

**ABTA – the Travel Association Submission  
European Scrutiny Committee consultation  
EU Entry/Exit System and UK Borders**

## **Introduction**

ABTA is the largest travel association in the UK, representing over 3,900 consumer brands. ABTA members range from small, specialist tour operators and independent travel agencies specialising in business and leisure travel to publicly listed companies and household names, from call centres to internet booking services, and from high street retailers to homeworking travel agents. Pre-pandemic ABTA members' combined turnover was more than £40 billion, comprising consumer and business travel expenditure.

In 2019, almost 67 million outbound trips were taken by UK residents to the EU for both leisure purposes (holidays or visiting family and friends) and for business. There are longstanding and resilient travel links between the UK and our closest neighbours in Europe, with about 77% of all outbound UK trips taken to the EU.

UK travellers contribute to the employment and economic prosperity in recipient countries and at home. The travel industry is a major contributor to the UK economy, with outbound travel alone generating over £49 billion in GVA annually and supporting more than 720,000 jobs across the country<sup>1</sup>. Meanwhile, UK travellers support over €37 billion in GVA across the EU and more than 900,000 jobs in destinations<sup>2</sup>.

ABTA welcomed the opportunity to provide oral evidence to the European Scrutiny Committee on 29 November 2023. This submission aims to expand upon the evidence provided and will focus on the impacts of implementing the EU's Entry/Exit Scheme and other border changes, including the European Travel Information and Authorisation System (ETIAS).

### **1. The EU first proposed an entry/exit system for the Schengen Area in February 2008. How have proposals for its introduction developed over the last 15 years?**

ABTA believes others will be better placed to provide a detailed overview of the development of the legislative frameworks underpinning the EU EES, but we want to highlight some critical considerations and developments that we believe are particularly relevant to the current situation and concerns of the UK travel industry related to the implementation of the system.

Firstly, it must be noted that the application of the system to the UK and UK citizens is a consequence of the UK's status as a third country post-Brexit and the absence of any negotiated agreement to exempt each other's citizens from new electronic border systems introduced by both sides. The EES and other schemes, including ETIAS, do not apply to any EU citizen, even if those countries do not participate in the Schengen Border Area. For example, citizens of the Republic of Ireland will not be required to comply with EES or apply for an ETIAS before travelling once the schemes are implemented.

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<sup>1</sup> ABTA/UKinbound, The Value of International Travel, 2022

<sup>2</sup> ABTA/Centre for Economic and Business Research, Travelling Together, 2020

Whilst the main legislation introducing EES itself was adopted in 2017 (Regulation 2017/2226 establishing an entry/exit system to register the data of non-EU nationals crossing the EU's external borders and Regulation 2017/2225 amending the Schengen Borders Code as regards the use of the entry/exit system), after the UK had voted to leave the European Union, the shape of the Withdrawal Agreement and future cooperation between the EU and UK, including around border security and intelligence sharing, remained unclear at this time. Meanwhile, the original Schengen Borders Code was adopted in 2006, and the amendments made to the Regulations in 2017 did not address some of the provisions that have subsequently proven to be the most challenging with UK-EU border crossings, especially as regards the juxtaposed border arrangements in place between the UK and France under the Le Touquet/Canterbury agreements.

ABTA's overall assessment is that it appears the EU's border management system as a whole, including EES, is not currently adapted to the UK's status as a third country and is ill-prepared to deal with the volumes of traffic between the UK and EU, especially across the short straits between the UK and France. Efforts must be made at the political level between the UK government, France, and the EU to consider pragmatic and practical solutions, including amendments to the EU Schengen Borders Code, if necessary.

However, ABTA would also urge that, if sufficient sharing of intelligence and security databases could be restored between the UK and EU, an agreement should be sought to remove these requirements from travellers in both directions. This should be an ambition for future trade and security negotiations between the UK and EU within the scope of the UK-EU Trade and Cooperation Agreement (TCA).

There have already been some steps taken to facilitate easier travel between the UK and EU, for example, in relation to school travel between the UK and France, where a bilateral agreement has been put in place to allow French children to travel to the UK on ID cards and to ease travel for those children within French schools that would ordinarily require visas to visit the UK. The UK government has also indicated an interest in exploring Youth Mobility Scheme agreements with European countries on a bilateral basis. ABTA believes both the EU and the UK should prioritise arrangements covering each of these areas within future reviews of the UK-EU TCA, as well as cooperation around electronic travel schemes and consideration of a wider agreement on temporary mobility of tourism workers.

