EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (DESIGNATION OF TRAVEL BANS) (AMENDMENT No.2) ORDER 2011

2011 No. 621

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

2. Purpose of the instrument

2.1 The Immigration (Designation of Travel Bans) (Amendment No.2) Order 2011 amends the Immigration (Designation of Travel Bans) Order 2000 by adding to Part 2 of the Schedule to the 2000 Order European Union Council Decision 2011/137/CFSP of 28 February 2011 concerning restrictive measures in view of the situation in Libya. The effect is to impose travel bans on Muammar Al –Qadhafi, his family and certain Libyan Government officials and thereby to implement the UK's obligations under Article 5 paragraph 1 of Council Decision 2011/137/CFSP.

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

3.1 Council Decision 2011/137/CFSP was made on 28th February 2011. This Order was made on 3 March 2011 to come into force at midnight on 4 March 2011 in order to immediately implement the United Kingdom's obligations under the Council Decision. The Order was laid before Parliament the day before coming into force.

3.2 This is the second amendment Order made recently. A decision was made to bring the amendment No.2 Order into force immediately in line with the decision to bring The Immigration (Designation of Travel Bans)(Amendment) Order 2011 into force immediately on 28 February 2011 in order to add UN Security Council Resolution 1970 (2011) of 26th February 2011 to the Schedule to the 2000 Order with immediate effect.

4. Legislative Context

4.1 Section 8B of the Immigration Act 1971 (as inserted by Section 8 of 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 10th 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 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 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. In this instance Council Regulation 204/2011 adopted Council Decision 137/2011 about Libya requiring Member States of the United Nations to restrict Muammar Al – Qadhafi, his family and certain Libyan Government officials entry to or transit through their territory except in very limited circumstances. Regulation 204/2011 was adopted on 2 March 2011 and came into force on 3 March. Now Council Decision 2011/137/CFSP is designated in UK legislation by means of the Immigration (Designation of Travel Bans) Order 2000, these individuals 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 where the limited grounds set out in Article 5 of 2011/137/CFSP apply.

7.2 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 it is conducive to the public good to do so. Once designated in UK legislation, individuals subject to travel bans are excluded persons and must be refused entry to or transit through the United Kingdom on the basis of the travel ban. The Schedule to the 2000 Order which lists the relevant UN and EU travel bans is usually updated annually in order to take account of changes to the various travel restrictions, including the lists of designated persons. In view of the particular circumstances in Libya and the recent use of force by the regime against unarmed civilians there, a decision was made to implement these changes immediately rather than wait for the annual review in November.

- Consolidation

7.3 In light of the timeframe in which the Order was made consolidation was not considered appropriate.

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 EU Council Decision 2011/137/CFSP, which provides a list (at Annexes I and II to the Decision) of those affected. The Council Decision can be viewed at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:058:0053:0062:EN:PDF The UN Security Council Resolution 1970 can be viewed at http://www.un.org/News/Press/docs/2011/sc10187.doc.htm

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 Andrew Jackson of the UK Border Agency on telephone: 0208 760 8003.