

Treasury
Customs and Excise Division

Notice 1002 MAN

Annex F

Export Control



January 2016
(updated to 1 November 2016)



Isle of Man
Government

Reilts Ellan Vannin

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Isle of Man
Government

Reilrys Ellan Vannin

1998 No. 2794

CHEMICAL WEAPONS

The Chemical Weapons Act 1996 (Isle of Man) Order 1998

Her Majesty, in exercise of powers conferred upon Her by sections 3(3) and 39(3) of the Chemical Weapons Act 1996, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and commencement

1. This Order may be cited as the Chemical Weapons Act 1996 (Isle of Man) Order 1998 and shall come into force on 17th December 1998.

Application of section 2 of the Chemical Weapons Act 1996

2. The application of section 2 of the Chemical Weapons Act 1996, so far as it applies to acts done outside the United Kingdom, shall extend to bodies incorporated under the law of the Isle of Man.

Extension of the Chemical Weapons Act 1996 to the Isle of Man

3. The Chemical Weapons Act 1996 shall extend to the Isle of Man with the exceptions, adaptations and modifications specified in the Schedule to this Order.

A. K. Galloway
Clerk to the Privy Council

SCHEDULE

Article 3

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN ITS EXTENSION TO THE ISLE OF MAN

1. References to the High Court shall be construed as references to the High Court of Justice of the Isle of Man.
2. References to conviction on indictment shall be construed as references to conviction on information.
3. In sections 5(2), 7(7), 14(2), 15(3) and 29(1), omit paragraph (b) and the word "or" after paragraph (a).
4. In sections 8(2), 16(3) and 37(2), omit "or in Scotland the Court of Session".
5. In section 3 –

-
- (a) in subsection (1), for “United Kingdom” substitute “Isle of Man”;
 - (b) for subsection (2) substitute –

“(2) So far as it applies to acts done outside the Isle of Man, section 2 applies to United Kingdom nationals, and bodies incorporated under the law of the Isle of Man or of any part of the United Kingdom.”;
 - (c) omit subsection (3); and
 - (d) in subsection (5), for “United Kingdom”, where those words first occur, substitute “Isle of Man”; and for “any place in the United Kingdom” substitute “the Isle of Man”.
6. In section 25(1), for “United Kingdom” substitute “Isle of Man”.
 7. In section 27 –
 - (a) in subsection (4), for “United Kingdom” substitute “Isle of Man”;
 - (b) in subsection (7), at the end of the definition of “enactment” insert “, an Act of Tynwald and an instrument made under an Act of Tynwald”; and
 - (c) at the end insert –

“(8) Any reference to any privilege or immunity enjoyed by diplomatic agents in accordance with any provision of the 1961 Articles shall be construed as a reference to the privilege or immunity which would be so enjoyed if the Isle of Man were a part of the United Kingdom.”.
 8. In section 31 –
 - (a) in subsection (1), for paragraphs (a) and (b) substitute “except by or with the consent of the Attorney General for the Isle of Man”;
 - (b) in subsection (2), omit the words from “but the preceding” onwards; and
 - (c) omit subsection (5).
 9. In section 32(2)(g), after “United Kingdom” insert “or of the Isle of Man”.
 10. Omit section 33.
 11. In section 34, in paragraph (b), for “United Kingdom” substitute “Isle of Man”.
 12. In section 36 –
 - (a) in subsection (1), after “modifications to” insert “the Schedule to”; and
 - (b) for subsections (2) and (3) substitute –

“(2) The power to make an order under this section shall be exercisable by statutory instrument.”.
 13. In section 37(4), omit the words from “and this subsection” onwards.
 14. In section 39, omit subsections (1) to (3).
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2003 No. 2759

CUSTOMS AND EXCISE

The Export of Objects of Cultural Interest (Control) Order 2003

The Secretary of State, in exercise of the powers conferred upon her by sections 1, 5 and 7 of the Export Control Act 2002 hereby makes the following Order:

Citation, commencement and interpretation

1. (1) This Order may be cited as the Export of Objects of Cultural Interest (Control) Order 2003.

(2) In this Order, unless the context otherwise requires –

“the Act” means the Export Control Act 2002;

“Community Licence” means an authorisation granted by the Treasury (whether before or after commencement of this Order) under the Regulation;

“cultural goods” shall have the same meaning as that given in the Regulation;

“exportation” includes shipment as stores and, unless the context otherwise requires, means exportation from the Island to any destination except for the United Kingdom;

“objects” means objects of cultural interest of a description specified in and not excluded from the Schedule to this Order;

“the Regulation” means Council Regulation (EC) No 116/2009 of 18 December 2009 on the export of cultural goods.

(3) For the purposes of this Order, a licence granted for the export of objects from the United Kingdom by the Secretary of State under the Export of Objects of Cultural Interest (Control) Order 2003 shall be deemed to be a licence issued by the Treasury.

Controls on the export of objects of cultural interest

2. Subject to the provisions of this Order, all objects are prohibited to be exported to any destination except under the authority of a licence in writing granted by the Treasury, and in accordance with all the conditions attached to the licence.

Licences

3. (1) A Community Licence or licence granted by the Treasury under article 2 may be:

(a) general or specific;

- (b) unlimited or limited so as to expire on a specified date unless renewed; and
- (c) subject to or without conditions, and any such condition may require any act or omission before or after the exportation of objects under the licence.

(2) Any such licence may be varied, suspended or revoked by the Treasury at any time and in such circumstances and on such terms as the Treasury thinks fit, by serving a notice to that effect on the holder of the licence.

Misleading applications for licences etc

4. (1) Where for the purpose of obtaining a licence under article 2 or a Community Licence, any person either –

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) above shall be liable –

- (a) on summary conviction to a fine of £1,000, and
- (b) on conviction on information to a fine of any amount, or imprisonment for a term not exceeding 2 years, or to both,

and any licence which may have been granted in connection with the application for which the false statement was made or the false document or information furnished, shall be void as from the time it was granted.

Failure to comply with licence conditions

5. (1) Subject to the provisions of paragraph (2) below, any person who –

- (a) has done any act under the authority of a licence granted under article 2 or a Community Licence; and
- (b) fails to comply with any condition attaching to that licence,

shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable –

- (a) on summary conviction to a fine of £1,000, and
- (b) on conviction on information to a fine of any amount, or imprisonment for a term not exceeding 2 years, or to both.

(3) No person shall be guilty of an offence under paragraph (1) where –

- (a) the licence condition in question had been previously modified by the Treasury; and

- (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
- (c) the condition with which he failed to comply was modified, otherwise than with his consent, by the Treasury after the doing of the act authorised by the licence.

Customs powers to demand evidence of destination

6. (1) Any person who exports or ships objects or cultural goods, shall, if so required by the Treasury, furnish within such time as the Treasury may determine, evidence of the destination to which the objects or cultural goods were delivered and, if he fails to do so, he shall be guilty of an offence.

(2) Any person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding £5,000.

Application of the Customs and Excise Management Act 1986

7. (1) It shall be the duty of the Treasury to take such action as it considers appropriate to secure the enforcement of this Order.

(2) It shall be the duty of the Treasury to take such action as it considers appropriate to secure the enforcement of the Regulation in respect of the export of cultural goods.

Use and disclosure of information

8. (1) This article applies to information which is held by –

- (a) the Treasury, or
- (b) the Manx Museum and National Trust,

in connection with the operation of controls imposed by this Order or by any applicable Community provision on the exportation of cultural goods.

(2) Information to which this article applies may be used for the purposes of, or for any purposes connected with –

- (a) the exercise of functions in relation to any control imposed by this Order or by any order made under the Act;
- (b) giving effect to any European Community or other international obligation of the Island;
- (c) facilitating the exercise by an authority or international organisation outside the Island of functions which correspond to functions conferred by or in connection with any activity subject to any control by this Order or by any order made under the Act,

and may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this article unless the Manx Museum and National Trust or the Treasury are satisfied that the making of the disclosure is proportionate to what is sought to be achieved by it.

(4) For the purposes of this article "information" is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this article shall be taken to prejudice any power to disclose information which exists apart from this article.

(6) The information that may be disclosed by virtue of this article includes information obtained before the commencement of this Order.

Tessa Jowell
Secretary of State for Culture, Media and Sport
Department of Culture, Media and Sport

17th November 2003

SCHEDULE 1

Article 1

OBJECTS OF CULTURAL INTEREST

1. Any objects of cultural interest manufactured or produced more than 50 years before the date of exportation except:
 - (a) postage stamps and other articles of philatelic interest;
 - (b) birth, marriage or death certificates or other documents relating to the personal affairs of the exporter or the spouse of the exporter;
 - (c) letters or other writings written by or to the exporter or the spouse of the exporter; and
 - (d) goods exported by, and being the personal property of, the manufacturer or producer thereof, or the spouse, widow or widower of that person.



EUROPEAN COMMUNITIES (ISLE OF MAN) ACT 1973

ZIMBABWE SANCTIONS REGULATIONS 2004

Laid before Tynwald

Coming into operation

In accordance with article 1

In exercise of the powers conferred on the Council of Ministers by Section 2B of the European Communities (Isle of Man) Act 1973, and of all other powers enabling it in that behalf, the following Regulations are hereby made:-

Citation and commencement and interpretation

1. (1) These Regulations may be cited as the Zimbabwe Sanctions Regulations 2004 and shall come into operation on the day on which they are made.

(2) In these Regulations –

“the EC Regulation” means Council Regulation (EC) No. 314/2004 of 19th February 2004 concerning certain restrictive measures in respect of Zimbabwe; and

“customs and excise Acts” has the same meaning as in section 1 of the Customs and Excise Management Act 1986.

Offences

2. (1) Any person who, except under the authority of a licence granted by the Treasury under these Regulations, directly or indirectly infringes any of the following prohibitions in the EC Regulation –

- (a) Article 2(a), prohibiting the grant, sale, supply or transfer of technical assistance related to military activities, and to the provision, manufacture, maintenance and use of arms and related material of all types, to any person, entity or body in, or for use in Zimbabwe;
- (b) Article 2(b), prohibiting the provision of financing or financial assistance related to military activities for any sale, supply, transfer or export of arms and related material to any person, entity or body in, or for use in Zimbabwe;

- (c) Article 2(c), prohibiting the participation, knowingly and intentionally, in activities the object or effect of which is to promote the transactions referred to in Article 2(a) or 2(b);
- (d) Article 3(a), prohibiting the sale, supply, transfer or export of equipment which might be used for internal repression, as listed in Annex I to the EC Regulation, whether or not originating in the Community, knowingly and intentionally, to any person, entity or body in, or for use in Zimbabwe;
- (e) Article 3(b), prohibiting the grant, sale, supply or transfer of technical assistance, related to the equipment listed in Annex I to the EC Regulation, to any person, entity or body in, or for use in Zimbabwe;
- (f) Article 3(c), prohibiting the provision of financing or financial assistance related to the equipment listed in Annex I to the EC Regulation, to any person, entity or body in, or for use in Zimbabwe;
- (g) Article 3(d), prohibiting the participation, knowingly and intentionally, in activities the object or effect of which is to promote the transactions referred to in Articles 3(a), (b) or (c),

shall be guilty of an offence and may be arrested.

Licences

3. (1) Authorisation for the transactions set out in regulation 2, as provided for in Article 4 of the EC Regulation, shall in the Island be by way of licence in writing granted by the Treasury.

(2) If, for the purpose of obtaining a licence, any person –

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence; and any licence granted in connection with the application for which the false statement was made or the false document or information furnished shall be void as from the time it was granted.

(3) Any person who, having acted under the authority of a licence granted under this Regulation, fails to comply with any of the requirements or conditions to which the licence is subject shall be guilty of an offence, unless –

- (a) the licence had been previously modified by the Treasury without that person's consent, and
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified.

Penalties

4. (1) A person guilty of an offence under regulation 2, 3(2) or (3) shall be liable –

- (a) on conviction on information, to a fine or custody for a term not exceeding two years or to both; or

(b) on summary conviction, to a fine not exceeding £5,000.

