EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (DESIGNATION OF TRAVEL BANS) (AMENDMENT) ORDER 2009

2009 No. 3044

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

2. Purpose of Instrument

2.1 The Immigration (Designation Of Travel Bans) (Amendment) Order 2009 (the "2009 Amendment Order") amends the Immigration (Designation of Travel Bans) Order 2000 by substituting the Schedule to the 2000 Order with the Schedule appended to the 2009 Amendment Order. The Schedule lists United Nations' Security Council Resolutions and European Union Common Positions or Decisions which impose restrictive travel measures against named individuals or those associated with specified groups.

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

3.1 None

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 UK complies with UN 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 Schedule to the 2000 Order which lists the relevant UN and EU travel bans is updated annually in order to take account of changes to the various travel restrictions, including the lists of designated persons. The effect of including these travel bans in the 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 UK, including transit through the UK. 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 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 (for instance, where the operation of the travel ban would be contrary to the UK's obligations under the ECHR or Refugee Convention) . Once such instruments are designated in UK legislation by means of the Immigration (Designation of Travel Bans) Order 2000, individuals subject to travel bans are excluded persons and must be refused entry to or transit through the UK on the basis of the travel ban save for those limited circumstances referred to above. 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 UK is conducive to the public good.

8. Consultation Outcome

8.1 The Order is giving effect to the UK's legal obligations under international law. Consultation is not required.

9. Guidance

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

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation does not impact upon small businesses.

12. Monitoring and Review

12.1 Changes to the UK's obligations under United Nations and European Union travel bans will be monitored throughout the year.

13. Contact

Queries should be addressed to Kevin Egan of the UK Border Agency on telephone: 020 8760 8227.