EXPLANATORY MEMORANDUM TO

THE LIBERIA (RESTRICTIVE MEASURES) (OVERSEAS TERRITORIES) (AMENDMENT No. 2) ORDER 2007

2007 No. 2138

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

2.1 This instrument removes the prohibition on imports of rough diamonds from Liberia contained in Article 6 of the Liberia (Restrictive Measures) (Overseas Territories) Order 2004 (S.I. 2004/347) ("the 2004 Order"). It makes consequential changes to the penalties provisions in Article 17(1) of the 2004 Order flowing from the removal of the prohibition.

2.2 The Authorities in the Sovereign Base Areas in Cyprus and the Falkland Islands (including South Georgia and the Sandwich Islands) have brought to our attention that the provisions on the prosecution of offences contained in the 2004 Order do not accurately reflect the rules applicable in their Territories. The opportunity has been taken, therefore, to amend the 2004 Order to ensure that it accurately reflects the rules applicable in these Territories to the prosecution of offences. The Territories concerned have been consulted on the draft Order and have approved it.

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

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

4. Legislative background

4.1 The United Nations Security Council under Resolution 1753(2007) adopted on the 27th of April 2007 decided to lift the prohibition on the import of rough diamonds originating in Liberia.

4.2 The removal by the European Community under Article 1 of Council Regulation (EC) No. 719/2007 of 25th June 2007 of the existing prohibition on imports of rough diamonds from Liberia is reflected in the Overseas Territories listed in Schedule 1 of the 2004 Order through this instrument. Gibraltar and the Crown Dependencies have been notified and will remove the prohibition separately.

4.3 The prohibition was introduced by the European Union by Article 3 of Council Common Position 2004/137 CFSP and Article 6(1) of Council Regulation (EC) No. 234/2004 of 10 February 2004, which gave effect to paragraph 6 of United Nations Security Council Resolution 1521(2003).

4.4. This instrument applies to the territories listed in paragraph 5 below.

4.4 This Order is made using powers in the Saint Helena Act 1833, the British Settlements Acts 1887 and 1945 and prerogative powers.

4.5 S.I.2004/347 has been amended twice previously by the Liberia (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004 and the Liberia (Restrictive Measures) (Overseas Territories) (Amendment) Order 2007. Neither of the previous amendments related to the prohibition on rough diamonds, which is being removed under the current Order.

5 Extent

This instrument applies to the following territories as listed in Schedule 1 of the 2004 Order: 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.

6 European Convention on Human Rights

Although laid this Order is not subject to any parliamentary procedure. There are no human rights implications and no statement is required.

7 Policy Background

7.1 This instrument gives effect, within the Overseas Territories, to the lifting of the prohibition on imports of rough diamonds from Liberia. Following the lifting by the United Nations of the prohibition on the import of rough diamonds from Liberia, Liberia has become a member of the Kimberley Process Certification Scheme for rough diamonds. This is an international regime, endorsed by the United Nations General Assembly, established to regulate the international trade in rough diamonds and to ensure that the proceeds from sales of rough diamonds are not used to fund armed conflicts in diamond producing countries.

7.2 Some adjustments are also made to the 2004 Order to take account of the rules applicable to the prosecution of offences in the Sovereign Base Areas in the Island of Cyprus and the Falkland Islands (including for this purpose South Georgia and the Sandwich Islands). These changes have been made at the request of the Authorities in these Territories who have been consulted on the draft Order and have expressed their agreement to the proposed changes.

8 Impact

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

8.2 The impact on the public sector is negligible.

9 Contact

Ivan Smyth, FCO Legal Advisers, tel: 020 7008 4367 or e-mail: ivan.smyth@fco.gov.uk, and

Louise Lassman, Sanctions Unit, International Organisations Department, Foreign and Commonwealth Office, tel: 020 7008 3639 or e-mail Louise.Lassman@fco.gov.uk,

can answer queries regarding this instrument.

18th July 2007