(2) Notwithstanding that the offences in regulation 2 are not, by virtue of the term of imprisonment for which a person may be sentenced in respect of them, arrestable offences within the meaning of the Police, Powers and Procedures Act 1998, section 27(1) of that Act shall apply to the offences as if they were mentioned therein, and the offences shall accordingly be arrestable offences within the meaning of the Act.

(3) Section 145 of the Customs and Excise Management Act 1986 (provision as to arrest of persons) shall apply to the arrest of any person for any offences under regulation 2 as it applies to the arrest of any person for offences under the customs and excise Acts.

(4) Sections 152 to 155 and 157 to 162 of the Customs and Excise Management Act 1986 (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under these Regulations and proceedings for such offences as they apply in relation to offences and penalties and proceedings for offences under the customs and excise Acts.

(5) Nothing in subsections (1) to (4) of section 152 of the said Act (institution of proceedings for offences under the customs and excise Acts to be by order of the Attorney General) shall prevent the institution of proceedings by the Treasury for any of the offences under regulation 2.

Revocation

5. The Zimbabwe Sanctions (Freezing of Funds, Other Financial Assets or Economic Resources) Regulations 2002 are revoked.

Made 19th April 2004

Signed by Mary Williams
Chief Secretary

2006 No. 1846

CUSTOMS

The Export of Radioactive Sources (Control) Order 2006

In accordance with paragraph 2(1) of the Schedule to the Export Control Act 2002, export controls may be imposed under that Act in relation to any goods the exportation or use of which is capable of having a relevant consequence.

The Secretary of State has determined in accordance with paragraph 3(3) of that Schedule that an activity involving the goods controlled by the following Order is capable of having a relevant consequence, namely of leading to the carrying out anywhere in the world of (or of acts which facilitate) acts of terrorism or serious crime anywhere in the world.

Accordingly, the Secretary of State makes the following Order in exercise of the powers conferred by sections 1, 5 and 7 of the Act:

Citation and commencement

1. This Order may be cited as the Export of Radioactive Sources (Control) Order 2006.

Interpretation

2. In this Order—

“the Act” means the Export Control Act 2002;

“controlled radioactive source” means a radionuclide of a description in column 1 of the Schedule to this Order with an activity level of that in the corresponding entry in column 2;

“customs and excise Acts” and “prescribed sum” have the same meanings as in section 184 of the Customs and Excise Management Act 1986;

“exportation” means (except where the context otherwise requires) exportation from the Island to any destination outside the United Kingdom and the Isle of Man; “exporter” and other cognate expressions shall be construed accordingly;

“general” in relation to a licence, means not granted to a particular person but available for use generally;

“in transit” means imported into the Island for transit or transhipment; “transit or transhipment” means transit through the Island or transhipment with a view to re-exportation of the controlled radioactive sources in question;

“licence user” means a person who is registered under article 6 to use a general licence or who is entitled to use a general licence without registration owing to the terms of that general licence.

Export of controlled radioactive sources

3. (1) Subject to the provisions of this Order, the exportation of any controlled radioactive source is prohibited.

(2) Paragraph 1 does not prohibit the exportation of any controlled radioactive source in relation to which a licence in writing has been granted by the Treasury, provided that all conditions attaching to the licence are complied with.

(3) For the purpose of this Order a licence in writing granted by the Secretary of State under the Export of Radioactive Sources (Control) Order 2006 shall be regarded as if it were a licence granted by the Treasury under this Order.

Transit exception to export control

4. (1) Article 3(1) does not prohibit the exportation of any controlled radioactive source which is in transit provided that the conditions in paragraph 2 are met.

(2) The conditions are that –

- (a) the controlled radioactive source remains on board a vessel or aircraft for the entire period that it remains in the Island or is on a through bill of lading or through air waybill and in any event is exported within 30 days of its importation;
- (b) the controlled radioactive source was exported from the country from which it was originally exported in accordance with the laws and regulations relating to the exportation of goods applying therein at the time of the exportation of that source; and either
 - (i) the controlled radioactive source is being returned to the country from which it was originally exported; or
 - (ii) where it is not being returned to the country from which it was originally exported,
 - (aa) the destination of that controlled radioactive source following exportation from the Island has been determined in the country from which it was originally exported prior to its original exportation;
 - (bb) the destination was determined in connection with the transaction which has given rise to transit or transhipment; and
 - (cc) the destination has not been changed prior to its exportation from the Island.

Licences

5. (1) A licence granted by the Treasury under this Order, may be –

- (a) either general or granted to a particular person;
- (b) limited so as to expire on a specified date unless renewed, and
- (c) subject to, or without, conditions and any condition may require any act or omission before or after the doing of the act authorised under that licence.

(2) The Treasury may by notice –

- (a) amend, suspend or revoke a licence granted under this Order;
 - (b) suspend or revoke a general licence granted under this Order as it applies to a particular licence user.
- (2A) A notice by the Treasury under paragraph (2) shall not take effect until –
- (a) in the case of a notice affecting all users of a general licence, it has been published in a manner appearing to the Treasury to be suitable for securing that the notice is seen by persons likely to be affected by it;
 - (b) in any other case, it has been served on the holder of the licence or on the licence user affected.

(3) For the purposes of article 3(2) of this Order, the exportation of a controlled radioactive source to any destination outside the European Community (construed as including the Island) shall be regarded as being under the authority of a licence granted by the Treasury to, or for the benefit of, a particular person only if –

- (a) he is the person on whose behalf the exportation declaration is made; and
- (b) he is established within the European Community (construed as including the Island) and either –
 - (i) he is the owner of the controlled radioactive source or has a similar right of disposal over it; or
 - (ii) if no person who is the owner of the controlled radioactive source or has a similar right of disposal over it, is established within the European Community (construed as including the Island),
 - (aa) he is a party to one or more contracts under which ownership of it or a similar right of disposal over it has passed to a person not established within the European Community (construed as including the Island); and
 - (bb) the controlled radioactive source is to be, is being or has been exported from the European Community (construed as including the Island) pursuant to that contract or contracts.

Registration with Treasury

6. (1) No later than 30 days after a person first does any act under the authority of any general licence granted by the Treasury that does not provide otherwise, that person shall give to the Treasury written notice of his name and address at which copies of the records referred to in article 7(1) of this Order may be inspected.

(2) A person who has given to the Treasury written notice of particulars under paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Treasury written notice of the changed particulars.

Record keeping and inspection

7. (1) A person acting under the authority of any general licence granted under this Order shall keep registers or records.

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information, where appropriate, to be identified –

- (a) a description of the controlled radioactive source that has been exported;
- (b) the date of the exportation;
- (c) the quantity of the controlled radioactive source;
- (d) the name and address of the person referred to in paragraph (1);
- (e) the name and address of any consignee of the controlled radioactive source;
- (f) in so far as it is known to the person referred to in paragraph (1) the name and address of the end-user of the controlled radioactive source; and
- (g) any further information required to be kept by virtue of the licence.

(3) The register or records referred to in paragraph (1) shall be kept for at least 3 years from the end of the calendar year in which the authorised act took place and the person referred to in paragraph (1) shall permit any such registers or records to be inspected and copied by any person authorised by the Treasury.

(4) A person authorised by the Treasury shall have the right, on producing, if required to do so, a duly authenticated document showing his authority, at any reasonable hour to enter for the purpose of paragraph (3), the premises of the address which has most recently been notified to the Treasury under article 6.

(5) Where the registers or records required to be maintained under this article are kept in a form which is not legible the exporter shall at the request of the person authorised by the Treasury, reproduce such registers or records in a legible form.

Licence refusals etc. and appeals

8. (1) In the event that the Treasury decides not to grant a licence to any person who has applied for one, the applicant shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Treasury decides to suspend a licence other than a general licence, or to suspend a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Treasury decides to revoke a licence other than a general licence, or to revoke a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the reason or reasons for the decision.

(4) In the event that the Treasury decides to amend a licence other than a general licence, and does not do so at the request of the licence holder, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(5) Any person who has a right under any of paragraphs (1) to (4) to a written notification in respect of a decision made by the Treasury shall have 28 days beginning with the date of the written notification in which to submit an appeal against the decision in writing to the Treasury.

(6) Any appeal submitted under paragraph (5) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(7) Pending determination of any appeal submitted under paragraph (5), any decision taken by the Treasury shall continue to have effect.

Misleading applications for licences

9. (1) Where for the purpose of obtaining any licence under this Order a person either –
- (a) makes any statement or finalises any document or information which to his knowledge is false in a material particular; or
 - (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence.

- (2) A person guilty of an offence under paragraph (1) shall be liable –
- (a) on summary conviction to a fine of £5,000; or
 - (b) on conviction on information, to a fine of any amount, or to imprisonment for a term not exceeding 2 years, or to both,

and any licence which may have been granted by the Treasury in connection with the application for which the false statement was made or the false document or information was furnished, shall be void as from the time it was granted.

Failure to comply with licence conditions

10. (1) Subject to the provisions of paragraph (3), a person who –
- (a) has done any act under the authority of a licence granted by the Treasury under this Order; and
 - (b) fails to comply with –
 - (i) any conditions attaching to that licence;
 - (ii) any obligation under article 6; or
 - (iii) any obligation under article 7,

shall be guilty of an offence.

- (2) A person guilty of an offence under paragraph (1) shall be liable –
- (a) on summary conviction to a fine of £5,000; and
 - (b) on conviction on information, to a fine of any amount, or to imprisonment for a term not exceeding 2 years, or to both.

(3) No person shall be guilty of an offence under paragraph (1) where in the case of a licence –

- (a) the condition in question has been modified by the Treasury;

- (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
- (c) the condition was modified after the doing of the act authorised by the licence.

Customs powers to require evidence of destination

11. (1) Any person who exports any controlled radioactive source, shall, if so required by the Treasury, provide within such time as the Treasury may determine evidence of the destination to which the controlled radioactive source was delivered and, if he fails to do so, he shall be guilty of an offence.

(2) Any person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding £2,500.

Application of the Customs and Excise Management Act 1986

12. (1) It shall be the duty of the Treasury to take such action as it considers appropriate to secure the enforcement of the provisions of this Order described in paragraph (2).

(2) The provisions referred to in paragraph (1) are articles 3, 9, 10 and 11 and article 7 insofar as the obligation relates to the powers of the Treasury.

(3) For the purposes of this Order, offences other than those in respect of which a duty is imposed upon the Treasury by virtue of paragraph (2) shall not be offences under the customs and excise Acts for the purposes of section 150 of the Customs and Excise Management Act 1986.

(4) In the case of any person who is guilty of an offence related to any prohibition or restriction in article 3 of this Order sections 69(3)(b) and 178(3)(b) of the Customs and Excise Management Act 1986 shall have effect as if for the words "7 years" there were substituted "10 years".

Use and disclosure of information

13. (1) This article applies to information which is held by the Treasury in connection with the operation of the control imposed by this Order.

(2) Information to which this article applies may be used for the purposes of, or for any purposes connected with –

- (a) any other order made under the Act;
- (b) giving effect to any European Community or other international obligation of the Island;
- (c) facilitating the exercise by an authority or international organisation outside the Island of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Act;

and may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this article unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this article "information" is any information that relates to a particular business or other activity carried on by a person and includes information obtained before the commencement of this Order.

(5) Nothing in this article shall be taken to affect any power to disclose information that exists apart from this article.

Service of notices

14. Any notices to be given to the Treasury by a person under this Order may be given by an agent of his and shall be sent by post or delivered to the Treasury.

