EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (AMENDMENT) (No.4) ORDER 2009

2009 No. 2969

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1. The Export Control (Amendment) (No.4) Order 2009 ("the amendment Order") represents the UK's implementation of the arms embargo imposed on the Republic of Guinea by the EU (in Council Common Position 2009/788/CFSP ("the Common Position")). It amends the Export Control Order 2008 ("the 2008 Order").

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. The Common Position came into force immediately on its adoption on 27th October (even before it was published in the Official Journal). The Department considers that it needs to comply with its obligations under the Common Position without further delay. Accordingly, it has decided to bring the Order into force earlier than the usual minimum 21 days after laying.

4. Legislative Context

4.1 The 2008 Order contains controls on the export of and trade in military and other strategic goods. Among these are controls on goods in transit through the UK and controls on United Kingdom persons (including companies) overseas. However, these controls only apply across the full range of military goods for selected destinations. Owing to the requirements of the Common Position, the amendment Order ensures that Guinea is one of those destinations. It also disapplies exemptions in the 2008 Order in relation to aircraft, vessels and firearms.

5. Territorial Extent and Application

5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As this instrument is subject to negative instrument resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- ***What is being done and why***

7.1 The government's policy is to support the EU legislation concerning restrictive measures against Republic of Guinea – that is, the Common Position.

7.2 The Common Position imposes restrictive measures against Guinea including an arms embargo. Although the 2008 Order already had general controls on the export of and trade in arms, this was not enough to implement the Common Position. In particular, the Common Position required us to broaden the scope of the current controls on United Kingdom persons overseas who sell, supply or transfer arms to Guinea and to reduce the scope of the existing exemptions from export controls.

7.3. The amendment Order is also in line with the general policy to implement EU Legislation in a timely and appropriate manner.

- ***Consolidation***

7.4. No consolidation of the 2008 Order is planned.

8. Consultation outcome

8.1. The Common Position necessitated urgent action giving no time for consultation. However, the Department has previously implemented arms embargoes in the same way and there was no objection to this in the consultation conducted prior to the 2008 Order being made.

9. Guidance

9.1. A Notice to exporters will be published, explaining the implementation of the Common Position and the effect of the amending Order.

10. Impact

10.1. The impact on business, charities or voluntary bodies is minimal.

10.2. The impact on the public sector is minimal.

10.3. An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1. This legislation applies to small business.

12. Monitoring & Review

12.1. No review is proposed in relation to the amending Order although, naturally, the effectiveness of the Common Position will be monitored at EU level.

13. Contact

13.1. Jim Bouttell at the Department for Business, Innovation and Skills, Tel: 020 7215 4648, or email: jim.bouttell@bis.gsi.gov.uk can answer any queries regarding this instrument.

DEPARTMENT FOR BUSINESS, INNOVATION AND SKILLS
5th November 2009