EXPLANATORY MEMORANDUM TO

THE EXPORT CONTROL (BELARUS) AND (SYRIA AMENDMENT) ORDER 2011

2011 No. 2010

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.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The Export Control (Belarus) and (Syria Amendment) Order 2011 ("the Belarus Order") makes provision relating to the enforcement of certain restrictive measures against Belarus set out in Council Regulation (EC) No. 765/2006 (the "Belarus Regulation") as amended by Council Regulation (EU) No 588/2011 ("the amending Belarus Regulation"). The enforcement prohibitions in the Belarus Regulation in relation to the export of goods are covered by the Customs and Excise Management Act 1979.

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

3.1 None

4. Legislative Context

4.1 On 20 June 2011, the Council of the European Union adopted additional restrictive measures against Belarus by means of Council Decision 2011/357/CFSP amending Decision 2010/639/CFSP ("the Decision"). On the same date, the Council adopted the amending Belarus Regulation which implements those elements of the Decision that fall within the EU competence.

4.2 Thus the amending Belarus Regulation contains a number of additional restrictive measures in relation to Belarus. These include prohibitions on trade, technical assistance, financing, financial assistance or brokering in equipment which may be used for internal repression and restrictions on the provision of technical assistance, financing or financial assistance related to the goods and technology listed in the Common Military List of the European Union, to any person, entity or body in Belarus or for use in Belarus.

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 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 Belarus.

7.2 The Belarus Order provides for national offences, penalties and licensing provisions that are required to supplement new articles 1a and 1b of the Belarus Regulation. These provisions are concerned with prohibiting:-

- Trade with Belarus in equipment which may be used for internal repression;
- Technical and financial assistance or brokering regarding such internal repression equipment;
- Technical and financial assistance related to the goods and technology listed in the Common Military List of the European Union.

7.3 The Belarus Order also provides for an amendment to the Export Control Order 2008 (S.I. 2008/3231) to make Belarus an "embargoed destination" for the purposes of the trade controls in that Order, so that stricter levels of control apply, including restrictions on the activities of United Kingdom persons overseas.

7.4. The opportunity has also been taken to include in the Belarus Order an amendment to the Export Control (Syria and Miscellaneous Amendments) Order 2011 (S.I. 2011/1304) to correct a cross-reference in that Order to Council Regulation (EU) No 442/2011 concerning restrictive measures in view of the situation in Syria.

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

8. Consultation outcome

8.1 This is purely a technical implementation of a directly applicable EU Regulation, so no consultation was necessary.

9. Guidance

9.1 A notice to exporters has been published on http://www.bis.gov.uk/policies/export-control-organisation/eco-notices-exporters explaining the purpose and effect of the Belarus Regulation.

10. Impact

10.1 The Belarus Order provides for the offences and penalties in relation to the new restrictive measures in the Belarus Regulation which came into force on 21 June 2011 and is directly applicable in Member States. Thus, a regulatory impact assessment has not been prepared for this instrument as it has no or minimal impact on business, charities or voluntary bodies.

10.2 There is no or minimal impact on the public sector.

11. Regulating small business

11.1 This legislation applies to small business.

12. Monitoring & review

12.1 The Department will monitor the developments in Belarus, the actions taken by the EU and the impact of the Belarus Order and give effect to any necessary changes if the sanctions are reviewed.

13. Contact

13.1 Christopher Chew at the Department for Business, Innovation and Skills, Tel: 020 7215 8088 or email: chris.chew@bis.gsi.gov.uk can answer any queries regarding the instrument.

Department for Business, Innovation and Skills
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