Malcolm Wicks
Minister of State for Energy
Department of Trade and Industry

7th July 2006

SCHEDULE

Article 2

Controlled Radioactive Sources

radionuclide	Controlled levels of activity (TBq)
Am-241	6.E-1 to 1.27E+00
Co-60	3.E-01 and above
Cs-137	1.E+00 and above
Gd-153	1.E+01 and above
Ir-192	8.E-01 and above
Pm-147	4.E+02 and above
Se-75	2.E+00 and above
Sr-90 (Y-90)	1.E+01 and above
Tm-170	2.E+02 and above
Yb-169	3.E+00 and above

2008 No. 2108

HEALTH AND SAFETY

The Export and Import of Dangerous Chemicals Regulations 2008

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the control of the import and export of goods, the notification and control of substances, the regulation and control of classification, packaging and labelling of dangerous substances and preparations, and measures relating to consumer protection.

The Secretary of State makes these Regulations in exercise of the powers conferred on him by section 2(2) of, and paragraph 1A of Schedule 2 to, the 1972 Act.

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Secretary of State that it is expedient for the references in –

- (a) these Regulations;
- (b) the Notification of New Substances Regulations 1993;
- (c) the Notification of New Substances Regulations (Northern Ireland) 1994;
- (d) the Chemicals (Hazard Information and Packaging for Supply) Regulations 2002; and
- (e) the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002

to the Regulation (EC) No 689/2008 of the European Parliament and of the Council of 17 June 2008 concerning the export and import of dangerous chemicals to be construed as including references to Annexes I and V of that Regulation as those Annexes are amended from time to time.

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Export and Import of Dangerous Chemicals Regulations 2008.

(2) In these Regulations –

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“the Department” means the Department of Local Government and the Environment;

“the Regulation” means Regulation (EC) No 689/2008 of the European Parliament and of the Council of 17 June 2008 concerning the export and import of dangerous chemicals, of which Annexes I and V are as amended from time to time.

Appointment of designated national authorities

2. The Department shall be the designated national authority-
 - (a) to act for the performance of the administrative functions required by the Regulation, in accordance with Article 4 of the Regulation; and
 - (b) to have the responsibility for controlling the import and export of chemicals listed in Annex I of the Regulation, in accordance with Article 17 of the Regulation.

False or misleading information

3. An exporter or importer shall not provide information pursuant to the requirements of any Article of the Regulation knowing it to be false or misleading in a material particular, or being reckless as to whether it is false or misleading in a material particular.

Enforcement and offences

4. (1) Subject to paragraph (8), it shall be the duty of the Department to make adequate arrangements for the enforcement of the Regulation and of these Regulations, and accordingly references to the enforcing authority in the provisions applied for those purposes by paragraphs (3) and (6) shall be construed as references to the Department.

(2) Subject to paragraphs (8) and (9), the provisions of the 1974 Act specified in paragraph (3) shall apply for the purposes of the enforcement in the Island of the Regulation and these Regulations as if the Regulation and these Regulations were health and safety regulations for the purposes of that Act, and any function of the Department under any provision of the 1974 Act (as it has effect in the Island) shall be exercisable as if the Regulation and these Regulations were health and safety regulations for the purposes of that Act.

- (3) The provisions of the 1974 Act referred to in paragraph (2) are –
 - (a) sections 19 and 20 (appointment and powers of inspectors);
 - (b) section 28 (restrictions on disclosure of information); and
 - (c) sections 33 to 42 (provisions as to offences).

(4) ...Omitted.

(5) ...Omitted.

(6) ...Omitted.

(7) ...Omitted.

(8) Contravention of Article 14(2) of the Regulation, which prohibits the export of chemicals and articles the use of which is prohibited in the Community for the protection of human health or the environment, as listed in Annex V of the Regulation, shall be subject to enforcement under the Customs and Excise Management Act 1986.

- (9) A failure to discharge a duty placed –
 - (a) by the Regulation on a designated national authority; or
 - (b) by these Regulations on the Department,

shall not be an offence under section 33(1)(c) of the 1974 Act.

Revocation and amendments

5. ...Omitted

Signed by authority of the Secretary of State for Work and Pensions

James Plaskitt
Parliamentary Under-secretary of State
Department for Work and Pensions

5th August 2008

2008 No. 3231

CUSTOMS

The Export Control Order 2008

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The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to—

- (a) measures relating to trade in dual-use items, including the transmission of software or technology in intangible form; and
- (b) matters relating to trade in certain goods, including technical assistance, which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

It appears to the Secretary of State that it is expedient for the references in this Order to Council Regulation (EC) No 1334/2000, Council Regulation (EC) No 1236/2005, Article 3 of Council Regulation (EEC) No 2913/92 and Article 3 of Council Regulation (EC) No 450/2008 to be construed as references to those instruments and provisions as amended from time to time.

To the extent that this Order regulates any of the activities listed in section 8(1) of the Export Control Act 2002, the Secretary of State, having considered the reasons for the relevant controls and the need to respect the freedom to carry on the relevant activities, has determined that such regulation is necessary in the circumstances prevailing at the time of this Order.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, by paragraph 1A of Schedule 2 to that Act and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002, makes the following Order:

PART 1 INTRODUCTORY

Citation and commencement

1. This Order may be cited as the Export Control Order 2008.

Interpretation

2. (1) In this Order, the following expressions have the meanings given below, save where an expression is also defined in a Schedule where it has, for the purposes of that Schedule, that meaning—

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing vehicle or helicopter;

“category A goods” means goods specified in Part 1 of Schedule 1;

“category B goods” means goods specified in Part 2 of Schedule 1;

“category C goods” means—

- (a) military goods other than goods specified in Schedule 1;
- (b) portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance;
- (c) pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4);
- (d) oleoresin capsicum (OC) (CAS 8023-77-6);

“CEMA” means the Customs and Excise Management Act 1986;

“certificate” means a certificate referred to in article 28A(1);

“competent authority” means the Secretary of State, the Treasury or any other authority that is from time to time empowered to grant authorisations under the dual-use Regulation;

“contract promotion activity” means any act calculated to promote the arrangement or negotiation of a contract for the acquisition, disposal or movement of goods or any agreement to do such an act;

“country” includes territory;

“the customs and excise Acts” has the same meaning as in section 184 of CEMA;

“the customs territory” means the customs territory described in Article 3 of Council Regulation (EEC) No 2913/92 as amended from time to time until its repeal by Council Regulation (EC) No 450/2008 and then the customs territory described in Article 3 of the latter Regulation as amended from time to time;

“the defence-related products Directive” means Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community;

“dual-use” in relation to goods, software or technology, means usable for both civil and military purposes;

“the dual-use Regulation” means Council Regulation (EC) No 428/2009 as amended from time to time;

“embargoed destination” means a country listed in Part 1 or 2 of Schedule 4;

“European military items” means goods, software or technology listed in Schedule 2 except in entry PL5017 or PL5001;

“exportation” shall be construed as follows—

- (a) unless the context otherwise requires, it only includes removal from the United Kingdom to a destination outside the United Kingdom and the Isle of Man;
- (b) it includes shipment as stores;
- (c) in relation to a vessel, vehicle, submersible vehicle or aircraft, it includes taking it out of the United Kingdom and the Isle of Man, notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power

and cognate expressions shall be construed accordingly;

“the firearms Directive” means Council Directive 91/477/EEC;

“general” in relation to a licence, means not granted to a particular person but available for use generally;

“goods subject to trade controls” means goods that are category A goods, category B goods or category C goods.

“importation” in relation to a vessel, vehicle, submersible vehicle or aircraft means taking it into the United Kingdom and the Isle of Man, notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power and cognate expressions shall be construed accordingly;

“individual” in relation to a licence, means granted to a particular person;

“information security items” means goods, software and technology specified in Part 2 of Category 5 in Annex I to the dual-use Regulation;

“Island person” means –

- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen who is resident in the Island;
- (b) a person who under the British Nationality Act 1981 (c.61 of Parliament) is a British subject who is resident in the Island;
- (c) a British protected person within the meaning of that Act who is resident in the Island;
- (d) a body incorporated under the law of the Island; or
- (e) a limited liability company registered in the Island.

“Isle of Man licence” means a licence issued by the Treasury that authorises an act or acts that would otherwise be prohibited by this Order;

“licence” except in article 45(2), means a Isle of Man or UK licence or an authorisation granted under the dual-use Regulation or the torture Regulation;

“licence user” means a person who is registered under article 28 to use a general licence or who is entitled to use a general licence without registration owing to the terms of that general licence;

“microprogramme” means a sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction into an instruction register;

“military” in relation to goods, software and technology, means listed in Schedule 2;

“non-community goods” means non-community goods described in Article 4(8) of Council Regulation (EEC) No 2913/1992 as amended from time to time until its repeal by Council Regulation (EC) No 450/2008 and then non-community goods described in Article 4(19) of the latter Regulation as amended from time to time;

“payment” includes a payment in money or money’s worth or in kind whether referable to a particular act or made from time to time but does not include a payment made by way of wages or salary;

“programme” means a sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer;

“proper” has the same meaning as in CEMA;

“in the public domain” means available without restriction upon further dissemination (no account being taken of restrictions arising solely from copyright);

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such a manner that its benefits are available to members of the public from time to time seeking to take advantage of it;

“shipment” (and cognate expressions) and “stores” have the same meanings as in CEMA;

“software” means one or more programmes or microprogrammes fixed in any tangible medium of expression;

“surface effect vehicle” means any air cushion vehicle (whether side wall or skirted) and any vehicle using the wing-in-ground effect for positive lift;

“technical assistance” means any technical support related to repairs, development, manufacture, assembly, testing, use, maintenance or any other technical service;

“technology” means information (including but not limited to information comprised in software and documents such as blueprints, manuals, diagrams and designs) that is capable of use in connection with the development, production or use of any goods;

“a third country” means any country that is not the United Kingdom or the Isle of Man except that, for the purposes of Part 4 of this Order, goods that are goods in transit are considered to be located in a third country;

“the torture Regulation” means Council Regulation (EC) No 1236/2005 as amended from time to time;

“transfer”, in relation to software or technology, means transfer by electronic or non-electronic means (or any combination of electronic and non-electronic means) from a person or place within the United Kingdom and the Isle of Man to a person or place outside the United Kingdom and the Isle of Man, except in articles 10 and 11 where the limitations as to the origin and destination of the transfer do not apply, and cognate expressions shall be construed accordingly;

“transfer by electronic means”, in relation to software and technology, means transmission by facsimile, telephone or other electronic media, and includes the transmission of technology by describing it orally over the telephone;

“transfer by non-electronic means”, in relation to software or technology, means disclosure of software or technology by any means (or combination of means), including oral communication, other than as the exportation of goods or the transfer by electronic means;

“in transit” means imported into the United Kingdom and the Isle of Man for transit or transshipment;

“transit or transshipment”, in relation to goods, means transit through the United Kingdom or transshipment with a view to re-exportation of the goods or transshipment of the goods for use as stores;

“Treasury” means the Department of that name established under section 1 of the Government Departments Act 1986;

“UK controlled” in relation to dual-use goods, software and technology, means listed in Schedule 3;

“UK licence” means a licence in writing granted by the Secretary of State that authorises an act or acts that would otherwise be prohibited by this Order;

“the Union General Export Authorisation” has the same meaning as in Article 2(9) of the dual-use Regulation;

“vehicle” includes a railway carriage;

“vessel” includes any ship, surface effect vehicle, vessel of small waterplane area or hydrofoil, and the hull or part of the hull of a vessel;

“WMD purposes” means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

(2) Except in the definition of category C goods, tangible storage media on which military or dual-use software or technology is recorded are taken to be military or dual-use goods respectively.

(3) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day of that event.

Crown application

2A. (1) The following articles bind the Crown –

- (a) article 4 (movement of UK controlled dual-use goods, etc. to certain destinations);
- (b) article 6 (WMD purposes end-use control supplementing the dual-use Regulation);
- (c) article 7 (control on transfers within the customs territory supplementing the dual-use Regulation);
- (d) article 8 (transit controls supplementing the dual-use Regulation); and
- (e) article 9 (provisions supplementing the torture Regulation).

(2) The Crown is not criminally liable as a result of a contravention of any of those articles.

(3) Paragraph (2) does not affect the application of those articles to persons in the public service of the Crown.

