EXPLANATORY MEMORANDUM TO

THE OVERSEAS TERRITORIES (ZIMBABWE) (RESTRICTIVE MEASURES) (AMENDMENT) ORDER 2005

2005 No. 3183

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

2. Description

2.1 This instrument (the Amendment Order) amends the Overseas Territories (Zimbabwe) (Restrictive Measures) Order 2002 (Statutory Instrument 2002/1077) (the principal Order) to replace the list of persons in Schedule 4 to the principal Order with a reference to the list set out in the Annex (as modified from time to time) to Council Common Position 2004/161/CFSP (OJ L 50, 20.2.2004, p.66). Consequential amendments are made to the principal Order.

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

3.1 None

4. Legislative Background

4.1 In February 2002 the Council of the European Union adopted Common Position 2002/145/CFSP on restrictive measures against Zimbabwe. This included a travel ban and assets freeze on certain named individuals listed in an annex to the Common Position. The Common Position was implemented in respect of the Overseas Territories by the Overseas Territories (Zimbabwe) (Restrictive Measures) Order 2002 (the principal Order). The list of individuals subject to the restrictive measures was set out in Schedule 4 to the principal Order. The Council renewed the restrictive measures against Zimbabwe and amended the list of individuals in February 2004 by means of Common Position 2004/161/CFSP. The Overseas Territories (Zimbabwe) (Restrictive Measures) (Amendment) Order 2004 (Statutory Instrument 2004/1111) replaced the list in Schedule 4 with a new list.

4.2 In June and July this year the Council of the European Union adopted two Decisions (Council Decisions 2005/444/CFSP and 2005/592/CFSP) updating the list of individuals to take account of changes in the Government in Zimbabwe and to incorporate those responsible for the human rights violations known under the name Operation Murambatsvina (forcible demolition and internal displacement). The new list needs to be given effect in the Overseas Territories. The amendment Order does this and also amends the principal Order to make future changes automatic. This is in line with the Order for the other main EU sanctions regime in respect of Burma (The Burma (Restrictive Measures) (Overseas Territories) Order 2004, Statutory Instrument 2004/1979) . It will mean that when the Council amends the list, the amendment will automatically have effect in relation to the Overseas Territories, without the need for further Orders in Council. This is done by adding an ambulatory definition of "listed person" to the principal Order. Listed person is defined as any member of the Government of Zimbabwe as listed in the Annex (as modified from time to time) to Common Position 2004/161.

4.3 The amendment Order will amend the principal Order to require the Governor in each of the Overseas Territories to publish a notice containing the names of the listed persons in the Gazette of the Territory. This will provide the necessary transparency in the Overseas Territories in respect of persons appearing on the list.

5. Extent

5.1 The Amendment Order 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, St Helena 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

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The UK fully supports the EU measures against Zimbabwe, which are designed to encourage the persons targeted to reject policies that lead to the suppression of human rights, of the freedom of expression and good governance. The list of those subject to the EU travel ban and assets freeze is reviewed and updated regularly in light of political developments in Zimbabwe.

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.

9. Contact

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