**2. Are there currently any other domestic or transnational systems, either planned or in operation, that are similar to EES?**

While there are electronic border arrangements in place elsewhere, such as between the US and Mexico or the US and Canada, ABTA is not aware of any other comparable international system to EES in terms of the volumes of travel and complexity of border arrangements that exist between the EU and third countries, especially as concerns the juxtaposed borders established between the UK and France under the Le Touquet/Canterbury agreements.

- 3. The EU's Entry/Exit System was initially due to be introduced in 2022. What challenges do the EU and its Member States face in ensuring the full introduction and effective operation of EES?**
- 4. What challenges will 'third country' (non-EU Member State) ports and operators face servicing destinations in the Schengen Area when EES becomes fully operational?**
- 5. How will EES affect the travel experience of third-country nationals?**

The EU Entry/Exit System (EES) is an automated IT system for registering travellers from third countries, both short-stay visa holders and visa-exempt travellers, each time they cross the EU Schengen Area's external borders. The system will register the traveller's name, type of travel document, biometric identifiers, including facial images and fingerprints, and the place of entry and exit. However, while there is one set of specifications for the EES system, set centrally by eu-LISA, the European agency for the operational management of large-scale IT systems, each Member State will be responsible for organising and managing its system at its external borders.

The EU noted that saving time will be a longer-term benefit of the introduction of EES, as the system will replace manual stamping of passports and physical checks by border guards to ensure compliance with the 90 in 180-day limit for non-visa nationals staying in the Schengen Area. However, there are serious concerns amongst the UK travel industry about the consequences for travel flows of the initial registration process, when travellers will be required to provide their biometric identifiers at the border when travelling for the first time post-implementation. This registration process is expected to be notably slower than the time taken to currently cross the border, perhaps more than double the processing time, which could lead to significant disruption and delays.

*The risk of disruption to travel flows, especially at juxtaposed borders and pinch points*

As highlighted in our oral evidence session on 29 November 2023, the most significant area of concern for the travel industry relates to the juxtaposed borders in place between the UK and France at the Port of Dover, Folkestone (Eurotunnel) and St Pancras International (Eurostar). In these cases, the EU's border processes, including initial registration for the EES, will take place on UK soil, and there are concerns about whether the physical space exists for those checks to be completed without significant disruption to travel flows. ABTA and many other organisations across the travel industry, including carriers and the operators of the above-named ports, are calling for political and technological solutions to allow at least some of the necessary registration processes to be completed remotely, away from the physical border, to avoid delays.

For those travelling by air, there is the possibility of disruption where large numbers of third-country travellers, including those from the UK, arrive at Schengen Area airports with limited border infrastructure. However, widespread disruption and delays to air travel are not expected as airports and airlines are generally more experienced in dealing with these types of border processes and checks and have the necessary physical infrastructure to manage passenger flows better.

*Problems with lack of prior notice (no confirmed date of implementation)*

ABTA members have also reported concerns with repeated delays and the lack of a confirmed implementation date, with the EU currently suggesting the system will go live in Autumn 2024, which many carriers (airlines, ferry operators, rail operators and coach companies) have indicated is insufficient time for proper preparations. ABTA would ideally like to see a minimum of 12 months advance notice before implementation. It is also critical that peak travel periods are avoided to minimise the number of travellers that might be affected by initial implementation issues.

*Potential for greater enforcement of post-Brexit travel restrictions*

A consequence of the introduction of electronic border checks will be felt by some travellers, as it will automate enforcement by the EU of the 90-day in 180-day limit for non-EU nationals to reside within the Schengen Area. While the 90-day in any 180-day rule is already in place, since the end of the transition period, anecdotally, we understand that full compliance checks have not been taking

place. There is the potential that the automation of this process will result in individuals falling foul of this rule, both personally, especially for those with second homes within the EU that do not have residency rights, and professionally, for workers in certain industries. ABTA has already raised concerns in relation to coach drivers, who might typically spend over 200 days a year within the EU, and we have also flagged that this could be a problem for the haulage industry. ABTA believes a solution to this problem could be found through an agreement between the UK and EU on the temporary mobility of tourism workers. ABTA is urging that this be considered in light of the upcoming review of the UK-EU Trade and Cooperation Agreement.

