total PSA cost for the start-up year at the Port of Dover of £15,437.04. Average cost for the nine years thereafter is £15,437.04 per annum, based on the PSA continuing to meet four times a year for one working day per meeting (and including the cost of administrative support, meeting rooms, heating, lighting, communications and IT shown above).

5.30 For the Port of Londonderry, the DfT expectation is that the PSA will normally need to meet for a maximum of four times per year, for one working day per meeting. However, it may be that in the start-up year the PSA will need to meet for longer due to the requirement to conduct the Port Security Risk Assessment. **The Department expects, therefore, that the PSA will only need to meet on 2 days per year in the 9 subsequent years.** The Port of Londonderry has advised that the PSA will comprise members, advisers (representatives of relevant Government Departments and Agencies, attending in their official capacity – their costs have been excluded since they would be the same for Option 1 “do nothing” as for Option 2 to implement the Directive) and in some cases other stakeholders e.g. shipping companies using the port, attending PSA meetings on an ad hoc basis.

5.31 The cost of a PSA is calculated as a function of the annual salary (including NI etc) of the PSO (based as in the foregoing Dover example on and average PFSO salary of £57,000 per annum including NI and Superannuation), other members of the PSA and attending stakeholders (plus 10% for expenses incurred), the number of days the PSA will meet for, the cost of administrative support and the cost of accommodation, lighting etc. This figure does not include the costs of the advisers who as these, as mentioned above, are the same for Option 1 (“do nothing”) as they are for Option 2 (implement the Directive). Thus, for example, at the Port of Londonderry the estimated cost of the PSA (based on the standard rates given above in the Dover example) is:

Port of Londonderry: 4 Members, 2 Stakeholders = 6 attending

PSA costs in start-up year (£'s in FY 2013/2014 prices)

PSA attendees (6 x £241.15) x 4 days	£ 5,788
Admin daily rate: £91.58 x 8* days	£ 733
Office/lighting/heating etc £300 x 4 days	£ 1,200
TOTAL	£ 7,721

Port of Londonderry: 4 Members, 2 Stakeholders = 6 attending

PSA costs per year for next 9 years (£'s in FY 2013/2014 prices)

PSA attendees (6 x £241.15) x 2 days	£ 2,894
Admin daily rate: £91.58 x 4* days	£ 366
Office/lighting/heating etc £300 x 2 days	£ 600
TOTAL	£ 3,860 x 9 years

* on the admin side, in addition to the 1 day required for the PSA meeting (for minute-taking) an extra ½ day is needed in advance of the meeting for making arrangements, setting Agenda etc, and a further extra ½ day subsequent to the meeting for writing up and distributing the minutes. Hence the admin days required are twice the no. of meeting days.

For a detailed breakdown of costs at the Port of Londonderry see Annex A below.

5.32 At most of the ports which come under the scope of the PSRs, including Londonderry, there are already Port Security Committees (PSC) in place. In practice therefore most ports will not be forming the PSA from scratch, and existing members of the PSC for a particular port will most likely form the core membership of that port's PSA (with the PSC most likely subsequently being disbanded). In such a scenario there will be no additional cost for the PSA, since the ports already fund their respective PSCs and the costs would simply be transferred over to the PSA. The costs in Tables 2, 2a and 2b above are therefore based on the following scenario – that there will be no costs incurred in establishing and running the PSA itself but that the PSA will be required to develop the Port Security Risk Assessment and Port Security Plan.

5.33 PSRA: The Department's port security compliance team is assisting new PSAs (at no cost) with the carrying out of the PSRA, the findings of which will be discussed at PSA meetings. It. Hitherto, the Department's compliance officers participated in informal port security committees (PSC's) set up to coordinate the security across the wider port area through assessing the security risk. The PSAs, now mandated in law, are superseding these PSCs meaning there is minimal added burden between maintaining the status quo and implementing the Directive. Additionally, operators of individual port facilities at the in-scope port are required under the EC Regulation to carry out a port facility security assessment from which they produce a port facility security plan. The port security assessment and port security plan required under the Directive will not re-do this work but merely reference existing security plans such as those covering individual port facilities.