PART 2 EXPORT AND TRANSFER CONTROLS

Military goods, etc.

3. Subject to articles 13 to 18 and 26, no person shall—

- (a) export military goods; or

- (b) transfer military software or technology by electronic means.

Movement of UK controlled dual-use goods, etc. to certain destinations

4. (1) Subject to articles 13, 14, 15, 16, 17, 18 and 26, no person shall –

- (a) export UK controlled dual-use goods; or
- (b) transfer UK controlled dual-use software or technology by electronic means if paragraph (2) or (3) applies.

(2) This paragraph applies where the destination is one specified in Schedule 3 as a prohibited destination in relation to the goods, software or technology in question (“a prohibited destination”).

(3) This paragraph applies where the destination is not a prohibited destination but the exporter or transferor knows –

- (a) that the final destination of the goods, software or technology in question is a prohibited destination; and
- (b) that no processing or working is to be performed on the goods, software or technology in question before they are exported or transferred to that final destination.

Movement of certain medicinal products to the United States of America

4A. (1) Subject to articles 17 and 26, no person shall export a human or veterinary medicinal product containing the active ingredient pancuronium bromide or propofol where—

- (a) the product is in a form suitable for injection or for preparation of an injection; and
- (b) paragraph (2) or (3) applies.

(2) This paragraph applies where the destination of the product is the United States of America.

(3) This paragraph applies where the destination is not the United States of America but the exporter knows that the final destination of the product is the United States of America.

4B Subject to article 26, no person shall export unissued Libyan bank notes or unissued Libyan coins.

5 ...Omitted.

WMD purposes end-use control supplementing the dual-use Regulation

6. (1) This article applies where—

- (a) a person (“the enquirer”) has grounds for suspecting that dual-use goods, software or technology are or may be intended, in their entirety or in part, for WMD purposes; and

- (b) the goods, software or technology in question are not specified in Annex I to the dual-use Regulation.
- (2) Subject to article 26, the enquirer shall not—
- (a) export the goods in question; or
 - (b) transfer the software or technology in question by electronic means

to a destination outside the customs territory unless, having made all reasonable enquiries as to the proposed use of the goods, software or technology in question, the enquirer is satisfied that they will not be used for WMD purposes.

Control on transfers within the customs territory supplementing the dual-use Regulation

7. (1) This article applies where—
- (a) a person (“the relevant person”) knows—
 - (i) that the final destination of dual-use goods, software or technology is outside the customs territory; and
 - (ii) that no processing or working is to be performed on the goods, software or technology in question within the customs territory;
 - (b) the relevant person would only be permitted to export or transfer the goods, software or technology in question to a destination outside the customs territory to the extent authorised to do so under Article 3 (controls on listed goods) or 4 (end-use controls) of the dual-use Regulation; and
 - (c) the goods, software or technology in question are not specified in Annex IV to the dual-use Regulation.
- (2) Subject to articles 17 and 26, the relevant person shall not—
- (a) export the goods in question; or
 - (b) transfer the software or technology in question by electronic means

to a destination within the customs territory.

Transit controls supplementing the dual-use Regulation

8. (1) Subject to articles 17 and 26, no person shall export goods listed in Annex I to the dual-use Regulation where the goods in question are non-community goods which are entering and passing through the customs territory with a final destination outside the customs territory.
- (2) Paragraph (3) applies where a person (“the exporter”) –
- (a) has been informed by a competent authority that dual-use goods are or may be intended, in their entirety or in part, for purposes referred to in Article 4(1) of that Regulation (WMD purposes end-use control); or

- (b) is aware that dual-use goods specified are or may be intended, in their entirety or in part, for purposes referred to in Article 4(1) of that Regulation (WMD purposes end-use control);

and the dual-use goods in question are non-community goods which are not listed in Annex I to the dual-use Regulation and which are entering or passing through the customs territory with a final destination outside the customs territory.

- (3) Subject to article 26, the exporter shall not export the goods in question.

Provisions supplementing the torture Regulation

9. (1) This article applies to—

- (a) gangchains and leg-irons specially designed for restraining human beings;
- (b) goods within item 2.1 in Annex II to the torture Regulation (electric-shock belts); and
- (c) goods within item 2.1 in Annex III to the torture Regulation (portable electric shock devices).

(2) Subject to article 26, no person shall export goods to which this article applies to a destination within the customs territory.

(3) Subject to article 26, no person shall export goods within paragraph (1)(a) or (c) in relation to which there is no export authorisation requirement under Article 5 (export authorisation requirement) of the torture Regulation because the goods are in transit.

General prohibition

9A. To the extent that, pursuant to any of articles 3 to 9 of this Order, a person may not export goods, the exportation of the goods in question is prohibited.

Transfers within the United Kingdom and Isle of Man for WMD purposes

10. (1) This article applies where a person (“the transferor”)—

- (a) has been informed by the Secretary of State or Treasury that software or technology is or may be intended, in its entirety or in part, for WMD purposes; or
- (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes

and knows that it may be or is intended to be used outside the customs territory or has been informed by the Secretary of State or Treasury that it may be or is intended to be so used.

(2) Subject to articles 18 and 26, the transferor shall not transfer the software or technology in question to a person or place within the United Kingdom and Isle of Man.

Transfers from outside the customs territory for WMD purposes

11. (1) This article applies where an Island person (“the transferor”)—

- (a) has been informed by a competent authority that software or technology is or may be intended, in its entirety or in part, for WMD purposes; or

- (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes.

(2) Subject to articles 18 and 26, the transferor shall not transfer the software or technology in question from a place outside the customs territory to—

- (a) a destination outside the customs territory; or
- (b) a destination within the customs territory if the transferor—
 - (i) knows that the final destination of the software or technology is outside the customs territory; and
 - (ii) knows that no processing or working is to be performed on the software or technology within the customs territory,

or, if the destination is the United Kingdom and Isle of Man, knows that the software or technology may be or is intended to be used outside the customs territory or has been informed by the Secretary of State or Treasury that it may be or is intended to be so used.

Transfers by non-electronic means from the United Kingdom and Isle of Man for WMD purposes

12. (1) This article applies where a person ("the transferor")—

- (a) has been informed by the Secretary of State or Treasury that software or technology is or may be intended, in its entirety or part, for WMD purposes; or
- (b) is aware that software or technology is intended, in its entirety or in part, for WMD purposes.

(2) Subject to articles 18 and 26, the transferor shall not transfer the software or technology in question by non-electronic means to—

- (a) a destination outside the customs territory; or
- (b) a destination within the customs territory if the transferor—
 - (i) knows that the final destination of the software or technology is outside the customs territory; and
 - (ii) knows that no processing or working is to be performed on the software or technology within the customs territory.

Exceptions for aircraft

13. (1) Nothing in article 4 shall be taken to prohibit the exportation of any aircraft the immediately preceding importation of which was on a scheduled journey and which is intended for further scheduled journeys.

(2) Nothing in article 3 shall be taken to prohibit the exportation of any aircraft which is being exported (except to a country or destination specified in Part 1, 2 or 3 of Schedule 4) after temporary importation into the United Kingdom and Isle of Man provided that—

- (a) there has been no change of ownership or registration since such importation; and

- (b) no military goods have been incorporated into the aircraft since such importation other than by way of replacement for a component essential for the departure of the aircraft.

(3) Nothing in article 4 shall be taken to prohibit the exportation of any aircraft on a scheduled journey.

(4) Nothing in article 3 or 4 shall be taken to prohibit the exportation of any aircraft which is departing temporarily from the United Kingdom and Isle of Man on trials.

Exceptions for vessels

14. (1) Nothing in article 3 shall be taken to prohibit the exportation of any vessel registered or constructed outside the United Kingdom and Isle of Man which is being exported (except to a country or destination specified in Part 1, 2 or 3 of Schedule 4) after temporary importation into the United Kingdom and Isle of Man provided that no military goods have been incorporated into the vessel since such importation other than by way of replacement for a component essential for the departure of the vessel.

(2) Nothing in article 4 shall be taken to prohibit the exportation of any vessel proceeding on a journey providing transport services in the ordinary course of business.

(3) Nothing in article 3 or 4 shall be taken to prohibit the exportation of any vessel which is departing temporarily from the United Kingdom and Isle of Man on trials.

Exception for historic military vehicles

14A. (1) The prohibition on the export of military goods in article 3 does not apply to the export of a vehicle or component falling within entry ML6 in Schedule 2 provided that the following conditions are met.

(2) The conditions are that –

- (a) the vehicle or component was manufactured more than 50 years before the date of exportation;
- (b) the exportation is to a destination in Belgium, France or Germany;
- (c) the exportation is for the purposes of a military re-enactment, commemorative event or recreational activity; and
- (d) the vehicle or component is to be returned to the Island within 3 months of the date of exportation.

Exception for firearms

15. (1) Nothing in article 3 or 4 shall be taken to prohibit the exportation of any firearm falling within category B, C or D of Annex I to the firearms Directive, related ammunition and sight using non-electronic image enhancement for use with such a firearm to any destination in a member State if paragraphs (2) and (3) apply.

(2) This paragraph applies if the firearm, ammunition and sight using non-electronic image enhancement form part of the personal effects of a person (“the holder”) who is in possession of—

- (a) ...omitted;

- (b) a document which has been issued to the holder under the provisions of the law of a member State and which complies with the requirements of the firearms Directive.
- (3) This paragraph applies if either—
- (a) the pass or document referred to in paragraph (2) contains authorisation for the possession of the firearm from the member State of destination and any other member State through which the holder intends that the firearm will pass on its way to that destination; or
 - (b) the holder on request satisfies the proper officer of customs and excise at the place of exportation that—
 - (i) the exportation of the firearm is necessary to enable the holder to participate in one of the activities specified in Article 12(2) (hunters and marksmen) of the firearms Directive;
 - (ii) the firearm falls within the category appropriate to that activity in accordance with that Article; and
 - (iii) the exportation or passage of the firearm is not to or through a member State which prohibits or requires an authorisation for the acquisition or possession of the firearm.

Exception for firearms – firearm or shot gun certificate or permit

16. (1) This article applies to firearms authorised to be possessed or, as the case may be, purchased or acquired by—

- (a) ...omitted;
- (b) a visitor's firearm or shotgun permit granted under the Firearms Act 1947 or the Air Guns and Shotguns, Etc Act 1968;
- (c) ...omitted;
- (d) a firearm certificate granted under the Firearms Act 1947 (an Act of Tynwald) as amended by the Firearms Act 1968 (an Act of Tynwald) and the Air Guns and Shot Guns, etc Act 1968 (an Act of Tynwald).

(2) Subject to paragraph (3), nothing in article 3 or 4 shall be taken to prohibit the exportation of any firearm to which this article applies, related ammunition and sight using non-electronic image enhancement for use with such a firearm to—

- (a) any destination in a member State by—
 - (i) any person or body specified in Article 2(2) (Directive not to apply in relation to armed forces, police, public authorities, collectors, etc.) of the firearms Directive; or
 - (ii) the holder of a firearm certificate within paragraph (1)(d); or
- (b) in the circumstances specified in Article 9(1)(a) (temporary export or re-export by hunters and sport shooters) of Council Regulation (EU) No 258/2012, any other destination other than a country or destination specified in Part 1, 2 or 3 of Schedule 4.

(3) The exception in this article only applies if the firearm, related ammunition and sight using non-electronic image enhancement form part of the personal effects of the holder of the relevant certificate or permit and, in a case to which paragraph (2)(b) applies, the certificate or permit is produced by the holder, or the holder's duly authorised agent, with the firearm and, if carried, ammunition and sight to the proper officer of customs and excise at the place of exportation.

Transit or transshipment exception

17. (1) Subject to paragraphs (2) and (3), nothing in articles 3, 4, 4A, 7 or 8(1) shall be taken to prohibit the exportation of any goods which are goods in transit provided that the conditions in paragraph (4) are met.

