EXPLANATORY MEMORANDUM TO

THE EXPORT CONTROL (RUSSIA, CRIMEA AND SEVASTOPOL SANCTIONS) ORDER 2014

2014 No. 2357

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 (Russia, Crimea and Sevastopol Sanctions) Order 2014 ("the Order") makes provision relating to the enforcement of the trade restrictions against Russia set out in Council Regulation (EU) No 833/2014 (OJ L 229, 31.7.2014, p1) (the "Russia Sanctions Regulation"). It also provides for the enforcement of trade and investment restrictions against Crimea and Sevastopol specified in Council Regulation (EU) No 692/2014 (OJ No L 183, 24.6.2014, p9) as amended by Council Regulation (EU) No 825/2014 (OJ L 226, 30.7.2014, p2) (the "Crimea and Sevastopol Regulation").

2.2 In addition, the Order makes a minor amendment to the Export Control Order 2008 (S.I. 2008/3231) to include Russia in the list of embargoed countries in Part 2 of Schedule 4, which are subject to stricter trade and transit controls under that Order.

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

3.1 None

4. Legislative Context

4.1 On 31 July 2014, the European Council adopted Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. On the same date, the Council adopted the Russia Sanctions Regulation so as to implement all those elements of that Decision which fall within the EU competence.

4.3 In addition, on 30 July 2014, the European Council adopted Decision 2014/507/CFSP which amends Decision 2014/386/CFSP of 23 June 2014 concerning restrictive measures in response of the illegal annexation of Crimea and Sevastopol. On the same date, the Council adopted the Crimea and

Sevastopol Regulation so as to implement all those elements of the Decision of 30 July 2014 which fall within EU competence.

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 Russia in view of Russia's actions destabilising the situation in Ukraine and the EU sanctions in response to the illegal annexation of Crimea and Sevastopol.

7.2 The Order provides for national offences, penalties and licensing provisions that are required to supplement Articles 2 to 4 of the Russia Sanctions Regulation and Articles 2(b) and 2a to 2c of the Crimea and Sevastopol Regulation. There are already offences relating to the prohibited importation and exportation of goods in sections 50, 68 and 170 of the Customs and Excise Management Act 1979 ("the 1979 Act")(1979 c.2).

7.3 With reference to Russia, Articles 2 to 4 of the Russia Sanctions are concerned with prohibiting:-

- Trade, with Russia in dual-goods and technology as listed in Annex I to Council Regulation (EC) No 428/2009, if those items are or may be intended, in their entirety or in part, for military use or for a military end-user;
- Trade with Russia, unless authorised, in technologies as listed in Annex II to the Russia Sanctions Regulation, which includes certain technologies suited to the oil industry for use in deep water exploration and production, Artic oil exploration and production, or shale oil projects in Russia.
- Technical and financial assistance related to the goods and technology listed in the Common Military List of the European Union;
- Technical and financial assistance or brokering services related to dual-use and technology, if the items are or may be intended, in their entirety or in part, for military use or for a military end-user;
- Technical and financial assistance, unless authorised, in technologies referred to in Annex II to the Russia Sanctions Regulation.

7.4 With reference to Crimea and Sevastopol, Articles 2(b) and 2a to 2c of the Crimea and Sevastopol Regulation are concerned with prohibiting:-

- Technical and financial assistance as well as insurance and reinsurance related to the import of goods originating in Crimea or Sevastopol;
- Investment in relation to the creation, acquisition or development of infrastructure in the areas of transport, telecommunications or energy in Crimea or Sevastopol;
- Investment in relation to enterprises established in Crimea or Sevastopol that are engaged in the exploitation of oil, gas or mineral resources in Crimea or Sevastopol;
- The provision of Technical assistance or brokering services in relation to the investment activities referred above;
- Trade with Crimea or Sevastopol in key equipment and technology as listed in Annex III to the Crimea and Sevastopol Regulation, which includes key equipment and technology related to the creation, acquisition or development of infrastructure in the sectors of transport, telecommunications, energy or the exploitation or oil, gas and mineral reserves in Crimea and Sevastopol;
- Technical and financial assistance or brokering services in key equipment and technology as listed in Annex III to the Crimea and Sevastopol Regulation.

8. Consultation outcome

8.1 The Order mostly consists of a technical implementation of two directly applicable EU Regulations. Accordingly, no consultation was necessary.

9. Guidance

9.1 Notices to exporters have been published on http://blogs.bis.gov.uk/exportcontrol/ explaining the purpose and effect of the Russia Sanctions Regulation and the Crimea and Sevastopol Regulation.

10. Impact

10.1 The Order provides for the offences and penalties in relation to the restrictive measures in the Russia Sanctions Regulation and the Crimea and Sevastopol Regulation which are 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 Russia, Ukraine and Crimea and Sevastopol, the actions taken by the EU and the impact of the 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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