EXPLANATORY MEMORANDUM TO

THE SOMALIA (SANCTIONS) (OVERSEAS TERRITORIES) (AMENDMENT) ORDER 2013

2013 No. 1443

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

This Order amends the Somalia (Sanctions) (Overseas Territories) Order 2012 which gave effect in specified Overseas Territories to sanctions against Somalia, consisting of an arms embargo and financial measures against designated individuals and entities. This Order reflects modifications to the arms embargo introduced in United Nations Security Council resolution (UNSCR) 2093 (2013) and implementation of these changes by the European Union in Council Decision 2010/231 CFSP (as amended) and Council Regulation 147/2003 (as amended).

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 applies to all the 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 independently to impose restrictive measures. These measures are implemented in Gibraltar by Council Regulation (EU) No 667/2010 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

7.1 Having determined that the situation in Somalia constituted a threat to international peace and security, the United Nations Security Council adopted in UNSCR 733 (1992) sanctions in respect of Somalia consisting of a general arms embargo. Through a series of resolutions (UNSCRs 1356 (2001), 1425 (2002), 1772 (2007), 1851 (2008) and 2060 (2012)) the arms embargo has been expanded to encompass various forms of related assistance, and has introduced a number of exemptions.

7.2 UNSCR 2093 (2013) introduced the following modifications to the arms embargo, which have been reflected in European Union Council Decision 2010/231 CFSP (as amended) and Council Regulation 147/2003 (as amended):

a) suspension of the arms embargo for the security forces of the Federal Government of Somalia for a period of twelve months, with the exception of certain heavy weaponry which will remain embargoed, and with reporting and notification requirements set out for the Government, and in some cases UN Member States;

b) broadening of the existing exemption to the arms embargo for UNPOS (UN Political Office for Somalia) to include all UN personnel, and removal of the requirement to notify the UN Somalia Sanctions Committee in this case; and

c) broadening of the existing exemption to the arms embargo for AMISOM (African Union Mission In Somalia) to include AMISOM's strategic partners.

8. Consultation outcome

The Overseas Territories to which the Order applies were consulted about the Order.

9. Guidance

Guidance may be sought from the contact below.

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 and a Group of Experts.

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

Andrew Murdoch at the Foreign and Commonwealth Office can answer any queries regarding the instrument. Telephone: 020 7008 1692. E-mail: andrew.murdoch@fco.gov.uk.