EXPLANATORY MEMORANDUM TO

THE EXPORT CONTROL (DEMOCRATIC REPUBLIC OF CONGO) (AMENDMENT) (NO.2) ORDER 2008

2008 No. 1964

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

2. Description

2.1. The Export Control (Democratic Republic of Congo) (Amendment) (No.2) Order 2008 ("the amendment Order") implements certain European and other international obligations of the UK in respect of trade with the Democratic Republic of Congo ("DRC"). To this end it makes provision with regard to Council Regulation (EC) No 666/2008 of 15 July 2008 ("the 2008 amending Regulation") amending Council Regulation (EC) No 889/2005 concerning restrictive measures against DRC ("the 2005 Regulation").

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

3.1. The Department is today laying before Parliament the Export Control (Democratic Republic of Congo) (Amendment) (No 2) Order 2008.

3.2 The Department considers that in order to give effect to our European and other international obligations in respect of DRC, it is necessary for the amendment Order to come into force as soon as possible. In particular, the 2008 amending Regulation, which is directly applicable, came into force the day following its publication in the Official Journal on 16 July 2008. The amendment Order is necessary to give full effect to the provisions of the 2008 amending Regulation which cannot operate effectively without the provision of offences, licensing and penalties provisions.

4. Legislative Background

4.1 United Nations Security Council Resolution 1807(2008) ("UNSCR1807") was adopted on 31 March 2008 and modified the scope of the restrictive measures on certain technical assistance. The embargo will now be limited to restrictions on non-government entities and individuals operating in the territory of DRC. United Nations Security Council Resolution 1596 (2005) previously extended the existing arms embargo to any recipient in the territory of DRC. The response to UNSCR1807 has been co-ordinated at European level. The Council of the European Union adopted Common Position 2008/369/CFSP on 14 May 2008 ("the Common Position"). The 2008 amending Regulation implements those elements of the Common Position that fall within Community competence.

5. Extent

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

7.1 The government's policy is to support the EU legislation concerning restrictive measures against DRC, in the same way as we support the United Nations Security Council Resolutions from which it derives.

7.2. The amendment Order provides for national offences, penalties and licensing provisions that are required to supplement Article 2 of the 2008 amending Regulation. These provisions are concerned with prohibiting technical and financial assistance in respect of military activities.

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

8. Impact

8.1. A Regulatory Impact Assessment has not been prepared for this instrument as it has no or minimal impact on business, charities or voluntary bodies.

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

9. Contact

9.1. Jim Bouttell at the Department for Business, Enterprise and Regulatory Reform, Tel: 020 7215 4648, or email: jim.bouttell@berr.gsi.gov.uk can answer any queries regarding this instrument.

DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM

22nd July 2008