EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (DESIGNATION OF TRAVEL BANS) (AMENDMENT No.7) ORDER 2011

2011 No. 2930

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 The Immigration (Designation of Travel Bans) (Amendment No.7) Order 2011 (the "2011 Amendment Order") amends the Immigration (Designation of Travel Bans) Order 2000 by updating the Schedule to the 2000 Order. The Schedule lists United Nations' Security Council Resolutions and European Union Council Decisions or Common Positions which impose restrictive travel measures against named individuals.

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

3.1 Part 1 of the Schedule to the 2000 Order has been updated to include two new measures, UNSCRs 1952 and 2021, adopted by the UN Security Council on 29 November 2010 and on 28 November 2011 in respect of the Democratic Republic of the Congo. Part 2 of the Schedule has been updated to include two new measures made by the EU Council on 1 December 2011. They are Council Decisions 2011/782/CFSP (Syria) and 2011/783/CFSP (Iran).

3.2 The Committee will be aware that the Home Office laid Amendment Orders Nos. 4 and 5 in May 2011 (SI 2011/1260 and SI 2011/1321) to incorporate in the Schedule to the 2000 Order a number of EU Council Decisions dating from 9 May 2011 and which imposed restrictive travel measures on members and associates of the Syrian regime for its violent crackdown on the civilian population. These Amendment Orders were then subsumed (with other UN and EU instruments) into Amendment Order No. 6 (SI 2011 No. 2489). Order No.6 was made on 18 October 2011 and came into force on 9 November 2011.

3.3 The UN Security Council Resolution of 28 November 2011 renews sanctions against the Democratic Republic of the Congo, replacing UNSCR 1952 of 29 November 2010 which expired on 30 November 2011. The sanctions include travel bans against individual members of armed groups and militias.

3.4 The Council Decision of 1 December 2011 repeals the measures made in respect of Syria since 9 May 2011 and consolidates them in a single measure. It also adds further sanctions in response to the deteriorating situation in Syria. They include restrictive travel measures on an additional 36 individuals identified as being members of, or associated with, or of benefitting from, the violent actions of the

Syrian regime. The EU Council's repeal of the measures made before 1 December 2011 meant that a further Amendment Order has been necessary to ensure that the individuals listed in the Decision are "excluded persons" for the purposes of section 8B(4) of the Immigration Act 1971 ("the 1971 Act").

3.5 Amendment Order No. 7 also incorporates in the amended Schedule new EU sanctions imposed on Iran because of serious concerns about the regime's continuing development of its nuclear capability. The sanctions impose restrictive travel measures on 36 individuals. 22 of these are identified as being involved in nuclear or ballistic missile activities, 3 are members of the Iranian Islamic Revolutionary Guard Corps and 11 are associated with Iran Shipping lines.

4. Legislative Context

4.1 Section 8B of the Immigration Act 1971 (as inserted by Section 8 of the Immigration and Asylum Act 1999) provides for the exclusion from the United Kingdom of persons subject to United Nations or European Union restrictive travel measures which have been designated by Order.

4.2 The United Kingdom complies with United Nations Security Council Resolutions or instruments of the Council of the European Union that impose restrictive travel measures by including them in the Immigration (Designation of Travel Bans) Order 2000 ("the 2000 Order"). This Order is made under Section 8B of the Immigration Act 1971 and came into force on 10 October 2000. The effect of including travel bans in the 2000 Order is that, unless subject to one of the exemptions set out in Article 3 of the 2000 Order, a person named by or described in a designated travel ban is an "excluded person" and must be refused leave to enter or remain in the United Kingdom, including transit through the United Kingdom. Any existing leave is automatically cancelled and any exemption from immigration control e.g. as a diplomat, ceases.

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 not subject to any parliamentary procedure and does not amend primary legislation, no statement is required.

7. Policy background

- **What is being done and why**

7.1 United Nations or European Union travel bans restrict the movement of certain individuals associated with regimes or groups, whose behaviour is considered unacceptable by Member States. The decision to impose a travel ban is made either by the United Nations' Security Council by means of a UN Resolution or by an instrument of the Council of the European Union. Both require Member States of the UN or the EU to restrict named individuals entry to or transit through their territory

except in very limited circumstances. Once such instruments are designated in UK legislation by means of the Immigration (Designation of Travel Bans) Order 2000, individuals subject to those travel bans are "excluded persons" and must be refused entry to or transit through the United Kingdom on the basis of the travel ban. In addition, provisions in the Immigration Rules enable a person not yet designated under the 2000 Order to be refused entry to the UK, or to have a visa revoked, on the basis that his exclusion from the United Kingdom is conducive to the public good.

7.2 Now that the instruments set out in the Schedule are designated in UK legislation by means of the Immigration (Designation of Travel Bans) Order 2000, all the individuals listed in each instrument are "excluded persons" and must be refused leave to enter or remain in the United Kingdom, including transit through the United Kingdom, on the basis of the travel ban except in very limited circumstances.

- **Consolidation**

7.3 No.

8. Consultation outcome

8.1 This Order is giving effect to the United Kingdom's legal obligations under international law. Consultation is not required.

9. Guidance

9.1 This Order brings into United Kingdom law international obligations restricting entry and travel in accordance with UN Security Council Resolutions and EU Council Decisions and Common Positions. The international institutions concerned provide lists of those affected.

10. Impact

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

10.2 The impact on the public sector is negligible being only operational activity in the UK Border Agency.

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

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 These changes to the United Kingdom's obligations will be monitored throughout the year.

13. Contact

Queries should be addressed to Val Burrough in the UK Border Agency on telephone: 0208 603 5475.