(2) Paragraph (1) does not apply to—

- (a) anti-personnel landmines and components specially designed for them;
- (b) category A goods;
- (c) equipment, software or technology falling within entry ML18, ML21 or ML22 in Schedule 2, specifically related to anti-personnel landmines or Category A goods;
- (d) goods being exported to a destination specified in Part 1 of Schedule 4;
- (e) military goods being exported to any country or destination specified in Part 2 or 3 of Schedule 4;
- (f) category B goods being exported to any country or destination specified in Part 4 of Schedule 4.

(3) Paragraph (1) does not apply to the extent that—

- (a) the exporter (or, if the exporter is not within the Island, any agent of the exporter within the Island concerned in the exportation or intended exportation) has been informed by a competent authority that the goods are or may be intended, in their entirety or in part, for WMD purposes;
- (b) the exporter is aware that the goods are intended, in their entirety or in part, for WMD purposes; or
- (c) the exporter has grounds for suspecting that the goods are or may be intended, in their entirety or in part, for WMD purposes, unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used.

(4) The conditions are that—

- (a) the goods in question either –
 - (i) remain on board a vessel, aircraft or vehicle for the entire period that they remain in the Island or are goods on a through bill of lading, through air waybill or single transport contract and in any event are exported before the end of the period of 30 days beginning with the date of their importation; or
 - (ii) are European military items which were originally exported from a member State and the destination of the goods following exportation from the Island is within the EU;

- (b) the destination of the goods in question following exportation from the United Kingdom or Isle of Man has been determined in the country from which they were originally exported prior to their original exportation in connection with the transaction which has given rise to transit or transshipment and has not been changed prior to their exportation from the United Kingdom or Isle of Man, or the goods are being returned to that country; and
- (c) the goods in question were exported from that country in accordance with any laws or regulations relating to the exportation of goods applying there at the time of exportation of the goods.

Software and technology exceptions

- 18.** (1) Nothing in article 3 or 4 shall be taken to prohibit the transfer of technology—
- (a) that is in the public domain;
 - (b) that is the minimum technology required for—
 - (i) the installation, operation, maintenance or repair of goods or software that are not military goods or software or UK controlled dual-use goods or software; or
 - (ii) a patent application; or
 - (c) in the course of basic scientific research.
- (2) Nothing in article 10, 11 or 12 shall be taken to prohibit the transfer of software or technology in the public domain.
- (3) In this article, “basic scientific research” means experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts and not primarily directed towards a specific practical aim or objective.

PART 3 TECHNICAL ASSISTANCE CONTROLS

End-use control on technical assistance

- 19.**(1) Subject to article 26, no person shall directly or indirectly provide to a person or place outside the customs territory any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which—
- (a) that person has been informed by the Secretary of State or Treasury is or may be intended, in its entirety or in part, for WMD purposes; or
 - (b) that person is aware is intended, in its entirety or in part, for WMD purposes.
- (2) Subject to article 26, no Island person shall directly or indirectly provide from a place outside the customs territory to any person or place outside the customs territory any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which—
- (a) that person has been informed by the Secretary of State or Treasury is or may be intended, in its entirety or in part, for WMD purposes; or
 - (b) that person is aware is intended, in its entirety or in part, for WMD purposes.

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- (3) For the purposes of paragraphs (1) and (2)—
- (a) directly providing technical assistance includes providing technical assistance or agreeing to do so; and
 - (b) indirectly providing technical assistance includes making arrangements under which another person provides technical assistance or agrees to do so.

PART 4 TRADE CONTROLS

Embargoed destinations

- 20.** (1) This article applies to—
- (a) persons carrying out activities in the Island; and
 - (b) Island persons.
- (2) Subject to articles 25 and 26, no person to whom this article applies shall directly or indirectly—
- (a) supply or deliver;
 - (b) agree to supply or deliver; or
 - (c) do any act calculated to promote the supply or delivery of

any goods subject to trade controls from one third country to another third country that is an embargoed destination.

Category A goods

- 21.** (1) This article applies to—
- (a) persons carrying out activities in the Island; and
 - (b) Island persons.
- (2) Subject to articles 24, 25 and 26, no person to whom this article applies shall directly or indirectly—
- (a) supply or deliver;
 - (b) agree to supply or deliver; or
 - (c) do any act calculated to promote the supply or delivery of

any category A goods, where that person knows or has reason to believe that such action or actions will, or may, result in the removal of those goods from one third country to another third country.

Category B goods

- 22.** (1) This article applies to—
- (a) persons carrying out activities in the Island; and

(b) Island persons.

(2) Subject to paragraphs (3), (4) and (7) and to articles 25 and 26, no person to whom this article applies shall directly or indirectly—

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of

any category B goods, where that person knows or has reason to believe that such action or actions will, or may, result in the removal of those goods from one third country to another third country.

(3) Nothing in this article shall be taken to prohibit the provision of—

- (a) financing or financial services;
- (b) insurance or reinsurance services; or
- (c) general advertising or promotion services

by a person whose only involvement in the activities described in paragraph (2) is to provide or agree to provide such services.

(4) A person (“the transporter”) whose only involvement in the activities described in paragraph (2) is to provide or agree to provide transportation services in relation to category B goods (“the relevant goods”) only contravenes the prohibition in this article if paragraph (5) or (6) applies.

(5) This paragraph applies if the transporter arranges the removal of the relevant goods from one third country to another third country.

(6) This paragraph applies if the transporter, otherwise than in the course of providing services to another person—

- (a) to whom this article applies; and
- (b) who has agreed to provide transportation services in relation to the relevant goods,

removes or agrees to remove the relevant goods from one third country to another third country.

(7) Nothing in this article shall be taken to prohibit any contract promotion activity that is carried out otherwise than for payment.

Category C goods

23. (1) Subject to paragraphs (2) and (3) and to articles 24, 25 and 26, no person shall directly or indirectly—

- (a) agree to supply or deliver; or
- (b) do any act calculated to promote the supply or delivery of

any category C goods, where that person knows or has reason to believe that such action or actions will, or may, result in the removal of those goods from one third country to another third country.

- (2) Nothing in this article shall be taken to prohibit the provision of—
- (a) transportation services;
 - (b) financing or financial services;
 - (c) insurance or reinsurance services; or
 - (d) general advertising or promotion services

by a person whose only involvement in the activities described in paragraph (1) is to provide or agree to provide such services.

(3) Nothing in this article shall be taken to prohibit any contract promotion activity that is carried out otherwise than for payment.

Exception for movement of goods within the customs territory

24. Nothing in article 21 or 23 shall be taken to prohibit activities related to the movement of the following goods within the customs territory—

- (a) the goods listed in paragraph 1 of Schedule 1;
- (b) individual cuffs;
- (c) shackles except those shackles which have an overall dimension including chain, when measured from the outer edge of one cuff to the outer edge of the other cuff, of between 240mm and 280mm when locked and have not been modified to cause physical pain or suffering;
- (d) the goods listed in paragraphs 2(b), (c) and (d) and 4 of Schedule 1;
- (e) portable devices for the purpose of riot control or self-protection by the administration or dissemination of an incapacitating chemical substance;
- (f) pelargonic acid vanillylamide (PAVA) (CAS 2444-46-4);
- (g) oleoresin capsicum (OC) (CAS 8023-77-6).

Exception for activities carried out in the United Kingdom

25. Nothing in this Part shall be taken to prohibit activities carried out in the United Kingdom.

PART 5 LICENCES, ETC.

Licences

26.(1) Nothing in Part 2, 3 or 4 prohibits an activity that is carried out under the authority of a UK or Isle of Man licence.

(2) Unless it provides otherwise, a UK or Isle of Man licence to export military goods also authorises the export or transfer of the minimum technology required for the installation, operation, maintenance and repair of the goods to the same destination as the goods.

(3) A UK or Isle of Man licence to supply or deliver goods subject to trade controls also authorises—

- (a) agreeing to supply or deliver; or
- (b) doing any act calculated to promote the supply or delivery of

the goods.

(4) For the purposes of Article 9 (rules about authorisations) of the dual-use Regulation, the Treasury is empowered to grant authorisations.

(5) The authorisation required by Article 22(1) (exportation or transfer of sensitive items within the customs territory) of the dual-use Regulation for exportation or transfer of goods, software or technology from the United Kingdom or Isle of Man is a licence granted by the Secretary of State or Treasury.

(6) A licence granted by the Secretary of State or Treasury may be—

- (a) either general or granted to a particular person (except that a licence granted under the torture Regulation may not be a general licence);
- (b) limited so as to expire on a specified date unless renewed;
- (c) subject to, or without, conditions and any such condition may require any act or omission before or after the doing of the act authorised by the licence.

Person authorised by UK or Isle of Man licence to export goods

27. (1) For the purpose of article 26(1), but subject to paragraph (2) below, the exportation of goods to any destination outside the customs territory shall be regarded as being under the authority of a UK or Isle of Man licence to, or for the benefit of, a particular person (“the licence holder”) only if—

- (a) the licence holder is the person on whose behalf the exportation declaration is made; and
- (b) the licence holder is established within the customs territory and either—
 - (i) the licence holder is the owner of the goods or has a similar right of disposal over them; or
 - (ii) if no person who is the owner of the goods or has a similar right of disposal over them is established within the customs territory, the licence holder is a party to one or more contracts under which the ownership of the goods or a similar right of disposal over them has passed to a person not established within the customs territory and pursuant to which the goods are to be, are being or have been exported from the customs territory.

(2) Paragraph (1) does not apply if no person falls within sub-paragraph (b) of that paragraph or if the exportation is of goods imported into the United Kingdom and Isle of Man for transit or transshipment.

Registration with the Treasury

28. (1) Not later than 30 days after—

- (a) any person first does any act under the authority of a general licence granted by the Treasury that does not provide otherwise;
- (b) any person established in the Island first does any act under the authority of the Union General Export Authorisation,

the person in question shall give to the Treasury written notice of their name and the address at which copies of the records referred to in article 29(1) or 30(3) of this Order or Article 20(1) (record-keeping) of the dual-use Regulation may be inspected by any person authorised by the Treasury under article 31.

(2) A person who has given to the Treasury written notice of particulars under paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Treasury notice of the changed particulars.

Certificates (European military items)

28A. (1) For the purposes of Article 9(1) of the defence-related products Directive, the Treasury is empowered to grant certificates to recipients established in the Island of European military items under authorisations granted by competent authorities in a member State.

(2) Before granting a certificate, the Treasury must establish the reliability of the recipient undertaking and in particular its capacity to observe limitations on the export of European military items which are received under an authorisation granted by a competent authority in a member State. The recipient's reliability must be assessed according to the following criteria –

- (a) proven experience in defence activities, taking into account in particular –
 - (i) the undertaking's record of compliance with export restrictions including any relevant court decisions;
 - (ii) any authorisation held by the undertaking to produce or market European military items;
 - (iii) the employment of experienced management staff by the recipient;
- (b) relevant industrial activity in European military items within the EU and in particular capacity for system or sub-system integration;
- (c) the appointment of a senior executive as the dedicated officer personally responsible for exports and transfers;
- (d) the provision of a written undertaking, signed by the senior executive referred to in sub-paragraph (c), that the undertaking will take all necessary steps to observe and enforce any specific condition of any authorisation granted by a competent authority in a member State relating to end-use and re-export of any specific component or product received;
- (e) the provision of a written undertaking, signed by the senior executive referred to in sub-paragraph (c), that the undertaking will provide to the Treasury upon request detailed information concerning the end-users or end-use of all European military items exported, transferred or received under an authorisation granted by a competent authority in a member State; and

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- (f) the provision of a written description, signed by the senior executive referred to in sub-paragraph (c), of the undertaking's internal compliance programme or export and transfer management systems. This description must provide details of the organisational, human and technical resources allocated to the management of exports and transfers, the chain of responsibility within the undertaking, internal audit procedures, awareness-raising and staff-training, physical and technical security arrangements, record-keeping and traceability of exports and transfers.
- (3) A certificate granted by the Treasury must contain the following –
 - (a) the name of the competent authority issuing the certificate;
 - (b) the name and address of the recipient;
 - (c) a statement of the recipient's conformity with the criteria referred to in paragraph 2;
 - (d) the date of issue and the period of validity of the certificate.
 - (4) The period of validity of a certificate granted by the Treasury must not exceed five years.
 - (5) A certificate granted by the Treasury may be subject to conditions relating to –
 - (a) the provision of information necessary to verify compliance with the criteria set out in paragraph (2);
 - (b) its suspension or revocation.
 - (6) The Treasury may by notice amend, suspend or revoke a certificate.

