EXPLANATORY MEMORANDUM TO

THE EXPORT CONTROL (UZBEKISTAN) ORDER 2005

2005 No. 3257

1. This explanatory memorandum has been prepared by the Department of Trade & Industry and is laid before Parliament by Command of Her Majesty.

1.2 The memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1. The Order makes provision with regard to Council Regulation (EC) No 1859/2005 of 14 November 2005 imposing certain restrictions measures in respect of Uzbekistan ('the EC Regulation') and Council Common Position 2005/792/CFSP of 14th November 2005 which imposes a prohibition on the supply of arms to Uzbekistan. The Order also amends the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 ('the 2003 Order') and the Trade in Controlled Goods (Embargoed Destinations) Order 2004 ('the 2004 Order') to make reference to Uzbekistan.

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

3.1. The Department is today laying before Parliament the Order. The Department considers that in order to give effect to our European obligations, in respect of the Uzbekistan embargo, it is necessary for this Order to come into force as soon as possible.

4. Legislative Background

4.1. The Order is made under sections 1,2, 3, 4, 5 and 7 of the Export Control Act 2002.

4.2 Articles 2 to 5 of the Order introduce national penalties and licensing provisions with regard to the prohibitions in the EC regulation. These prohibitions are on the;

a) the sale supply, transfer or export of equipment which might be used for internal repression as listed in Annex I to the EC Regulation, whether or not originating in the Community, directly or indirectly to any person, entity or body in, or for use in Uzbekistan;
b) the provision of technical assistance related to the equipment listed in Annex I to the EC Regulation, directly or indirectly to any person, entity or body in, or for use in Uzbekistan;
c) the provision of financing or financial assistance related to the equipment listed in Annex I to the EC Regulation, directly or indirectly to any person, entity or body, or for use in Uzbekistan;

d) the participation, knowingly or intentionally, in activities the object or effect of which is directly or indirectly, to promote the transactions referred to in (a), (b) and (c) above.
e) the provision of technical assistance related to military activities and to the provision , manufacture, maintenance and use of arms and related materiel, directly or indirectly to any person, entity or body in, or for use in Uzbekistan;
f) the provision of financing or financial assistance related to military activities for the sale, supply, transfer or export of arms and related material, or for any provision of related technical assistance and other services, directly or indirectly to any person, entity or body in, or for use in Uzbekistan; and
g) the participation, knowingly and intentionally, in activities the object or effect of which is to promote the transaction referred to in (e) and (f) above.

4.3 The amendments in article 7, to the 2003 Order, and article 8, to the 2004 Order, are made in consequence of EU Common Position 2005/792/CFSP (O.J.L299, p72) adopted on the 14th November 2005, and taking effect on that date which subjects Uzbekistan to an arms embargo.

5. Extent

5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1. The Minister, Mr. Malcolm Wicks has made the following statement regarding Human Rights:

In my view the provisions of the Export Control (Uzbekistan) Order 2005 are compatible with the European Convention on Human Rights.

7. Policy Background

7.1. The Export Control Act provides for Parliamentary scrutiny of secondary legislation made under the Act.

7.2 The Order provides for national penalties and licensing provisions as required in the directly applicable EC Regulation. It also amends the 2003 and 2004 Orders as a consequence of the EU Common Position.

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8. Impact

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

8.2. The impact on the public sector is minimal.

9. Contact

9.1. Jim Bouttell at the Department of Trade and Industry, Tel: 020 7215 0506, or email: jim.bouttell@dti.gsi.gov.uk can answer any queries regarding this instrument.

DEPARTMENT OF TRADE AND INDUSTRY
23 rd November 2005