EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (DESIGNATION OF TRAVEL BANS) (AMENDMENT No.6) ORDER 2011

2011 No. 2489

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.6) Order 2011 (the "2011 Amendment Order") amends the Immigration (Designation of Travel Bans) Order 2000 by substituting the Schedule in Schedule 1 to the 2011 Amendment Order for the Schedule appended 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 The Committee may wish to note that on 17 June 2011 the UN Security Council adopted Resolutions 1988 and 1989, which amends the current dual sanctions regime which has existed since 1999 in respect of members and associates of Al Q'aida and of the Taliban in order to create two distinct sanctions regimes. This outcome, for which the UK had lobbied hard, results from:

- the improved security situation in Afghanistan; and
- the recognition that some members of the Taliban have rejected AQ's ideology, reconciled themselves with the Government of Afghanistan and now support a peaceful resolution to the continuing conflict in Afghanistan.

3.2 UNSCR 1988 establishes for the first time a sanctions regime for Afghanistan. In terms of listings, it incorporates all those Taliban listed previously under the combined regime, bar those who have chosen to side with President Karzai and who have been de-listed. Members and associates of AQ are now subject to the sanctions regime established by UNSCR 1989. Both Resolutions include travel bans. On 1 August the EU Council adopted Decision 2011/486/CFSP (Afghanistan) and Decision 2011/487/CFSP (AQ) replicating the UN action.

3.3 This is the sixth Amendment Order made this year. The first three implemented United Nations and European Union travel bans against individuals associated with the Libyan regime while the fourth and fifth implemented European Union travel bans against members of the Syrian regime held to be involved in the repression against the civilian population. This Order consolidates those amendments

as well as updating the Schedule by adding and removing UN and EU decisions made and repealed since November 2010.

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

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 The department does not propose a consolidation.

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 of the UK Border Agency on telephone: 020 8603 5475.