Record keeping – general

- 29.** (1) The following must keep detailed registers or records –
- (a) a person who acts under the authority of a general licence granted by the Treasury;
 - (b) a person who acts under the authority of the Union General Export Authorisation whilst established in the Island; and
 - (c) a person who acts under the authority of an individual licence to export or transfer European military items within the EU.
- (2) The registers or records shall contain sufficient detail as may be necessary to allow the following information, where appropriate, to be identified in relation to each act carried out under the authority referred to in paragraph (1)—
- (a) a description of the act;
 - (b) a description of the goods, software or technology to which the act relates;
 - (c) the date of the act or the dates between which the act took place;
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- (d) the quantity of the goods (if any) to which the act relates;
 - (e) the name and address of the person referred to in paragraph (1);
 - (f) the name and address of any consignee of the goods to which the act relates or any recipient of the software or technology to which the act relates;
 - (g) in so far as it is known to the person referred to in paragraph (1), the name and address of the end-user of the goods, software or technology to which the act relates;
 - (h) if different from the person referred to in paragraph (1), the name and address of the supplier of the goods (if any) to which the act relates;
 - (i) any further information required by the licence or authorisation referred to in paragraph (1).
- (3) The registers or records referred to in paragraph (1) shall be kept—
- (a) in the case of a general licence authorising an activity that would otherwise be prohibited by Part 4 of this Order, for at least four years from the end of the calendar year in which the authorised act took place;
 - (b) in any other case, for at least three years from the end of the calendar year in which the authorised act took place

or for such longer period as may be specified in the licence or authorisation referred to in paragraph (1).

(4) The documents and records to be kept in accordance with Article 22(8) (records of exportation and transfer of listed items within the customs territory) of the dual-use Regulation are the registers or records referred to in paragraph (2)(a) to (i).

Registration and record keeping – information security items

30. (1) Not later than 30 days after the first exportation or transfer of information security items not specified in Schedule 5 to this Order from the United Kingdom and Isle of Man under the authority of the Union General Export Authorisation by any person, that person shall (in addition to any notice given under article 28(1)) give to the Treasury in relation to those goods or that software or technology written notice of such of the information specified in Schedule 5 to this Order as is in their possession and such other of that information as they can reasonably be expected to obtain within that time.

(2) A person who has given to the Treasury written notice of information under paragraph (1) shall, not later than 30 days after any change in that information, give to the Treasury written notice of the changed information.

(3) A person who exports or transfers information security items not specified in Annex IV to the dual-use Regulation to a destination within the customs territory shall maintain registers or records in relation to each such exportation or transfer that contain such of the information specified in Schedule 5 to this Order as they can reasonably be expected to obtain and such other of that information as comes into their possession.

(4) The registers or records referred to in paragraph (3) shall be kept for at least three years from the end of the calendar year in which the exportation or transfer took place.

Inspection of records

31. (1) A person (“a relevant person”) who is required under article 29 or 30 of this Order or under Article 20 (record-keeping) or 22(8) (records of exportation and transfer of listed items within the customs territory) of the dual-use Regulation to keep registers, records or documents (“compulsory records”) shall permit those compulsory records to be inspected and copied by a person authorised by the Treasury.

(2) A person authorised by the Treasury who produces, if required to do so, a duly authenticated document showing their authority, shall have the right at any reasonable hour to enter for the purpose of paragraph (1)—

- (a) in the case of compulsory records required to be kept under article 29 or 30 of this Order, the premises the address of which has been most recently notified to the Treasury under article 28 in relation to the records; or
- (b) in the case of compulsory records required to be kept under Article 20 or 22(8) of the dual-use Regulation, the premises the address of which has been most recently notified to the Treasury under article 28 in relation to the records or, if none, such other premises the address of which has been notified for this purpose.

(3) Where a relevant person keeps compulsory records in a form which is not legible, the relevant person shall at the request of a person authorised by the Treasury reproduce the relevant records in a legible form.

Amendment, suspension and revocation of licences

32. (1) The Treasury may by notice –

- (a) amend, suspend or revoke a licence granted by the Treasury;
- (b) amend, suspend or revoke a licence granted by the Secretary of State to a person in the Island or to an Island person; or
- (c) suspend or revoke a general licence granted by the Secretary of State or Treasury as it applies to a particular user who is in the Island or is an Island person.

(2) A notice by the Treasury under paragraph (1), under Article 13(1) (suspension, revocation, etc. of authorisations) or (4) (suspension, revocation, etc. of authorisations for brokering services) of the dual-use Regulation or under Article 9(4) (suspension, revocation, etc. of authorisations) of the torture Regulation shall not take effect until—

- (a) in the case of a notice affecting all users of a general licence, it has been published in a manner appearing to the Treasury to be suitable for securing that the notice is seen by persons likely to be affected by it;
- (b) in any other case, it has been served on the holder of the licence or on the licence user affected.

Licence refusals, etc. and appeals

33. (1) In the event that the Treasury decides not to grant a licence to any person who has applied for one, the applicant shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Treasury decides to suspend a licence other than a general licence, or to suspend a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Treasury decides to revoke a licence other than a general licence, or to revoke a general licence as it applies to a particular licence user, the licence holder or licence user shall be provided with a written notification setting out the reason or reasons for the decision.

(4) In the event that the Treasury decides to amend a licence other than a general licence, and does not do so at the request of the licence holder, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(5) Any person who has a right under any of paragraphs (1) to (4) to a written notification in respect of a decision made by the Treasury shall have 28 days beginning with the date of the written notification in which to submit an appeal against the decision in writing to the Treasury.

(6) Any appeal submitted under paragraph (5) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(7) Pending determination of any appeal submitted under paragraph (5), any decision taken by the Treasury shall continue to have effect.

Certificates: refusals, etc. and appeals

33A. (1) If the Treasury decides not to grant a certificate to an applicant, that person must be provided with a written notification setting out the reason for the decision.

(2) If the Treasury decides to suspend, revoke or amend a certificate, the certificate holder must be provided with a written notification setting out the reason for the decision.

(3) A person who has a right under paragraph (1) or (2) to a written notification may within 28 days beginning with the date of the written notification submit an appeal against the decision by notice in writing to the Treasury, Customs and Excise Division.

(4) A notice of appeal must specify the grounds on which it is made and may provide further information or arguments in support of the appeal.

(5) Pending determination of an appeal the Treasury's decision continues to have effect.

PART 6 OFFENCES, ENFORCEMENT AND PENALTIES

Offences relating to prohibitions in Parts 2, 3 and 4

34. (1) Subject to paragraphs (2) and (7), a person who contravenes a prohibition in Part 2 or 4 of this Order commits an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

(1A) Despite any provision in the Act prescribing the period within which summary proceedings may be commenced, proceedings for an offence under paragraph (1) may be commenced at any time –

(a) within 12 months next after the date of the commission of the offence; or

- (b) the period of 3 months after the date on which evidence sufficient in the opinion of the Attorney General to justify a prosecution for the offence comes to the Treasury's knowledge.

(2) A person who—

- (a) did not know, and had no reason to suppose, that the goods referred to in article 20 were destined for an embargoed destination; and
- (b) is able to show the matters stated in sub-paragraph (a)

shall not be guilty of an offence under paragraph (1) by reason of a contravention of the prohibition in article 20.

(3) A person who contravenes a prohibition in Part 2 or 3 of this Order that is engaged because the person—

- (a) has been informed;
- (b) is aware; or
- (c) has grounds for suspecting

that goods, software or technology are or may be intended, in their entirety or in part, for WMD purposes commits an offence and may be arrested.

(4) A person guilty of an offence under paragraph (3) shall be liable—

- (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;
- (b) on conviction on information to a fine or to custody for a term not exceeding two years, or to both.

(5) Subject to paragraph (7), a person knowingly concerned in activity prohibited by Part 2, 3 or 4 of this Order with intent to evade the relevant prohibition commits an offence and may be arrested.

(6) A person guilty of an offence under paragraph (5) shall be liable—

- (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;
- (b) on conviction on information to a fine or to custody for a term not exceeding ten years, or to both.

(7) Paragraphs (1) and (5) do not create offences related to prohibitions on the exportation of goods (as to which see CEMA).

(8) ...Omitted.

Offences relating to prohibitions and restrictions in the dual-use Regulation

35. (1) Subject to paragraph (8), a person who contravenes a prohibition or restriction in Article 3(1) (controls on listed goods), 4(2) (military end-use control), 4(3) (end-use control relating to use in items exported or transferred without authorisation) or 22(1) (exportation or transfer of sensitive

items within the customs territory) of the dual-use Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

- (2) A person who—
- (a) contravenes a prohibition or restriction in Article 4(1) (WMD purposes end-use control) or Article 5(1) (brokering services) of the dual-use Regulation; or
 - (b) fails to comply with the requirement in Article 4(4) (requirement to notify competent authority in the case of awareness of end-use for certain military or WMD purposes) of the dual-use Regulation

commits an offence and may be arrested.

- (3) A person guilty of an offence under paragraph (2) shall be liable—
- (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;
 - (b) on conviction on information to a fine or to custody for a term not exceeding two years, or to both.

(4) Subject to paragraph (8), a person knowingly concerned in an activity prohibited or restricted by Article 3(1), 4(1), 4(2), 4(3), 5(1) or 22(1) of the dual-use Regulation with intent to evade the relevant prohibition or restriction commits an offence and may be arrested.

- (5) A person guilty of an offence under paragraph (4) shall be liable—
- (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;
 - (b) on conviction on information to a fine or to custody for a term not exceeding ten years, or to both.

(6) A person who fails to comply with Article 9(2) (provision of relevant information for export authorisation applications) or 10(2) (provision of relevant information for authorisation applications for brokering services) of the dual-use Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding £1,000 and any licence which may have been granted in connection with the application shall be void as from the time it was granted.

(7) A person who fails to comply with Article 20 (record-keeping), 22(8) (records of exportation and transfer of listed items within the customs territory) or 22(10) (requirement in relation to commercial documents for exportation and transfer of listed items within the customs territory) of the dual-use Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

(8) Paragraphs (1) and (4) do not create offences related to prohibitions or restrictions on the exportation of goods from the *Isle of Man or United Kingdom* (as to which see CEMA).

- (9) ...Omitted.

Offences relating to prohibitions and restrictions in the torture Regulation

36. (1) A person who contravenes a prohibition or restriction in Article 3(1) (export prohibition) of the torture Regulation in respect of the supply of technical assistance as defined in the torture

regulation commits an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

(2) A person knowingly concerned in the provision of technical assistance as defined in the torture Regulation with intent to evade the prohibition on the provision of technical assistance in article 3(1) of the torture Regulation commits an offence and may be arrested.

(3) A person guilty of an offence under paragraph (2) shall be liable—

- (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;
- (b) on conviction on information to a fine or to custody for a term not exceeding ten years, or to both.

(4) A person who contravenes a prohibition or restriction in Article 4(1) (import prohibition) of the torture Regulation in respect of the acceptance of technical assistance as defined in the torture Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

(5) A person knowingly concerned in the acceptance of technical assistance as defined in the torture Regulation with intent to evade the prohibition on the acceptance of technical assistance in article 4(1) of the torture Regulation commits an offence and may be arrested.

(6) A person guilty of an offence under paragraph (5) shall be liable—

- (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;
- (b) on conviction on information to a fine or to custody for a term not exceeding two years, or to both.

