EXPLANATORY MEMORANDUM TO

THE IRAQ (SANCTIONS) (OVERSEAS TERRITORIES) ORDER 2015

2015 No. 1383

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

2. Purpose of the instrument

2.1 This Order implements in specified Overseas Territories amendments to the Iraq sanctions regime and consolidates the amended provisions into a single Order. This Order gives effect to sanctions measures imposed on Iraq by United Nations Security Council resolutions 661 (1990) of 6 August 1990, 687 (1991) of 3 April 1991, 1483 (2003) of 22 May 2003, 1546 (2004) of 8 June 2004 and 1956 (2010) of 15 December 2010. This Order also reflects the implementation of these sanctions by the European Union in Council Common Position 2003/495/CFSP and Council Regulation 1210/2003, both adopted on 7 July 2003, as amended by Council Decision 2014/484/CFSP and Council Regulation 791/2014, both adopted on 22 July 2014.

2.2 The sanctions impose an arms embargo, an asset freeze on individuals and entities designated by the United Nations Sanctions Committee and a prohibition on the import or export of illegally removed Iraqi cultural property.

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

None.

4. Legislative Context

4.1 This Order is made in exercise of statutory powers under the United Nations Act 1946, the Saint Helena Act 1833, the British Settlements Acts 1887 and 1945 and the legislative power of the Royal Prerogative.

4.2 The statutory and prerogative powers to legislate for the Overseas Territories, to implement sanctions measures, are applicable to the Overseas Territories as follows:

(i) the United Nations Act 1946 applies to all Overseas Territories;

(ii) the Saint Helena Act 1833 applies to St Helena;

(iii) the British Settlements 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);

(iv) 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.

5. Territorial Extent and Application

This Order applies to the following territories: Anguilla, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, the Falkland Islands, Montserrat, Pitcairn (including Henderson, Ducie and Oeno Islands), St Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands, the Sovereign Base Areas of Akrotiri and Dhekelia, the Turks and Caicos Islands and the Virgin Islands. Bermuda legislates separately to apply the EU sanctions. These measures are implemented in Gibraltar by Council Regulation 1210/2003 as amended and local legislation.

6. European Convention on Human Rights

As this Order is not subject to Parliamentary procedure and does not amend primary legislation, no statement is required.

7. Policy background

The UK supports the UN sanctions regime in Iraq which includes an arms embargo and an asset freeze on individuals and entities designated by the United Nations Sanctions Committee. Specific exemptions to the asset freeze (e.g., for funds and economic resources necessary to satisfy basic needs, payment of reasonable professional fees, reimbursement of expenses incurred for legal services or extraordinary expenses) were introduced by the European Union in 2014 to improve the legal robustness of the regime and thus reduce the legal risk on the UK.

8. Consultation Outcome

The Overseas Territories have been consulted on the Order in draft.

9. Guidance

No guidance will be issued.

10. Impact

10.1 There is no impact on business, charities or the voluntary sector in the United Kingdom.

10.2 There is no impact on the public sector in the United Kingdom.

10.3 An Impact Assessment has therefore not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business in the United Kingdom.

12. Monitoring and Review

12.1 UN sanctions are monitored and reviewed by the UN Security Council and by a Sanctions Committee.

12.2 If the UN sanctions are suspended or lifted by the Security Council, this Order will be reviewed and suspended or revoked as necessary.

13. Contact

Christopher Stephen at the Foreign and Commonwealth Office can answer any queries regarding the instrument. Telephone: 020 7008 2740. Email: christopher.stephen@fco.gov.uk