5.34 For the Port of Dover final stage IA, the Port of Dover advised that it will take four working days for the PSA (with five PFSO members, five advisers and five of the third party stakeholders) to create the PSRA for Dover using the intended Multi Agency Threat and Risk Assessment - **MATRA**-style methodology.

5.35 The cost of conducting the PSRA during the start-up year at the Port of Dover was therefore estimated at **£11,367.84**. This is based on a cost of £9,646 for five members of the PSA plus five stakeholders (the latter's costs can be disregarded as they are the same for Option 1 as for Option 2) to meet for four days to conduct the assessment, plus costs of administrative support, meeting rooms, heating, lighting, communications and IT

10 (5 PSA members + 5 stakeholders) x 4 days x (219.23 x 1.1 = £241.15) =£9,646.12

(Admin) 8 days x (£83.25 x 1.1(10 %) = £91.58) = £732.60

(Accommodation/Utilities) 8 hours x £37.50 = £300 x 4 days = £1,200

£9,646.12 + £732.60 + £1,200 = £11,578.72

The annual cost thereafter of reviewing the PSRA is expected to fall to an **average annual cost of £5,789.36**. This allowed for up to 2 days of PSA time per annum to carry out amendments to the assessment (requiring 4 days admin time). In practice there may be no changes required to the assessment, and thus no annual cost. However, this cannot be assumed to be the case every year, hence the contingency. This cost is also likely to be absorbed within the annual running cost of the PSA itself, but has been shown here as a separate cost in the interests of transparency.

5.36 Based on the above and the Department's evaluation of cost information supplied by UK ports, (for a breakdown of costs at Londonderry, please see Summary table of Costs at 5.7 and Annex A), it is estimated that it will take five working days in the start up year for a PSA (with members, advisers and third party stakeholders (as necessary) to create the PSRA for each port for which that PSA is designated. Thus, for example, at the Port of Londonderry the estimated cost of the PSRA based on the standard rates is:

Port of Londonderry 4 Members, 2 Stakeholders = 6

PSRA costs in start-up year (£'s in FY 2013/2014 prices)

PSA attendees (6 x £241.15) x 5 days	£ 7,235
Admin daily rate: £91.58 x 10 days	£ 916
Office/lighting/heating etc £300 x 5 days	£ 1,500
TOTAL	£ 9,651

PSRA costs per year for next 9 years (£'s in FY 2013/2014 prices)

PSA attendees (6 x £241.15) x 2 days	£ 2,894
Admin daily rate: £91.58 x 4 days	£ 366
Office/lighting/heating etc £300 x 2 days	£ 600
TOTAL	£ 3,860

For a detailed breakdown of costs at Londonderry, see Annex A.

5.37 The cost of conducting the PSRA for Londonderry during the start-up year is estimated at £9,651. Assuming up to two days of PSA time per annum for each PSA to review and carry out amendments to the assessment as necessary it is estimated the ongoing total annual cost for Londonderry will be £3,860 for each of the ensuing nine years. This gives a total cost for the PSRA at Londonderry for the first 10 years of:

$$£9,651 + (£3,860 \times 9) = £44,391$$

In practice there may be no changes required to the assessment, and thus no annual cost. However, this cannot be assumed to be the case every year, hence the contingency. This cost is also likely to be absorbed within the annual running cost of the PSA itself, but has been shown here as a separate cost in the interests of transparency.

5.38 **PSP:** The PSP is intended to include a compilation of existing security and emergency response plans that exist within the wider port area. An approved Port Facility Security Plan (**PFSP**) is already required to be maintained for all UK commercial port facilities which fall under the EC Regulation (so each of the port facilities in the ports to be designated under the PSRs has a PFSP). The PFSPs for the Port of Londonderry already include comprehensive coverage of the most vulnerable port areas. Although a new document will need to be written setting out the roles and responsibilities of the PSA and listing the constituent plans and other documents that comprise the PSP, this is anticipated to be primarily based on already existing plans. The 'new' task will be to include areas of the port not covered under existing plans.