(7) A person who fails to comply with Article 8(2) (provision of relevant information for licence applications) of the torture Regulation commits an offence and shall be liable on summary conviction to a fine not exceeding £1,000 and any licence which may have been granted in connection with the application shall be void as from the time it was granted.

(8) ...Omitted.

Misleading applications for licences or certificates

37. (1) Where for the purpose of obtaining a licence or certificate a person ("the applicant") either—

- (a) makes a statement or furnishes a document or information which to the applicant's knowledge is false in a material particular; or
- (b) recklessly makes a statement or furnishes a document or information which is false in a material particular

the applicant commits an offence and any licence or certificate that has been granted in connection with the application for which the false statement was made or the false document or information was furnished is void as from the time it was granted.

(2) A person guilty of an offence under paragraph (1) shall be liable—

- (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;
- (b) on conviction on information to a fine or to custody for a term not exceeding two years, or to both.

Failure to comply with licence conditions

38. (1) A person who, having acted under the authority of a licence or the Union General Export Authorisation, fails to comply with—

- (a) any of the requirements or conditions to which the licence or the Union General Export Authorisation is subject; or
- (b) any obligation under article 28, 29, 30 or 31

commits an offence unless paragraph (2) applies.

- (2) This paragraph applies if—
 - (a) the licence was modified after the completion of the act authorised; and
 - (b) the alleged failure to comply would not have been a failure had the licence not been so modified.
- (3) A person guilty of an offence under paragraph (1) shall be liable—
 - (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;
 - (b) on conviction on information to a fine or to custody for a term not exceeding two years, or to both.

Customs powers to require evidence of destination

39. (1) This article applies where a person (“the exporter”) has exported goods and required a licence to do so.

(2) The Treasury may require the exporter to provide within such time as the Treasury may determine evidence of the destination to which the goods in question were delivered.

(3) A person who fails to comply with a requirement imposed by the Treasury under paragraph (2) commits an offence and shall be liable on summary conviction to a fine not exceeding £2,500.

Customs powers relating to dual-use goods

40. (1) Goods in relation to which a licence has not been granted and which are brought to any place in the Island for the purpose of being exported may be detained by the proper officer of customs and excise as if they were liable to forfeiture, if and so long as that officer has reason to believe that a competent authority (after, if necessary, having had the impending exportation brought to its attention) might inform the exporter—

- (a) that the goods are or may be intended, in their entirety or in part, for WMD purposes; or

- (b) as provided in Article 4(2) (military end-use control) or 4(3) (end-use control relating to use in items exported or transferred without authorisation) of the dual-use Regulation.

(2) Any goods listed in Annex I to the dual-use Regulation in relation to which a licence has been granted which are brought to any place in the Island for the purpose of being exported to a destination outside the customs territory may be detained by a proper officer of customs and excise for a period of ten working days as if they were liable to forfeiture where that officer or the Treasury has grounds for suspicion that—

- (a) relevant information was not taken into account when the licence was granted; or
- (b) circumstances have materially changed since the issue of the licence,

provided that the period shall be extended to 30 working days where the Treasury certifies that a request for such an extension in accordance with Article 16(4) (customs procedures) of the dual-use Regulation has been received from the member State which granted the licence.

(3) In this article, “working day” means any day which is a “business day” within the meaning of section 92 of the Bills of Exchange Act 1883.

Application of CEMA in respect of offences

41. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence has been committed by reason of a contravention of—
 - (i) article 3, 4, 4A, 4B, 6, 7, 8, 9, 11, 12, 19, 20, 21, 22, 23, 37, 38 or 39 of this Order;
 - (ii) article 31 of this Order so far as it relates to the powers of the Treasury;
 - (iii) the dual-use Regulation; or
 - (iv) the torture Regulation; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 77A of CEMA (provision as to information powers) shall apply to a person concerned in an activity which, if not authorised by a licence, would contravene—

- (a) article 3, 4, 4A, 4B, 6, 7, 8, 9, 11, 12, 19, 20, 21, 22 or 23 of this Order;
- (b) the dual-use Regulation; or
- (c) the torture Regulation,

and accordingly references in section 77A of CEMA to exportation shall be read as including any such activity.

(3) Section 145 of CEMA (provision as to arrest of persons) shall apply to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152, 153, 154, 155, 157, 158, 159, 161 and 162 of CEMA (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) For the purposes of the application of section 152 of CEMA to this Order, only offences related to contraventions of the provisions referred to in paragraph (1)(a) are offences under the customs and excise Acts.

Increase of maximum penalty for prohibited exportation provided for in CEMA

42. In the case of an offence committed in connection with a prohibition or restriction on exportation in Part 2 of this Order, the dual-use Regulation or the torture Regulation, sections 69(3)(b) and 178(3)(b) of CEMA shall have effect as if for the words "7 years" there were substituted the words "10 years".

PART 7 GENERAL

Use and disclosure of information

43.(1) This article applies to information which is held from time to time by the Treasury in connection with the operation of controls imposed by

- (a) this Order; or
- (b) any applicable Community provision on the export of goods, the transfer of software or technology, participation in the provision of technical assistance, or activities which facilitate, or are otherwise connected with, the acquisition, disposal or movement of goods.

(2) Information to which this article applies may be used for the purposes of, or for any purposes connected with—

- (a) the exercise of functions in relation to any control imposed by this Order or by any other order made under the Export Control Act 2002 (as applied in the Island by means of orders made under the Customs and Excise Act 1993);
- (b) giving effect to any Community provision or other international obligation of the Island;
- (c) facilitating the exercise by an authority or international organisation outside the Island and United Kingdom of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Export Control Act 2002 (as applied in the Island by means of orders made under the Customs and Excise Act 1993),

and may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this article unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this article, "information" is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this article shall affect any power to disclose information that exists apart from this article.

(6) The information that may be disclosed by virtue of this article includes information obtained before this Order came into force.

Service of notices

44. Any notice to be given to the Treasury by a person under this Order may be given by an agent of that person; and shall be sent by post or delivered to the Treasury at Customs and Excise Division, Custom House, Douglas, Isle of Man, IM99 1AG.

Revocations and transitional arrangements

45. (1) ...Omitted.

(2) This Order does not apply to—

- (a) any export of goods, transfer of technology or participation in the provision of technical assistance; or
- (b) any activity which facilitates, or is otherwise connected with, the acquisition, disposal or movement of goods

that takes place in accordance with the terms of a licence granted before 6th April 2009 under the legislation referred to in article 6 of the Export Control Order 2008 (Application) Order 2009, the dual-use Regulation or the torture Regulation or to any such licence.

(3) To the extent that, owing to paragraph (2), this Order does not apply, the legislation referred to in article 6 of the Export Control Order 2008 (Application) Order 2009 continues to apply.

Review of the implementation of the defence-related products Directive

46. (1) The Treasury must from time to time –

- (a) carry out a review of articles 3, 17, 26, 28, 28A, 29, 31, 33A, 34, 37, 38 and 41 of this Order to the extent that those provisions implement the defence-related products Directive,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Treasury must, so far as is reasonable, have regard to how the defence-related products Directive is implemented in a member State.

(3) The report must in particular –

- (a) set out the objectives intended to be achieved by the regulatory system established by the articles referred to in sub-paragraph (1)(a) to the extent that those provisions implement the defence-related products Directive;
- (b) assess the extent to which those objectives are achieved; and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with 30th June 2012.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Ian Pearson

Economic and Business Minister
Department for Business, Enterprise and Regulatory Reform

15th December 2008

Schedules 1 to 5 not reproduced here as they are subject to change – for further information please contact the Export Control Organisation

2009 No. 3203

CRIMINAL LAW

NUCLEAR SAFEGUARDS

**The Nuclear Material (Offences) Act 1983
(Isle of Man) Order 2009**

At the Court at Buckingham Palace, the 9th day of December 2009

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 7(2) of the Nuclear Material (Offences) Act 1983, by and with the advice and consent of Her Privy Council, makes the following Order:

Citation and commencement

1. This Order may be cited as the Nuclear Material (Offences) Act 1983 (Isle of Man) Order 2009 and comes into force on the day after the day on which it is made.

Interpretation

2. In this Order "the Act" means the Nuclear Material (Offences) Act 1983 as amended by section 75 of and Part 1 of Schedule 17 to the Criminal Justice and Immigration Act 2008.

Extension of the Act to the Isle of Man

3. Sections 1 to 4, 6 and 8 of and the Schedule to the Act shall extend to the Isle of Man with the modifications set out in the Schedule to this Order.

Revocation

4. The Nuclear Material (Offences) Act 1983 (Isle of Man) Order 1991 is revoked.

Judith Simpson
Clerk of the Privy Council

SCHEDULE

Article 3

Modifications in the extension of the provisions of the Act to the Isle of Man

1. Any reference to an Act of Parliament, or to a provision of an Act of Parliament, shall be construed, unless the contrary intention appears, as a reference to that Act or provision as it has effect in the Isle of Man.

2. Any reference to an Act of Tynwald, or to a provision of an Act of Tynwald, shall be construed as including a reference to that Act or provision as amended or replaced by or under any other such Act or provision.
3. For any reference to the United Kingdom, or to a part of the United Kingdom, there shall be substituted a reference to the Isle of Man.
4. In section 1(1) (Extended scope of certain offences) –
 - (a) for paragraph (b) substitute –

“(b) an offence under section 33 or 35 of the Criminal Code 1872 (an Act of Tynwald) or section 1 of the Criminal Damage Act 1981 (an Act of Tynwald), or”;
 - (b) for paragraph (d) substitute –

“(d) the offence of fraud or extortion or an offence under section 14 or 23 of the Theft Act 1981 (an Act of Tynwald),”;
5. In section 1A(1) (Increase in penalties for offences committed in relation to nuclear material etc) for “indictment” substitute “information”.
6. In section 1B(4) (Offences relating to damage to environment) for “indictment” substitute “information”.
7. In section 1C (Offences of importing or exporting etc nuclear material: extended jurisdiction)-
 - (a) in subsection (4) omit “(in Scotland, sufficient evidence)”;
 - (b) in subsection (6) for “indictment” substitute “information”.
8. In section 1D (Offences under section 1C: investigations and proceedings etc) –
 - (a) in subsection (1) –
 - (i) for “Commissioners for Her Majesty’s Revenue and Customs” substitute “Treasury”;
 - (ii) for “CEMA 1979 (see section 1(1) of that Act)” substitute “CEMA 1986 (see section 184(1) of that Act)”;
 - (b) in subsection (2) for “Section 138 of CEMA 1979” substitute “Section 145 of CEMA 1986”;
 - (c) in subsection (3) for “Sections 145 to 148 and 150 to 155 of CEMA 1979” substitute “Sections 152 to 155 and 157 to 162 of CEMA 1986”;
 - (d) for subsection (4) substitute –

“(4) In this section –

“CEMA 1986” means the Customs and Excise Management Act 1986 (an Act of Tynwald);

“the customs and excise Acts”, “shipment” and “stores” have the same meanings as in CEMA 1986 (see section 184(1) of that Act);

“the Treasury” means the Isle of Man Treasury, a department of the government of the Isle of Man.”