#### *Transitional arrangements*

Finally, it is important to note that there is an EES transitional period of 180 days from when EES enters operation. During the transitional period, border authorities will verify the remaining days of authorised stay by manually checking the travel documents' stamps and verifying and recording the entry/exit data in EES. Proactive enforcement of this could further increase processing times at the border.

#### *School and youth group travel challenges*

ABTA has repeatedly raised concerns about the impacts of delays and disruptions at the UK borders on international school and youth group travel post-Brexit. Unfortunately, we believe there is a very high risk of further disruption to this part of the sector in the absence of mitigation measures, especially at juxtaposed borders because of the threat of additional constraints on capacity across the short straits.

School and youth group travel organisers were amongst the hardest hit economic sectors by the Covid pandemic, being effectively closed for two full years by government restrictions. We are now seeing the sector's recovery from the pandemic constrained by the threat of future border disruption and severe delays, which follows the experience of similar issues crossing the Channel during Easter 2023.

During Easter 2023, due to a combination of new requirements for document checks post-Brexit and industrial action by French border guards, delays of more than 10 hours were experienced by coaches attempting to cross the UK-France border through the Port of Dover. Another factor reported to ABTA was the commercial decision of Eurotunnel to significantly increase the cost of carrying coaches, effectively introducing capacity limits, which is understood to have been a linked decision taken in response to increased border processing times. It is also the case that the Port of Dover can process fewer coaches per hour today than it could pre-Brexit because of increased processing times.

It is our understanding pricing for Eurotunnel services remains a challenge for this sector, with many coach operators reporting they are being priced out of using Eurotunnel services and are, therefore, having to switch to ferry services. If the ferry operators or the port introduce further capacity constraints because of EES, it could lead to further significant delays, cancellations, and disruption. A survey conducted in May 2023 by ABTA/School Travel Forum revealed that 96% of school travel businesses expressed serious concerns about the threat of future capacity restrictions by UK port authorities or cross-channel transport operators on coach travel.

Any delays or last-minute changes to itineraries undermine the ability of school and youth group operators to meet their safeguarding obligations to the young people in their care. During the Easter 2023 incident, many operators found themselves unable to comply with Department for Education

(DfE) guidance on the welfare of school groups whilst travelling. As a result of delays, some operators abandoned trips and would have been required by consumer protection law (the Package Travel and Linked Travel Arrangements Regulations 2018) to refund all participants, thus experiencing financial losses. There is also a concern, due to long lead-in times for future bookings – school trips are typically booked between a year and eighteen months before travel - that the Easter 2023 experience may deter future bookings well into 2024 and possibly even 2025.

While some facilitations have been put in place by the Port of Dover, in particular in response to the Easter 2023 incident, such as improved access to toilets and rest areas for passengers on coaches that experience delays, any repeat of this situation linked to the introduction of EES would be devastating for businesses operating in the school and youth group travel sector.

#### *Drivers' hours*

Another area of concern raised with ABTA relates to incidents of coach drivers caught up in border delays at risk of exceeding their legal driving hours limits. This forces coach companies and those who rely upon them, such as school tour operators, to either conduct trips with additional drivers or to seek accommodation for those on their tours to allow for legal rest periods to be met. Either option incurs additional costs. ABTA is aware that trade bodies representing the coach sector have called for mitigations to be put in place, such as allowing drivers to leave coaches during periods of delay, and we would support efforts to find a solution to these problems.

- 6. The EU is not planning to allow registration for EES remotely—e.g. via a dedicated website or mobile phone application—or physically at a location away from London St Pancras, Dover or Folkestone (such as an EU or Member State facility in a major UK city).**
  - a. Is this approach justified?**

ABTA understands that EU Member States will be given specifications to introduce a mobile application to enable some advance data collection in advance of the traveller's arrival at the border. However, little information has been provided on how this might work, and we understand that each Member State will decide whether to introduce a mobile application within its system. Our latest understanding is that the French government have decided not to take up this technological solution, which is a concern as it will hinder efforts to facilitate smoother travel at the juxtaposed borders.

However, under the EU's current legislative framework for border management, even if a mobile application were to be introduced, it could not resolve all problems associated with longer processing times at the border, especially during the initial EES registration process. ABTA understands that the current EU legislative framework, including the Schengen Border Code, is drafted to require certain identity verification checks, such as fingerprints, to be carried out "at the border". This means that, while certain steps might be handled remotely, such as providing passport information and even possibly facial scans, there will still be a need to undertake some physical checks at the border.