5.39 Under the information-gathering exercise conducted in May 2011, the Port of Bristol, Portland Harbour and Poole Harbour have all confirmed that the Department's original assumption and cost estimates for this activity were correct (£600, given as part of the Port Security (Port of Dover) Designation Order 2011). Cromarty Firth Port also agreed with the Department's cost estimate. They did however comment that an estuary Port with a number of private locations but small turnover may have a high set-up cost in preparing and administering the plan. Forth Ports have commented that it would cost

£20,000 to produce the Port Security Plan (20 days x £1000 per day, a consultant's rate). The Port of Belfast has commented that in their view the PSP is a radical departure from the concept of the PFSP which was very local in its application and outcomes and, based on the assumption that it takes 4-8 weeks to co-ordinate MATRA responses and develop the new PSP, it would cost £5,580 (30 days work x £186).

5.40 The Department for Transport was advised by the Port of Dover that the task of completing the Port Security Plan for the Port of Dover is likely to be delegated to the PSO to complete. It is the Departments view this will also be the case for the Port of Londonderry.

5.41 The Department is of the view that 20 – 30 days work to produce the PSP is a significant over-estimate, based on the experience of the Port of Bristol that 5 working days was sufficient. Although the Port of Dover is larger than Bristol, the Port of Bristol was used as a pilot port for the PSR process and the lessons learnt from the pilot (which the Department will advise to all ports to be designated under PSR) will reduce the time required to produce the Port Security Plan. Moreover the majority of the PSP will consist of existing PFSPs, which are already approved by the Department and which are subject to regular update.

5.42 5.42 It was assumed that it would take a maximum 5 working days to produce a consolidated Port Security Plan for the Port of Dover and a subsequent two working days per annum to keep the plan updated. This allows for significant updates to the PSP, but in practice the time taken for updates is likely to be considerably less than this as there are unlikely to be major changes to port infrastructure every year (hence requiring a significant change to parts of the PSP year on year). However, the Department cannot assume this will be the case every year, hence the contingency. The start-up and annual costs are likely to be subsumed within the PSO cost figure, but have been shown separately here in the interests of transparency.

5.43 The Department's view is that for the Port of Londonderry the PSP will be developed by the PSO (i.e. 1 member of the PSA) taking 5 working days per annum and two working days per annum will be required to review and amend the PSP over the following nine years. Therefore, based on the standard rates the estimated cost of the Londonderry Port Security Plan is:

First year

$(57,000 \text{ (average annual salary inc. NI etc)}/260 \text{ (working days per annum)} = \text{daily rate for PSO}) \times 1.1 \text{ (for 10\% expenses)} \times 5 \text{ (number of days for PSO to complete Port security Plan)}$
= £1,206 (estimated cost for PSP at Ipswich in the first year)

Annually for the next ten years

$(57,000 \text{ (average annual salary inc. NI etc please)}/260 \text{ (working days per annum)} = \text{daily rate for PSO}) \times 1.1 \text{ (for 10\% expenses)} \times 2 \text{ (number of days for PSO to complete Port security Plan)}$
= £482 (estimated cost for PSP at Ipswich for each of the subsequent nine years)

The 10 year total PSP cost for Londonderry is therefore:

$£1,206 + (£482 \times 9) = £5,547$

For a detailed breakdown of costs at the Port of Londonderry see Annex A.

As is the case for the Port of Dover, start-up and annual costs are likely to be subsumed within the PSO cost figure, but have been shown separately here in the interests of transparency.

