EXPLANATORY MEMORANDUM TO

THE EXPORT CONTROL (SANCTIONS) (AMENDMENT) ORDER 2019

2019 No. 1236

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for International Trade and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends existing statutory instruments which provide for the implementation of EU sanctions regulations in the UK. Amendments are made to the Export Control Order 2008, the Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014, the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014, the Export Control (Venezuela Sanctions) Order 2018, the Export Control (North Korea Sanctions) Order 2018, the Export Control (Burma Sanctions) (No.2) Order 2018, and the South Sudan (Sanctions) (EU Exit) Regulations 2019.

2.2 The changes made by this instrument are in response to changes that have been made to EU regulations. The changes also correct some aspects of existing UK law. The aim is to ensure that penalties and other provisions in UK law effectively implement the UK's obligations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the whole of the United Kingdom.

4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The UK is required to impose penalties for infringements of EU sanctions. For sanctions measures relating to trade this is done via offences laid down in legislation made under the Export Control Act 2002 and the European Communities Act 1972.

The EU has made changes to certain sanctions regulations and so it is necessary to make corresponding amendments to the UK legislation.

7. Policy background

What is being done and why?

7.1 This instrument amends the Export Control Order 2008 to add Eritrea to a list of destinations subject to transit controls for Category B goods. This allows the UK to maintain control over the transit, through the UK of certain military goods which are destined for Eritrea. This change arises from the lifting of UN and EU sanctions in November 2018 which meant Eritrea was removed from a list of countries subject to transit controls for all military goods. Notwithstanding the lifting of sanctions, the UK considers it is not appropriate to entirely remove transit controls, and therefore this change will re-instate the controls in place before sanctions were imposed.

7.2 This instrument amends the Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014 to update the definition of the relevant EU regulations so that the definitions are ambulatory in effect, and to ensure that recent changes to EU derogations are incorporated in the UK legislation.

7.3 This instrument amends the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 to update the definitions of the EU regulations so that they are ambulatory in effect. This instrument also provides for a new offence for the breach of the prohibition in the EU South Sudan Regulation on the provision of services relating to the provision of armed mercenary personnel in South Sudan.

7.4 As a result of the amendments to the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 in this instrument, consequential amendments are made to the South Sudan (Sanctions) (EU Exit) Regulations 2019.

7.5 This instrument amends the Export Control (Venezuela Sanctions) Order 2018 to provide for a new offence for failure to comply with the conditions of an EU authorisation. This amendment ensures that the offences in the Export Control (Venezuela Sanctions) Order 2018 are consist with other UK sanctions legislation.

7.6 This instrument amends the Export Control (North Korea Sanctions) Order 2018 to create new offences for the breach of prohibitions on the purchase or transfer of certain food and agriculture products, machinery and electrical equipment, earth and stone, wood, vessels from North Korea, as well as the sale, supply or transfer to North Korea of certain industrial machinery, transportation vehicles and metals. The customs and Excise Management Act 1979 provides for offences which apply to the breach of export and import prohibitions in the EU Regulation and so this instrument does not make provision relating to these prohibitions.

7.7 This instrument also provides for an offence for breach of the prohibition on the purchase or transfer of fishing rights from North Korea.

7.8 This instrument amends the Export Control (Burma Sanctions) (No.2) Order 2018 to correct a referencing error.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 None

10. Consultation outcome

10.1 This instrument amends other instruments that provide for the technical implementation of EU and UN sanctions. No consultation was necessary.

11. Guidance

11.1 Guidance about these sanctions is available on GOV.UK. https://www.gov.uk/guidance/uk-sanctions

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it amends other instruments that provide for the technical implementation of EU and UN sanctions.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the sanctions instruments contain penalties that are only applied if a business deliberately breaches the sanctions set out in the relevant EU Regulations.

14. Monitoring & review

14.1 The approach to monitoring this legislation is to monitor closely any representations that are received in the Export Control Joint Unit. Any issues that are raised will be fully considered with a view to finding an acceptable solution.

14.2 The regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Minister Stuart has made the following statement: "The changes to the scope of existing export control and sanctions legislation is minimal. In the circumstances, it would not be appropriate to make a provision for a review. This would be disproportionate given the absence of any discernible economic impact on the activities of business".

15. Contact

15.1 Stuart Connick at the Department for International Trade Telephone: 0207 215 5185 or email: stuart.connick@trade.gov.uk can be contacted with any queries regarding the instrument.

15.2 Edward Bell at the Department for International Trade can confirm that this Explanatory Memorandum meets the required standard.

15.3 Graham Stuart (Minister for Investment) at the Department for International Trade can confirm that this Explanatory Memorandum meets the required standard.