EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (DESIGNATION OF TRAVEL BANS) (AMENDMENT No.5) ORDER 2011

2011 No. 1321

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.5) Order 2011 amends the Immigration (Designation of Travel Bans) Order 2000 by adding to Part 2 of the Schedule to the 2000 Order EU Council Implementing Decision 2011/302/CFSP of 23 May 2011, implementing Decision 2011/273/CFSP concerning restrictive measures against Syria. The effect is to impose travel bans on 10 further members of the Syrian regime and thereby to implement the UK's obligations under Article 3 paragraph 1 of Council Decision 2011/273/CFSP

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

3.1 Council Implementing Decision 2011/302/CFSP was made on 23 May 2011. This Order was made on 24 May 2011 to come into force on 26 May 2011 in order to implement the United Kingdom's obligations under the Council Decision. The Order was laid before Parliament in accordance with section 8B(8) of the Immigration Act 1971 on 25 May 2011.

3.2 This is the fifth amendment Order made recently. The first three implemented United Nations and European Union travel bans against individuals associated with the Libyan regime while the fourth implemented European Union travel bans against members of the Syrian regime held to be involved in the repression against the civilian population. In all cases, Orders have been made shortly after the decisions that they implement.

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. In this instance Council Implementing Decision 2011/302/CFSP of 23 May 2011 implementing Decision 2011/273/CFSP required Member States of the European Union to impose restrictive measures on an additional 10 Syrian individuals associated with the Syrian government and identified as being responsible for the violent oppression against the civilian population of Syria. The Committee may wish to note that the individuals include President Assad. These restrictive measures include travel bans and the requirement on Member States is to refuse the 10 individuals entry to, or transit through, their territory except in very limited circumstances. Council Implementing Decision 2011/302/CFSP of 23 May 2011, implementing Decision 2011/273/CFSP, and Council Implementing Regulation (EU) No 504/2011 of 23 May 2011, came into force on 24 May. Now that Council Implementing Decision 2011/302/CFSP of 23 May 2011, implementing Decision 2011/273/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 3 of 2011/273/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, including transit through, the United Kingdom on the

basis of the travel ban. Normal practice in the past has been to amend annually the Schedule to the 2000 Order so that it reflects the complete list of the UN and EU travel bans in force at that time. In light of the special circumstances deriving from the "Arab Spring", however, and the need to bring pressure to bear immediately on those who are responsible for the violence against unarmed civilians in Syria, the Government has decided that these changes should take effect now rather than await the annual update in November. Designating the individuals subject to the ban immediately should provide greater assurance that they will not be allowed to travel to or enter the UK and removes the exemption from immigration control which several of the individuals, including President Assad, would otherwise have enjoyed.

- 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 Implementing Decision 2011/302/CFSP, which provides a list (in the Annex to the Decision) of those affected. The Council Implementing Decision can be viewed at

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:136:0091:0094:EN:PDF

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 Kevin Egan of the UK Border Agency on telephone: 0208 760 8227.