5.44 **ADDITIONAL SECURITY MEASURES AT THE PORT OF LONDONDERRY:** A preliminary security assessment by the Department at the Port of Londonderry (and indeed at all the ports considered in scope of the Directive) undertaken to determine whether or not each it was in or out of scope of Directive 2005/65/EC, has not identified any additional security measures, beyond those already in place, which may be required at the ports once the Designation Orders come into effect. As highlighted above, the existing PFSPs at the ports already cover the most security- vulnerable areas and measures are already in place. A PSRA will need to be conducted at each port to verify the assumption that no additional security measures will be needed as a result of designation but, based on the available evidence, the Department believes this assumption to be correct.

5.45 It should be noted that the requirement for additional security measures at ports to be designated under the Port Security Regulations 2009 will differ from port to port, dependent upon the outcome of the

Department's preliminary risk assessment and public consultation for the port in question. It is possible therefore that some other ports may require additional security measures as a result of The Port Security Regulations 2009.

5.46 **ENFORCEMENT:** The Department for Transport's Maritime Security Compliance Division will be responsible for ensuring that the Port of Londonderry complies with the new rules. Any additional costs to support implementation at the Port of Londonderry and compliance monitoring of the PSRs will be found from within existing resources, by re-prioritising work where necessary. There are therefore no direct additional costs arising. For details of enforcement measures please see later under paragraphs 9.1-9.6.

Benefits:

5.47 Having a Designation Order for the Port of Londonderry will lead to it having a co-ordinated security regime with a clear leadership structure that will take forward security plans drafted by relevant stakeholders. This is expected to lead to economies of scale by channelling existing activities into a single regime and better co-ordination and support between various security institutions such as the police and the government.

5.48 The Order will introduce measures to improve the security of ports to terrorist incidents and will therefore also reduce the chances of successful maritime terrorist incidents – bringing along with them the benefits of a prevented terrorist incident such as saved human injuries and no disruption of the movement of goods and people that could have a material impact on the UK economy.

5.49 Designation Orders under PSRs are required to implement the Directive on enhancing port security in UK law. Failure to designate UK ports which fall under the scope of the EU Directive would therefore result in infraction proceedings by the European Commission, which would result in financial penalties on, and reputational damage to, the UK (considered a world leader in maritime security).

6. Small Firms Impact Test

6.1 Implementation of the Directive is likely to affect a number of small and micro-businesses based at, or working within, the Port of Londonderry. The port facilities based within the envisaged port boundary are already regulated by the Department for Transport under the existing port security regime. Under the current regime these facilities also have in place PFSPs which are approved by the Department for Transport and these plans will feed into the wider PSP to be managed by the PSA for Londonderry under the new legislation. As highlighted at paragraph 5.44 preliminary security assessments by the Department at the Listed Ports have not identified any additional security measures which may be required at the port once the Designation Order for that port comes into effect (beyond those already in place).

6.2 The PSRs recognise the need to avoid overburdening smaller ports by allowing a number of port facilities to combine under the umbrella of a single port security authority, thereby taking advantage of economies of scale. None of the respondents to the consultation on implementing the Directive at Londonderry has advised us of small business costs. In all consultations involving the implementation of the PSRs, consultees have specifically been asked if they consider that the implementation of the PSRs at their port(s) would affect a small or medium-sized enterprise (**SME**). This was the case for the formal consultation on Felixstowe/Harwich, Ipswich and Medway (DfT 2013-16), and on the Thames (DfT 2013-16). Four out of 5 respondents to DfT 2013-16 and 2 out of the 3 respondents to DfT 2013-19 felt that micro, small and medium businesses could face increased costs arising out of the establishment and running, though this was not confined to micro, small and medium businesses and could affect all businesses at a port. None of the respondents considering there could be increased costs specified what those costs might be. None of the 3 respondents to the informal consultation at Belfast in the latter half of September 2013 commented on whether implementation of the PSRs would affect a small business, detrimentally or favourably. Of the three respondents to the Londonderry consultation, one made no comment regarding whether the establishment of a PSA would affect a small business, and the other two felt that there would be no effect on small or micro-businesses at the port.

