EXPLANATORY MEMORANDUM TO

THE IRAN (UNITED NATIONS MEASURES)

(OVERSEAS TERRITORIES) (AMENDMENT) ORDER 2007

2007 No. 2132

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

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

2. Description

This instrument, The Iran (United Nations Measures) (Overseas Territories) (Amendment) Order 2007 ("the Order") amends The Iran (United Nations Measures) (Overseas Territories) Order 2007 (S.I. 2007/282). This amending Order gives effect in the Overseas Territories to restrictive measures imposed on Iran by the United Nations Security Council in resolution 1747 adopted on 24th March 2007, and to wider restrictive measures imposed by the European Union in Council Regulation (EC) No 423/2007 adopted on 19th April 2007, in implementation of Council Common Position 2007/246/CFSP adopted on 27th February 2007, and in Council Common Position 2007/246/CFSP adopted on 23rd April 2007, which amended Council Common Position 2007/140/CFSP. The UN measures require the imposition of a ban on the procurement of military goods and technology from Iran, and the extension of the asset freeze to additional persons and entities. The EU measures require a ban on the supply of additional proliferation-sensitive goods and technologies, and related technical and financial assistance to Iran, an assets freeze on persons and entities in addition to those designated by the UN, and a travel ban on persons designated by the UN or EU.

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

3.1 The enabling powers in this Order combine the power under the United Nations Act 1946, to legislate for the Overseas Territories in respect of the UN measures, with statutory and prerogative enabling powers to legislate for the Overseas Territories to give effect to the EU measures, as the scope of the United Nations Act 1946 means that that Act can only be used for UN Security Council measures. The additional statutory and prerogative powers employed are those used in the past to implement in the Overseas Territories "autonomous" EU sanctions regimes, that is, where there is no related UN sanctions regime. Examples of the implementation of such autonomous EU sanctions regimes are to be found in The Overseas Territories (Zimbabwe) (Restrictive Measures) Order 2002 (S.I. 2002/1077), The Burma (Restrictive Measures)(Overseas Territories) Order 2004 (S.I. 2004/1979), and The Ivory Coast (Restrictive Measures)(Overseas Territories) Order 2005 (S.I. 2005/242).

3.2 The Order will be made at the Privy Council meeting on 25th July 2007 and laid before Parliament on the following day. The Order will come into force the day after it is laid so that the sanctions can be enforced immediately.

4. Legislative Background

4.1 The Iran (United Nations Measures) (Overseas Territories) Order 2007 (S.I. 2007/282) gave effect in the Overseas Territories to restrictive measures imposed on Iran by the United Nations Security Council in resolution 1737 adopted on 23rd December 2006. These measures entailed the imposition of a ban on the supply of proliferation-sensitive goods and technologies, and related technical and financial assistance to Iran, procurement of sensitive goods and technologies from Iran, an assets freeze on designated persons and entities, and a travel ban on designated persons.

4.2 As a consequence of the further UN and EU measures mentioned in paragraph 2, The Iran (United Nations Measures) (Overseas Territories) Order 2007 ("the principal Order") requires to be amended to give effect in the Overseas Territories to the further measures. For the reasons explained in paragraph 3.1, this amending Order requires to be made under the United Nations Act 1946 and additional statutory and prerogative powers. This Order amends the principal Order by adding a prohibition on the procurement from Iran of military goods and technology as required by resolution 1747(2007). The other main changes are that it redefines "designated person" to include persons and entities designated by the EU, in addition to those designated by the UN under resolutions 1737(2006) and 1747(2007), and the definition of "restricted goods" is expanded to include goods and technology banned, or requiring authorisation, under the EU measures. The EU travel ban is to be given effect under existing Overseas Territories' immigration legislation.

4.3 The additional EU measures were implemented in the UK by The Iran (European Community Financial Sanctions) Regulations 2007 (SI 2007/1374) which came into force on 3rd May 2007, and by The Export Control (Iran) Order 2007 (SI 2007/1526) which came into force on 26th May 2007. The present draft Order is consistent with these provisions.

4.4 The additional statutory and prerogative powers to legislate for the Overseas Territories are applicable as follows:

- The Saint Helena Act 1833 applies to Saint Helena;
- The British Settlement Acts 1887 and 1945 are applicable to Ascension and Tristan da Cunha, British Antarctic Territory, the Falkland Islands, Pitcairn (including Henderson, Ducie and Oeno Islands), and South Georgia and the South Sandwich Islands;
- the prerogative legislative power is applicable to Anguilla, British Indian Ocean Territory, Cayman Islands, Montserrat, the Sovereign Base Areas of Akrotiri and Dhekelia, Turks and Caicos Islands, and the Virgin Islands.

4.5 The United Nations Act 1946 and the British Settlement Acts1887 and 1945 require that Orders in Council made under these Acts be laid before Parliament, but otherwise such Orders are not subject to any Parliamentary procedure. The Saint

Helena Act 1833 prescribes no Parliamentary procedure. Other than being laid, this amending Order is not subject to any Parliamentary procedure.

5. Extent

5.1 This instrument applies to the following territories: Anguilla, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Islands, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St Helena and Dependencies, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus, Turks and Caicos Islands and the Virgin Islands. All the territories were consulted.

5.2 The EU asset freeze and technical assistance ban have been given effect in Gibraltar by Council Regulation (EC) No 423/2007 which is directly applicable in Gibraltar, which also requires to implement the additional UN measures. As the additional statutory and prerogative enabling powers do not extend to legislating for Bermuda, the provisions of the present amending Order will require to be implemented separately in Bermuda. It was considered preferable to amend the principal Order, as opposed to replacing it, as the principal Order will remain in force for Bermuda.

6. European Convention on Human Rights

This Order is made under the United Nations Act 1946, the Saint Helena Act 1833, the British Settlement Acts 1887 and 1945 and under prerogative powers. Although laid, this Order is not subject to any Parliamentary procedure. There are no human rights implications.

7. Policy Background

7.1 The UK fully supports the UN measures against Iran.

7.2 This Order represents the UK's compliance in respect of the applicable Overseas Territories with its obligation and commitment to implement the UN and EU restrictive measures respectively.

7. Impact

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

7.2 The impact on the public sector is negligible.

8. Contact

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