# EXPLANATORY MEMORANDUM TO THE EXPORT OF GOODS, TRANSFER OF TECHNOLOGY AND PROVISION OF TECHNICAL ASSISTANCE (CONTROL)(AMENDMENT) (NO. 2) ORDER 2008

**2008 No. 3161**

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

## 2. Purpose of the instrument

2.1 The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Amendment)(No. 2) Order 2008 ("the Order") amends the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 ("the 2003 Order"). The principal changes are amendments to Schedule 1 Part I (the Military List) as a consequence of changes agreed by the United Kingdom as a member State of the Wassenaar Arrangement, which is an international non-proliferation regime. The Order also introduces a new national control on all wheel drive vehicle components, updates the 2003 Order so that it refers to the most recent amendments to Council Regulation (EC) No.1334/2000 ("the dual-use Regulation"), and removes national controls in Schedule 1 Part II on certain explosive-related goods which are now controlled under the Regulation.

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

3.1 None.

## 4. Legislative Context

4.1 Schedule 1 Part I to the 2003 Order contains definitions and a list of goods, software and technology subject to export controls. The schedule is based on internationally agreed control lists with a number of items added to satisfy domestic public policy or national security concerns. Following changes agreed by Member States of the Wassenaar Arrangement, it is necessary, in order to meet our international obligations as a Member State of the regime, to amend some of the entries in Schedule 1. Article 2(1) includes those amendments as well as introducing a new national control on components designed to provide ballistic protection for all-wheel drive vehicles. It also makes some unrelated, minor drafting changes.

4.2 Schedule 1 Part II to the 2003 Order contains a list of explosive related goods and technology, the export of which is prohibited to satisfy domestic public policy or national security concerns. Following changes agreed by Member States of the non-proliferation regimes, some goods previously controlled nationally are now controlled at EU level under the dual-use

Regulation (which is the EC Council Regulation governing the export of goods which can be used for civilian or military purposes). Therefore it is necessary to amend the entries in Schedule 1 Part II to the 2003 Order to remove any overlap with the dual-use Regulation. Article 2(1)(m) removes the relevant national controls.

4.3 Schedule 5 to the 2003 Order contains a list of amendments to the dual-use Regulation. The list is updated to ensure that national export control legislation works by reference to the updated text of the Regulation. Article 2(2) of the Order updates the list.

## 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 the 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 is ensuring it is up to date in complying with its international obligations regarding export controls on military and dual-use goods and removing the overlap between national controls and those which now fall within the scope of the dual-use Regulation.

- ***Consolidation***

7.2 The intention is to consolidate this and other amendments to the Order through a further amendment expected to enter into force in April 2009.

## 8. Consultation outcome

8.1 These are purely technical amendments which will have no impact on industry or the public sector and therefore no consultation was necessary.

## 9. Guidance

9.1 These are purely technical amendments which would not require guidance in addition to that already provided by the Department.

## 10. Impact

10.1 The impact on business, charities or voluntary bodies is zero.

10.2 The impact on the public sector is zero.

10.3 An Impact Assessment has not been prepared for this instrument.

## 11. Regulating small business

11.1 The legislation applies to small business.

## 12. Monitoring & review

12.1 None proposed.

## 13. Contact

13.1 Jim Bouttell at the Department for Business, Enterprise and Regulatory Reform Tel: 0207 215 4648 or email: jim.bouttell@berr.gsi.gov.uk can answer any queries regarding the instrument.

**DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM**

10th December 2008