6.3 Micro-businesses at the Port of Londonderry have not been exempted from the requirements of the PSRs. As the proposed Designation Order implements EU measures it falls outside the scope of One-in, Two Out (OITO). Were a micro business unable to meet any obligations on it arising from the PSRs and Designation Orders this would not impose a systemic financial risk to other businesses at any of the Listed Ports. To exclude any size of business from port security regulatory requirements governing that port would risk undermining security at the port and moreover would be contrary to the provisions of the

Directive. The Regulations are being proportionately applied in at Londonderry irrespective of size of its constituent businesses, as is the case at all ports considered in scope of the Directive. However, it is expected that large port-businesses eg. port facility operators will, as now, be the major players in running the proposed PSA's, as they now are in the running of the Port Security Committee's which they will replace.

6.3 As highlighted at paragraph 5.37, the annual cost of updating the Port Security Risk Assessment is likely to be absorbed within the annual running cost of the PSA itself, but has been shown here as a separate cost in the interests of transparency.

6.4 As explained at paragraph 5.43, the task of completing the Port Security Plans at each of the Listed Ports is likely to be delegated to the PSO for that Listed Port; hence micro, small or medium businesses will not incur any costs from this activity unless the PSO is employed by a small or micro-business.

7. Competition Assessment

7.1. The Directive aims to provide a consistent approach to maritime security across Europe, which would reduce the potential for trade and competition distortion. The requirements of the Directive to extend its provisions to domestic ports serving Class A passenger ships (i.e. ships which travel further than 20 miles from the coast) further neutralise the possibility of the Directive distorting the balance of commitments between those industries involved in international trade and those trading purely on a domestic basis.

7.2 Within the UK, the Directive is not expected to make a significant difference on modal and route competition. The approach in the UK is, and will continue to be, for the user to pay for security measures. Additional costs incurred by a port to meet the requirements of the Directive may be passed on in some form to their customers. We believe that this approach leads to the most efficient provision and operation of security measures.

7.3 The "user pays" approach for the port industry is consistent with previously adopted security methods in the maritime passenger sector, the aviation industry and the Channel Tunnel. As this approach is multilateral, there is not expected to be any change in the level of competition.

7.4 The costs of implementing the security requirements in the PSRs are likely to affect some firms more than others depending on how a port chooses to implement the Directive and therefore whether additional security measures are needed. Implementation of the PSRs is unlikely to affect the market structure, or change the size or number of firms in the ports industry. The PSRs are unlikely to lead to substantially higher set-up costs for new or potential firms, or lead to higher ongoing costs for new or potential firms, that existing firms do not have to meet.

7.5 There is a very small risk that through close collaboration on the relevant PSA, some commercially sensitive information may become known to competitors from other port facilities. The PSRs have provisions that seek to ensure confidentiality of information, as well as offences for misusing information and a system of declaration of PSA members' interests. These measures are intended to protect port business from anti-competitive behaviour.

8. Specific Impact tests

8.1 Statutory equality duties - These proposals will apply to the security regime and not the general operations at the ports concerned. There are considered to be no age, disability, gender, ethnicity and race, religion or belief, sexual orientation, transgender, or pregnancy and maternity implications resulting from these proposals (for further detail see the screening pro forma table at Annex B).

8.2 Economic Impact – Respondents to the consultation said, in their view, SME's could face increased costs, or in one case "knock-on" benefits as a result of the establishment and running of the PSA, though these costs/benefits were not confined to SMEs – see earlier under paragraphs 6.1-6.4.

8.3 Environmental Impact - The proposal will not affect general operations at the ports concerned. Therefore it is considered there will be no Environment or Greenhouse Gas implications resulting from these proposals.

8.4 Social Impacts -

8.4.1 Health and Well-being - As the proposal applies to the security regime and will not affect general operations at the ports concerned, there are considered to be no health and well-being impacts as a result of these proposals.

