EXPLANATORY MEMORANDUM TO THE

TRADE IN GOODS (CONTROL) (AMENDMENT) ORDER 2005

2005 No.443

1. The Trade in Goods (Control) (Amendment) Order 2005 ('the Order').

1.2. This explanatory memorandum has been prepared by the Department of Trade & Industry and is laid before Parliament by Command of Her Majesty.

2. Description

2.1. The Order amends the Trade in Goods (Control) Order 2003 ('the 2003 Order'). The amendments provide that the offences contained in article 9(2) or (3) shall be arrestable offences. This Order also provides that section 138 of the Customs and Excise Management Act 1979 ('CEMA') (provision as to arrest of persons) shall also apply to persons arrested for offences under article 9(2) or (3) of the Order. It further provides that section 77A of CEMA (provision as to information powers) applies to activities requiring a licence under the Order.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1. None.

4. Legislative Background

4.1. The Order is made under sections 4, 5 and 7 of the Export Control Act 2002 and amends the 2003 Order.

4.2 The Order brings Customs powers in relation to controls on the Trade in Controlled Goods in line with those in the Customs and Excise Management Act relating to the export of controlled goods

5. Extent

5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1. In the view of Mr. Nigel Griffiths, the Order is compatible with the European Convention on Human Rights.

7. Policy Background

7.1. HMCE is responsible for enforcing the provisions of the Order. Where there is a breach of the controls on the trade in controlled goods, Customs need similar powers to those in relation to the export of controlled goods provided in the Customs and Excise Management Act. Offences carrying a penalty of more than

10 years imprisonment are arrestable offences under PACE. The amendments provide that the arrest can be made by a Customs officer.

8. Impact

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

8.2. The impact on the public sector is assessed as minimal.

9. Contact

9.1. Jason Simons at the Department of Trade and Industry, 4 Abbey Orchard Street, London, SW1P 2HT, on telephone number 0207 215 0518 can answer any queries regarding this instrument.

DEPARTMENT OF TRADE AND INDUSTRY
March 2005