While this same approach applies at all Schengen Area external borders, ABTA and others across the UK and EU travel industry have called for political solutions to be found that recognise the unique nature of the UK's border arrangements with the EU, especially as concerns the juxtaposed borders and volumes of travel between the UK and France. A workable solution will require prioritisation of the issue and direct political engagement between the UK and French governments and the EU. ABTA hopes, in the wake of improved relations seen over recent months, including the Windsor

Agreement between the UK and EU and the Franco-British summit in March 2023, that diplomatic conditions might exist to enable a mutually beneficial solution to be found.

**b. Would remote registration be justifiable for nationals of countries with comparable immigration and security standards to the EU?**

As above, ABTA would support political solutions that enable technology to ensure the smooth flow of passengers through the EU's external borders, including the juxtaposed borders between the UK and France. Where there are comparable immigration and security standards, it would seem logical to put in place such facilitations.

ABTA would also reiterate that we would encourage longer-term consideration of an agreement on data sharing of relevant immigration and security information between the UK and EU, which should, in our view, enable the removal of newly imposed border processes and requirements in both directions (EES/ETIAS for UK citizens; UK-ETA for EU-citizens).

**7. Juxtaposed UK/France (Schengen) border controls are in operation at London St Pancras International, Folkestone and Dover.**

- a. introduced in its current form, what challenges will EES present UK sites facilitating juxtaposed border controls?**
- b. Should special dispensation for remote registration or remote pre-registration for EES be provided at these sites?**

As mentioned above, ABTA is concerned that introducing the EU EES in its current form would mean additional border checks, resulting in increased processing times and significant delays, especially at the juxtaposed borders. While the current drafting of the EU's relevant regulations would appear to make full remote registration impossible, ABTA believes introducing a partial remote pre-verification process, such as passport scanning and collection of facial scans, would go some way in alleviating some of these challenges, particularly at juxtaposed borders with constrained infrastructure capacity, and could reduce processing times by approximately 50%.

It is our understanding that eu-LISA is providing centralised specifications for a mobile application that could enable some information to be provided by travellers in advance of their arrival at the border, but little detail has been provided on this, and it would be for each Member State to decide whether to put in place a mobile application within their national system.

The Port of Dover and French border authorities have implemented measures, such as additional frontier supervisors and a Coach Processing Facility, to avoid repeats of the delays experienced during Easter 2023. However, ports continue to grapple with capacity constraints while striving to recover to pre-pandemic levels. Therefore, additional mitigations, such as pre-registration, investment in physical infrastructure and additional border guards, should also be considered to address the impact of EES.

**8. In addition to EES, the EU plans to introduce a 'European Travel Information and Authorisation System' (ETIAS) in 2024. The UK's 'Electronic Travel Authorisation' scheme will go live in November 2023.**

- a. What challenges does introducing new EU and UK electronic travel systems present for operators and travellers?**

The EU's current plan, as published by Frontex, the EU Border Security Agency, is to introduce the European Travel Information and Authorisation System (ETIAS) six months after the implementation of EES. This will be implemented in mid-2025 if EES is effective from Autumn 2024.

The ETIAS system will authorise visa-exempt third-country nationals to travel to EU countries for a short-term stay. Eligible visitors, including UK citizens, must apply online for authorisation before entering the EU Schengen Area and the four Schengen Associated countries, Iceland, Lichtenstein, Norway and Switzerland. It is important to acknowledge this is not a visa system but rather an electronic visa waiver, similar to those already in the US, Canada, and other destinations. ETIAS will cost €7 and be valid for three years or until the end of the validity period of the identity document used to secure travel authorisation, whichever is sooner.

As UK travellers are familiar with electronic visa-waiver systems, such as the US ESTA scheme or Canadian ETA, ABTA does not foresee any long-term consequences of the introduction of EU ETIAS in terms of deterring people from travelling. However, we have raised the importance of clear advice from the UK government for UK citizens to make travellers aware of the new requirements. We have also encouraged the consideration of a specific awareness-raising campaign.

It is also important to note that the EU has put sensible transition arrangements in place to ensure that disruption to travel does not occur because of the introduction of ETIAS. There will be at least 180 days during which enforcement action will not be taken against people travelling without a valid authorisation for travel. A further 180-day period is envisaged during which first-time travellers will be permitted to continue to travel, with advice about obtaining an ETIAS before any further trips. Both periods are extendable for 180 days in each case.