8.4.2 Human Rights – Article 8 of the European Convention on Human Rights (**ECHR**) guarantees the right to respect for private and family life, home and correspondence. Article 8, as incorporated by the Human Rights Act 1998, makes it clear that public authorities must not interfere with the exercise of this right except “such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime for the protection of health or morals, or for the protection of the rights and freedoms of others.”.

The secondary legislation that forms the subject of this impact assessment raises potential issues under article 8 of the ECHR as it allows for the searching of persons and property. We believe however, that the potential interference with article 8 rights falls within the exceptions set out within the same article for the following reasons:

The potential interference is in accordance with the law for the following reasons:

- Some searches are already carried out under the Aviation and Maritime Security Act 1990;
- The searches which may be carried out are limited as specified in the Regulations;

The potential interference pursues a legitimate objective. It will mean that people, property, baggage, cargo and vehicles can be searched to ensure that articles capable of use for causing injury to or incapacitating a person or for destroying or damaging property, or intended for such use are not introduced into security sensitive areas of ports. The secondary legislation can therefore be said to be in the interests of national security, prevention of crime, public safety and economic well-being of the country and the potential interference with article 8 rights can be justified on these grounds.

The potential interference can be said to be proportionate to that legitimate aim since the extent to which it will be applied will be dependent upon the security level applied to the port.

8.4.3 Justice System – PSA members are liable to an offence and penalty relating to conflict of interest. The Designation Orders will only apply to members of the relevant PSA, each of which will have limited membership, which means there is no requirement for a justice impact test for these proposals.

8.4.4 Rural proofing - As the proposal applies to the security regime and will not affect general operations at the ports concerned, there are considered to be no rural implications

8.5 Sustainable Development - As the proposal applies to the security regime and will not affect general operations at the ports concerned, there are considered to be no sustainable development implications as a result of these proposals.

9. Enforcement, sanctions and monitoring

9.1 The Directive (Article 17 – Penalties) requires that Member States put in place effective, proportionate and dissuasive sanctions for breach of the requirements of the security regime. Enforcement regimes for maritime security already exist under the AMSA and the Ship and Port Facility (Security) Regulations 2004 (UK Regulations) which provides for the enforcement of the EC Regulation in the UK. Both security regimes are based on a stepped approach whereby administrative procedures and dialogue are entered into to try and secure compliance or rectification, before an Enforcement Notice is issued. Failure to comply with the Enforcement Notice would be followed by a criminal

prosecution. However, depending on the particular circumstances, for example where a more serious non-compliance or offence has taken place, an Enforcement Notice could be issued immediately. This approach has been replicated in the PSRs (regulations 26-38):

PART 6 - Enforcement

26. Enforcement notices

27. Objections to enforcement notices

28. Offences relating to enforcement notices

29. Offences relating to transport security inspectors

30. Offences in relation to prohibited articles

31. Offence of making a false statement in relation to baggage, cargo or stores

32. False statements in connection with identity documents

33. Interference with security measures

34. Unauthorised presence in a controlled building

35. Confidentiality of information

36. Defence of due diligence

37. Offences by bodies corporate

38. Designation of Secretary of State as focal point for port security

9.2 Adopting the existing approach to enforcement will also ensure that the offences under all the maritime security regimes (i.e. AMSA, the EC Regulation/IMO regime and the Directive's port security regime) are consistent. The primary mechanism centres on failure to comply with an Enforcement Notice, and this will therefore be handled in the same way and with similar penalties being meted out. Although the ultimate sanction of a criminal prosecution exists, this stepped approach should mean that the vast majority of breaches will be resolved without recourse to the courts.

9.3 As is often the case when implementing EC obligations, section 2(2) of the European Communities Act 1972 ("ECA") is the enabling power that is expected to be used to implement the requirements of the Directive.

9.4 Responsibility for security matters has not been devolved to Scotland, Wales or Northern Ireland, so the Order will apply to the whole of the UK (although its subject matter obviously relates to port operations in the Listed Ports).

