EXPLANATORY MEMORANDUM TO

THE EXPORT CONTROL (SOMALIA) ORDER 2011

2011 No. 146

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 (Somalia) Order 2011 ("the Order") creates offences in connection with additional provisions for EU sanctions against Somalia.

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

3.1. None

4. Legislative Context

4.1 Council Regulation (EC) No 356/2010 ("the Somalia Regulation") contains a number of restrictive measures in relation to Somalia, in addition to those already in place under existing sanctions legislation. These include specific restrictive measures directed against listed persons, entities or bodies wherever they are located.

4.2 The additional restrictions in the Somalia Regulation are made effective in the United Kingdom by the Order, which creates offences and penalties in respect of the Somalia Regulation and supplementing the previous provisions of Council Regulation (EC) No.147/2003 ("the 2003 Regulation"). These include a provision suppressing offences in the Order where they are already covered by existing legislation.

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 Somalia.

7.2. The existing trade elements of the sanctions against Somalia include restrictions on the provision of technical advice, assistance, training, financing or financial assistance related to military activities in Somalia. These restrictions have been extended by this Order, enabling Member States to prohibit such restrictions against listed person wherever they may be located.

7.3. The Order is also in line with the general policy to implement EU Legislation in an appropriate manner.

- ***Consolidation***

7.4. No consolidation is planned.

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 will be published explaining the implementation of Council Regulation (EU) No 356/2010.

10. Impact

10.1. The Regulation merely extends the existing comprehensive arms embargo and other restrictive measures in relation to Somalia to persons and entities who have engaged in or provided support for acts that threaten peace, security and stability in Somalia, as designated by the UN Sanctions Committee and adopted by the EU. We are not currently aware of any UK persons or companies doing business with any of the designated persons or entities. Since January 2008 only 13 applications for individual licences for export of non-lethal military goods (totalling £1.3 million) have been authorised in line with exemptions provisions within existing sanctions legislation and the Somalia Regulation.

10.2. Given the Somalia Regulation does not affect our ability to continue to license such exempted exports, we anticipate this will have no impact on trade between Somalia and the UK and so there will be no cost to legitimate business and no resource implications to BIS. It is expected that the impact on the public sector would be minimal.

10.3. For these reasons 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. The Somalia sanctions are renewed periodically as the EU keeps the sanctions under constant review.

13. Contact

13.1. Emma Baker-Byers at the Department for Business, Innovation and Skills Tel: 020 7215 8664, or email: emma.baker-byers@bis.gsi.gov.uk can answer any queries regarding this instrument.

DEPARTMENT FOR BUSINESS, INNOVATION AND SKILLS
25th January 2011