ABTA is also concerned about the potential for fraud with the introduction of ETIAS. Frontex has already identified more than 60 websites offering to facilitate ETIAS applications, with many of these already live despite the ETIAS scheme not yet operational. ABTA is working with Frontex to publicise the need for UK travellers to be aware that there is a single valid URL for ETIAS, which is [europa.eu/etias](http://europa.eu/etias).

While it is permitted for third parties to facilitate the arrangement of ETIAS applications, something ABTA supports given the vital role travel agencies play in helping customers fulfil their requirements in advance of travel, it is important that consumers are vigilant and take necessary precautions to avoid scams. We would urge the UK government and EU Member States to implement awareness campaigns on this issue.

#### *Carriers' liability*

Carriers will have additional responsibilities, as air and sea carriers will be required to verify whether third-country nationals subject to the travel authorisation requirement possess a valid travel authorisation before boarding.

International rail carriers will be exempt from conducting pre-border checks.

When consulted, some of ABTA's members expressed concern about the significant security responsibilities of carriers, who must ensure their interface (the tool that allows them to comply with their obligations and send verification queries to check whether a given traveller holding a uniform short-stay visa for one or two entries has already used the number of entries, or whether they hold valid ETIAS travel authorisation, where applicable):

- Complies with identifying and managing security risks related to the connection to the interface;
- Complies with protecting the environments and the devices connected to the carrier interface;

- Complies with detecting, analysing, responding to, and recovering from, cyber security incidents.

Some airlines are also concerned about their liability for the consequences of the misuse or loss of the Authentication/Identification mechanism(s) allowing the use of the Carrier Interface by persons not belonging to the authorised staff.

### *Cruise*

The introduction of the EU EES also poses additional obligations for cruise ships travelling from a Schengen country to a third country and re-entering the Schengen area. The ships must query the carrier interface each time they depart from a third country to a European country that applies EES and/or ETIAS.

In addition, the new system presents administrative burdens for third-country travellers on cruise ships who have re-entered the Schengen area, as they would be subjected to border checks when disembarking despite having already undergone those checks at the initial point of entry into the EU on the same journey. This has the potential to act as a deterrent to cruise travellers who want to disembark at the destination.

While it is not the purpose of this inquiry, it is also worth highlighting connected issues for the cruise sector with the UK's Electronic Travel Authorisation (ETA) system that is currently being phased in for non-visa national visitors to the UK (starting with the gulf states that are now live, with Europe expected to be included by the end of 2024). Cruise members of ABTA and CLIA, the cruise trade body, have raised concerns with us about the risk of disruption to inbound cruises due to the requirement to check ETAs for all passengers, including those who are transiting the UK (even if they do not wish to alight the ship in UK ports). For smaller cruise terminals, the full disembarkation of a ship could take up to eight hours to complete, which is longer than the period spent in port, so there is a risk that cruise operators might cut ports within the UK from certain itineraries, therefore forfeiting the economic benefits that visitors bring to the local economy. There is also a risk that cruise operators could choose to avoid stops within the UK entirely.

#### **b. Should the UK EU and international partners prioritise interoperability between their respective systems?**

ABTA would like to see interoperability between respective systems given the high volumes of travel flows between the UK and EU, as well as the UK and certain other international destinations, for example, the US. However, the immediate priority is ensuring that schemes are implemented without significantly disrupting international travel flows.

#### **9. What steps should the UK Government be taking to mitigate potential disruption stemming from the introduction of EES for UK ports, operators, and passengers travelling to the Schengen area.**

ABTA is concerned about the lack of awareness of ETIAS and the EES and the potential for serious disruption for UK travellers once these measures come into force, especially if individuals seek to travel without completing the required processes. Past experiences, such as the impact of insufficient information on the post-Brexit passport validity rule for UK citizens when travelling to the EU, underscore the potential to harm consumer confidence.



ABTA would encourage the UK government to consider a communication campaign to publicise EES and ETIAS and the new requirements affecting the circa 70 million trips taken between the UK and EU annually.

It is also imperative that the UK Government works with ports and airports to understand their concerns and requirements when processing passengers in line with these new requirements.

The growth of travel and tourism over recent decades has provided clear economic benefits to the UK and EU. Policymakers on both sides must seek creative solutions to ensure tourism flows can continue in each direction and to remove any barriers erected due to the UK's decision to leave the European Union. While ABTA supports digitalisation, technological advancements to border security must not be allowed to hinder travel flows between the UK and EU.

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