9.5 As under AMSA and the EC Regulation/IMO regime, the Department for Transport's Maritime Security Inspectors will be duly authorised to carry out compliance inspections of all UK ports under the Directive. In accordance with Article 13 of the Directive, the European Commission will commence a series of visits six months after the Directive comes into force to monitor compliance with the Directive.

9.6 Member States must ensure that a review of port security assessments and PSPs is carried out at least once every five years (article 10(1) of the Directive).

10. Direct costs and benefits to business calculations (following One-in, Two-out – OITO) methodology)

10.1 This proposal is not subject to OITO because it is necessary in order to comply with an EU requirement. The proposed Designation Orders would not go beyond the minimum required to comply with the Directive. Implementation of the PSRs at the Listed Ports would have an EANCB (equivalent annual net cost to business) of £0.02 million.

10.2 Derivation of EANCB (Equivalent annual net cost to business) figure of £0.02m cited on the summary sheets

Calculation of Net Present Value (£m) constant prices from 2013-2022 (financial years)

	Ongoing annual cost			Transition cost	Discounted Present Value			Transition PV
	PSO	PSRA	PSP		PSO	PSRA	PSP	
2013	£12,580	£3.860	£482	£19,055	£12,580	£3,860	£482	£19,055
2014	£12,580	£3.860	£482		£12,155	£3,729	£466	
2015	£12,580	£3.860	£482		£11,744	£3,603	£450	
2016	£12,580	£3.860	£482		£11,346	£3,481	£435	
2017	£12,580	£3.860	£482		£10,963	£3,364	£420	
2018	£12,580	£3.860	£482		£10,592	£3,250	£406	
2019	£12,580	£3.860	£482		£10,234	£3,140	£392	
2020	£12,580	£3.860	£482		£9,888	£3,034	£379	
2021	£12,580	£3.860	£482		£9,553	£2,931	£366	
2022	£12,580	£3.860	£482		£9,230	£2,832	£354	
					Total: £0.146m			Total: £0.019m

* HM Treasury applicable discount rate for 0-30 years = 3.5%

** the £19,055 difference between the total first year start-up costs (£35,937) and total ongoing year cost (£16,882 - see Table 2b above) has been presented as 0.019 (£m) transition costs in the Best Estimate box under Total Transition at the top of page 2 above.

Total costs NPV: £0.16 million (= £0.146m + £0.019m)
Total benefits NPV: £0.00 million

NPV = Total benefits NPV less Total costs NPV (£0.00 million - £0.164 million) = £-0.164 million
Using HM Treasury's EANCB calculator this translates to £0.02m deflated to 2009 terms.

ALL THE PRICES IN ANNEX A BELOW ARE (constant prices from 2013-2022)
(£'s in FY 2013/2014 prices) save for the 10 year table showing 2013 prices

Estimated Costs to Port of Londonderry

Note: Please see evidence base for derivation of Standard Rates

All costs are in £s

Where pence are not shown cost is rounded to nearest pound.

Standard Rates

PSO/PFSO	57,000	£s/annum
Admin	2,1646	£s/annum
Accommodation	37.5	£s/hr

Annual Salary	£s	Daily Rate including overheads and expenses	
PSO/PFSO	57,000	241.15	= PSO/PFSO salary divided by 260 working days per year x 1.1 for +10% expenses
Admin	21,646	91.58	= Admin salary divided by 260 working days per year x 1.1 for +10% expenses
Accommodation	37.5	300.00	based on 8 hour day

Estimated PSR costs over 10 year period (£s)

	Yr 1	Yr2	Yr3	Yr4	Yr5	Yr6	Yr7	Yr8	Yr9	Yr10
	Start									
PSO	25080	12540	12540	12540	12540	12540	12540	12540	12540	12540
PSA	0	0	0	0	0	0	0	0	0	0
PSRA	9650	3860	3860	3860	3860	3860	3860	3860	3860	3860
PSP	1206	482	482	482	482	482	482	482	482	482
Total	35937	16882	16882	16882	16882	16882	16882	16882	16882	16882
	Total estimated cost for first 10 years									187875

