EXPLANATORY MEMORANDUM TO

THE SYRIA (RESTRICTIVE MEASURES) (OVERSEAS TERRITORIES) (AMENDMENT) ORDER 2014

2014 No. 269

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 Syria (Restrictive Measures) (Overseas Territories) Order 2012 to give effect in specified Overseas Territories to changes to the sanctions measures adopted by the EU in Council Decision 2013/760/CFSP of 13 December 2013 ("the Council Decision") amending Council Decision 2013/255/CFSP of 31 May 2013. The changes are described in paragraph 7.3 below.

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 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 Saint Helena Act 1833 applies to St Helena;

(ii) 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;

(iii) 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, 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 36/2012, 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

7.1 The UK supports the imposition of EU sanctions measures in relation to Syria. The UK has, in coordination with our close EU partners led efforts to increase the political, economic and financial pressure on the Syrian regime, through successive rounds of sanctions, to end the violence against the Syrian opposition and implement genuine political reform in line with the legitimate aspirations of the Syrian people.

7.2 There is no international or EU law obligation to implement EU sanctions measures in the Overseas Territories but we do so in furtherance of our policy to make sanctions as effective as possible.

7.3 This Order reflects recent changes to the EU sanctions regime by making the following amendments to the principal Order:

- It modifies the provisions relating to the import of restricted goods such that no offence will be committed where the import has been authorised by the Governor with the consent of the Secretary of State. This reflects the introduction in the Council Decision of a new exemption to the prohibition on importing restricted goods for imports related to UN Security Council Resolution 2118(2013) on the destruction of Syrian chemical weapons. The requirement for Secretary of State consent ensures that licences will only be granted consistently with this exemption.

- It amends one of the grounds on which the Governor may grant a licence authorising activity which would otherwise be prohibited by the asset freeze. This reflects the narrowing in the Council Decision of the humanitarian exemption so that payments for humanitarian purposes must go via the UN Syria Humanitarian Assistance Response Plan. There are concerns that the Syrian regime and its financial backers have been misusing the humanitarian exemption for their own profit, and so that they can effectively boost their cash reserves, enabling them to spend more money waging war against their own people. This amendment will ensure money unfrozen for humanitarian purposes goes direct to the UN's Syria appeal, so that it can be distributed impartially to those who most need it, and so that the regime and its financial backers do not enjoy any financial benefit.

- It introduces a new offence of importing, exporting or transferring stolen Syrian cultural property, or providing brokering services related to those activities. There are concerns that Syria's cultural heritage is being plundered for private profit. A proportion of these goods are being imported into Europe, or traded in Europe. It is important that Syria is able to retain its cultural heritage, not least because income from the tourism industry will play

a large part in the reconstruction of Syria's damaged infrastructure. This amendment seeks to make clear that involvement in trade relating to artefacts illegally removed from Syria is prohibited, and thereby helps safeguard Syria's cultural heritage for the future.

- It replaces the existing provisions on evidence and information with updated provisions.

8. Consultation and Outcome

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

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 & review

EU restrictive measures are monitored and reviewed by the Council of the European Union. Amendments will be made to this legislation following any further modifications to the sanctions regime by the Council of the European Union.

13. Contact

Naomi Davey at the Foreign and Commonwealth Office can answer any queries regarding the instrument: Tel: 020 7008 6120 or E-mail: Davey.holmes@fco.gov.uk