Estimated PSR costs over 10 year period 2013 prices (£s)

	Yr 1	Yr2	Yr3	Yr4	Yr5	Yr6	Yr7	Yr8	Yr9	Yr10
	Start									
PSO	£25080	£12,155	£11,744	£11,346	£10,963	£10,592	£10,234	£9,888	£9,553	£9,230
PSA	0	£0	£0	£0	£0	£0	£0	£0	£0	£0
PSRA	£9650	£3,729	£3,603	£3,481	£3,364	£3,250	£3,140	£3,034	£2,931	£2,832
PSP	£1206	£466	£450	£435	£420	£406	£392	£379	£366	£354
Total	£35937	£16,350	£15,797	£15,263	£14,747	£14,248	£13,766	£13,301	£12,851	£12,416
	Total estimated cost for first 10 years									£164674

PSO Costs (£s)

Start up year		Total
No. of working days	104	25080
Annual cost		
No. of working days	52	12540

Breakdown of PSA Costs

Start up year		
PSA		Totals
No. Members	4	
No. Stakeholders	2	
No. of days PSA meets	4	5788
Admin		733
Accommodation etc.		1200
Total PSA start up cost		7720

Annual cost		
PSA		Totals
No. Members	4	
No. Stakeholders	2	
No. of days PSA meets	2	2894
Admin		366
Accommodation etc.		600
Total PSA start up cost		3860

Port Security Risk Assessment

Annual cost start up		
PSA		Totals
No. Members	4	
No. Stakeholders	2	
No. days PSA meets	5	7235
Admin		916
Accommodation etc		1500
Total PRSA start up cost		9651

Annual cost on going		
PSA		Totals
No. Members	4	
No. Stakeholders	2	
No. of days PSA meets	2	2894
Admin		366
Accommodation etc.		600
Total PSA start up cost		3860

Port Security Plan

PSP Start up year		Totals
No. members	1	
No. Stakeholders	0	
No days to complete plan	5	
Total PSP Start up year costs		1206

PSP Annual costs		Totals
No. members	1	
No. Stakeholders	0	
No days to review plan	2	
Total PSP Start Annual costs		482

Note: It is assumed resource developing a PSP will always include the PSO

EqIA Screening Proforma

Name of the function, policy or strategy The Port Security (Port of Londonderry)Designation Order 2014.

Current or Proposed: Proposed

Person completing the assessment: Caroline Wall

Date of assessment: 25/09/13

Purpose of the function, policy or strategy: The policy objective is to enhance security at the Listed Ports to complement measures to help prevent successful maritime terrorist incidents. The intended effect is to designate a Security Authority for each of the Listed Ports which will be responsible for the preparation and implementation of security plans, based on the findings of security assessments at each of the Listed Ports, along with co-ordinating security within each Listed Port.

Questions - Indicate Yes, No or Not Known for each group

	Age	Disability	Gender	Ethnicity and race	Religion or Belief	Sexual Orientation	Transgender	Pregnancy and Maternity
Is there any indication or evidence that different groups have different needs, experiences, issues or priorities in relation to the particular policy?	No	No	No	No	No	No	No	No
Is there potential for, or evidence that, this policy may adversely affect equality of opportunity for all and may harm good relations between different groups?	No	No	No	No	No	No	No	No
Is there any potential for, or evidence that, any part of the proposed policy could discriminate, directly or indirectly? (Consider those who implement it on a day to day basis)?	No	No	No	No	No	No	No	No
Is there any stakeholder (staff, public, unions) concern in the policy area about actual, perceived or potential discrimination against a particular group(s)?	No	No	No	No	No	No	No	No
Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with other government departments or the wider community?	No	No	No	No	No	No	No	No
Is there any evidence or indication of higher or lower uptake by different groups?	No	No	No	No	No	No	No	No
Are there physical or social barriers to participation/access (e.g. language, format, physical access/proximity)?	No	No	No	No	No	No	No	No

If you have answered "no" to all the questions, an EqIA is not required.