9. In section 2(8) (Offences involving preparatory acts and threats) for “indictment” substitute “information”.
10. In section 2A (Inchoate and secondary offences: extended jurisdiction) –
 - (a) in subsection (3)(d) for “section 50(2) or (3), 68(2) or 170(1) or (2) of the Customs and Excise Management Act 1979” substitute “sections 47(2) or (3), 69(2) or 178(1) or (2) of the Customs and Excise Management Act 1986 (an Act of Tynwald)”;
 - (b) in subsection (4) for paragraphs (a) to (c) substitute –
 - “(a) an offence under section 23 of the Theft Act 1981 (an Act of Tynwald), or
 - (b) an offence of extortion.”
 - (c) omit subsection (5).
11. In section 3 (Supplemental) –
 - (a) for subsection (1) substitute –

“(1) Proceedings for an offence which (disregarding the provisions of the Internationally Protected Persons Act 1978, the Suppression of Terrorism Act 1978, the United Nations Personnel Act 1997, and the Anti-Terrorism and Crime Act 2003 (an Act of Tynwald)) would not be an offence apart from the preceding provisions of this Act shall not be begun in the Isle of Man except by or with the consent of the Attorney General for the Isle of Man.”;
 - (b) omit subsection (2).
12. In section 4 (Amendments of other Acts) –
 - (a) in subsection (1)(b), for “subsections (4) and (5)” substitute “subsection (4)”;
 - (b) for subsection (2), substitute –

“(2) In the Schedule to the Visiting Forces Act 1952 (which specifies the offences which are offences against the person and against property for the purposes of section 3 of that Act) –

 - (a) in paragraph 1, after sub-paragraph (d), there shall be inserted the following sub-paragraph –
 - “(e) an offence under section 2 of the Nuclear Material (Offences) Act 1983 where the circumstances are that –
 - (i) in the case of a contravention of subsection (2), the act falling within paragraph (a) or (b) of that subsection would, had it been done, have constituted an offence falling within paragraph (a) or (b) of this paragraph, or

-
- (ii) in the case of a contravention of subsection (3) or (4), the act threatened would, had it been done, have constituted such an offence"; and
 - (b) in paragraph 2, after sub-paragraph (c) there shall be inserted the following sub-paragraph –
 - "(d) an offence under section 2 of the Nuclear Material (Offences) Act 1983, where the circumstances are that –
 - (i) in the case of a contravention of subsection (2), the act falling within paragraph (a) or (b) of that subsection would, had it been done, have constituted an offence falling within paragraphs (2)(a)(i) to (iv) of this paragraph, or
 - (ii) in the case of a contravention of subsection (3) or (4), the act threatened would, had it been done, have constituted such an offence."";
 - (c) omit subsection (3).
13. In section 8 (Short title and commencement), omit subsection (2).

2011 No. 146

CUSTOMS

The Export Control (Somalia) Order 2011

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to restrictive measures against persons or bodies listed by an international organisation.

This Order makes provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for references to Annex I of Council Regulation (EU) No 356/2010 to be construed as references to that Annex as amended from time to time.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, by paragraph 1A of Schedule 2 to that Act and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002, makes the following Order:

Citation, commencement and interpretation

1. (1) This Order may be cited as the Export Control (Somalia) Order 2011.

(2) In this Order –

“designated person” means person listed in Annex I to the Regulation;

“military goods and technology” means goods and technology included in the Common Military List of the European Union;

“the 1986 Act” means the Customs and Excise Management Act 1986;

“the customs and excise Acts” and “assigned matter” have the same meanings as in section 184 of the 1986 Act;

“the Regulation” means Council Regulation (EU) No 356/2010 and references to Annex I of that Regulation are to be construed as references to that Annex as amended from time to time.

Offences related to military activities

2. (1) A person who contravenes any of the following provisions of the Regulation commits an offence –

(a) Article 8(1)(a) (prohibition on provision to any designated person of technical assistance related to military activities or to the supply etc. of military goods and technology);

- (b) Article 8(1)(b) (prohibition on provision to any designated person of financing etc. related to military activities or to the supply etc. of military goods and technology); or
- (c) Article 8(1)(c) (prohibition on provision to any designated person of investment services related to military activities or to the supply etc. of military goods and technology).

(2) A person who contravenes Article 8(2) (prohibition on participation, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibition in Article 8(1) (a), (b) or (c)) of the Regulation commits an offence and may be arrested.

Overlap with other legislation

3. In any case where a person would, apart from this paragraph, be guilty of –
- (a) an offence under this Order; and
 - (b) a corresponding offence under the Somalia (United Nations Sanctions) (Isle of Man) Order 2002 (“the UN Order”) or under Part 2, 3 or 4 of the Export Control Order 2008,

that person shall be guilty only of the offence under the UN Order.

Penalties

4. (1) A person guilty of an offence under article 2(1) of this Order is liable on summary conviction to a fine not exceeding £5,000.
- (2) A person guilty of an offence under article 2(2) of this Order is liable –
- (a) on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding three months, or both; or
 - (b) on conviction on information to a fine or to custody for a term not exceeding two years, or to both.

Application of the 1986 Act

5. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining –
- (a) whether there are grounds for believing that an offence under this Order has been committed; or
 - (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 78A of the 1986 Act (provision as to information powers) shall apply to a person concerned in an activity which would contravene Article 8 of the Regulation and accordingly references in section 78A of the 1986 Act to exportation shall be read as including any such activity.

(3) Section 145 of the 1986 Act (provision as to arrest of persons) shall apply to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152, 153, 154, 155, 157, 158, 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

Mark Prisk
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

25th January 2011

2011 No. 1296

CUSTOMS

The Export Control (Eritrea and Miscellaneous Amendments) Order 2011

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States and in relation to restrictive measures against persons or bodies listed by an international organisation.

This Order makes provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for references to Annex I of Council Regulation (EU) No 667/2010 to be construed as references to that Annex as amended from time to time.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, by paragraph 1A of Schedule 2 to that Act and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002, makes the following Order:

Citation, commencement and interpretation

1. (1) This Order may be cited as the Export Control (Eritrea and Miscellaneous Amendments) Order 2011.

(2) In this Order –

“the 1986 Act” means the Customs and Excise Management Act 1986;

“the 2008 Order” means the Export Control Order 2008;

“designated person” means a person listed in Annex I to the Regulation;

“military goods and technology” means arms and related materiel of all types included in the Common Military List of the European Union;

“the Regulation” means Council Regulation (EU) No 667/2010 concerning certain restrictive measures in respect of Eritrea, and references to Annex I to that Regulation are to be construed as references to that Annex as amended from time to time.

(3) Any expression used both in this Order and in the Regulation has the meaning that it bears in the Regulation.

Offences in relation to Eritrea

2. (1) A person who contravenes any of the following provisions of the Regulation commits an offence –

- (a) Article 2(1)(a) (prohibition on provision of technical assistance related to military activities or to the provision etc. of military goods and technology to any natural or legal person, entity or body in, or for use in, Eritrea);
- (b) Article 2(1)(b) (prohibition on provision of financing or financial assistance related to military goods and technology to any natural or legal person, entity or body in, or for use in, Eritrea);
- (c) Article 2(1)(c) (prohibition on obtaining technical assistance related to military activities or to the provision etc. of military goods and technology from any natural or legal person, entity or body in Eritrea);
- (d) Article 2(1)(d) (prohibition on obtaining financing or financial assistance related to military activities or for the provision of technical assistance and brokering services from any natural or legal person, entity or body in Eritrea).

(2) A person who contravenes Article 2(1)(e) of the Regulation (prohibition on participation, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions in Article 2(1)(a), (b), (c) or (d) of the Regulation) commits an offence and may be arrested.

Offences in relation to designated persons

3. (1) A person who contravenes any of the following provisions of the Regulation commits an offence –

- (a) Article 8(1)(a) (prohibition on provision of technical assistance related to military activities or to the provision of military goods and technology to any designated person);
- (b) Article 8(1)(b) (prohibition on provision of financing or financial assistance related to military activities or to the provision etc. of military goods and technology to any designated person).

(2) A person who contravenes Article 8(2) of the Regulation (prohibition on participation, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions in Article 8(1)(a) or (b) of the Regulation) commits an offence and may be arrested.

Overlap with the 2008 Order

4. A person is not guilty of an offence under the 2008 Order who would, apart from this paragraph, be guilty of –

- (a) an offence under this Order; and
- (b) a corresponding offence under the 2008 Order.

Penalties

5. (1) A person guilty of any offence under article 2(1) or article 3(1) of this Order is liable–
- (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both;

- (b) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.

Application of the 1986 Act

6. (1) Where the Isle of Man Treasury investigates or proposes to investigate any matter with a view to determining –

- (a) whether there are grounds for believing that an offence under this Order has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 78A of the 1986 Act (provision as to information powers) shall apply to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Article 2 or 8 of the Regulation and accordingly references in section 78A of the 1986 Act to exportation shall be read as including any such activity.

(3) Section 145 of the 1986 Act (provision as to arrest of persons) shall apply to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) shall apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) For the purposes of this article, “the customs and excise Acts” and “assigned matter” have the same meanings as in section 184 of the 1986 Act.

Amendment of the Export Control (North Korea) Order 2007

7. ...Omitted.

Amendments to the 2008 Order

8. In Schedule 2 to the 2008 Order, in entry ML9a.1. following “and components therefor specially designed” insert “or modified”.

Review

9. (1) Before the end of each review period, the Isle of Man Treasury must –

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Isle of Man Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Regulation and the measures taken to implement them in member States.

(3) The report must in particular –

-
- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Regulation established by this Order and the measures taken to implement them,
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) "Review period" means –
- (a) the period of five years beginning with the day on which this Order comes into force, and
 - (b) subject to paragraph (5), each successive period of five years.
- (5) If a report under this Order is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

Mark Prisk
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

16th May 2011

2011 No. 2010

CUSTOMS

The Export Control (Belarus) and (Syria Amendment) Order 2011

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States.

This Order makes provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for references to Annex III of Council Regulation (EU) No 765/2006 to be construed as references to that Annex as amended from time to time.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, by paragraph 1A of Schedule 2 to that Act and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002, makes the following Order:

Citation, commencement and interpretation

1. (1) This Order may be cited as the Export Control (Belarus) and (Syria Amendment) Order 2011.

(2) In this Order –

“the 1986 Act” means the Customs and Excise Management Act 1986;

“the 2008 Order” means the Export Control Order 2008;

“Annex III equipment” means equipment listed in Annex III to the Belarus Regulation;

“the Belarus Regulation” means Council Regulation (EC) No 765/2006 concerning restrictive measures in respect of Belarus, and a reference to Annex III to that Regulation is to be construed as a reference to that Annex as amended from time to time;

“CML items” means goods and technology listed in the Common Military List of the European Union;

“EU authorisation” means an authorisation or an approval granted under either Article 1a(3) or Article 1b(2) of the Belarus Regulation.

(3) An expression used both in this Order and in the Belarus Regulation has the meaning that it bears in the Regulation.

Offences supplementing the Belarus Regulation

2. A person who contravenes any of the following provisions of the Belarus Regulation, except by exporting goods, commits an offence and may be arrested –

- (a) Article 1a(1)(a) (prohibition on sale etc. of Annex III equipment to any person, entity or body in Belarus or for use in Belarus);
- (b) Article 1b(1)(a) (prohibition on provision of technical assistance related to CML items by any person, entity or body in Belarus or for use in Belarus);
- (c) Article 1b(1)(b) (prohibition on provision of technical assistance or brokering services related to Annex III equipment to any person, entity or body in Belarus or for use in Belarus);
- (d) Article 1b(1)(c) (prohibition on provision of financing or financial assistance related to CML items or Annex III equipment to any person, entity or body in Belarus or for use in Belarus).

Offences related to EU authorisations

3. (1) A person commits an offence and may be arrested who, for the purpose of obtaining an EU authorisation –

- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition of the EU authorisation commits an offence and may be arrested, unless –

- (a) the EU authorisation was modified after the completion of the act authorised; and
- (b) the alleged failure to comply would not have been a failure had the EU authorisation not been so modified.

Circumvention of prohibitions

4. (1) A person commits an offence and may be arrested who participates, knowingly and intentionally, in activities the object or effect of which is –

- (a) to circumvent a prohibition in Article 1a(1)(a) of the Belarus Regulation, or
- (b) to enable or facilitate the contravention of such a prohibition.

(2) A person commits an offence and may be arrested who participates, knowingly and intentionally, in activities the object or effect of which is –

- (a) to circumvent a prohibition in Article 1b(1)(a) to (c) of the Belarus Regulation, or
- (b) to enable or facilitate the contravention of such a prohibition.

Overlap with the 2008 Order

5. A person is not guilty of an offence under the 2008 Order who would, apart from this paragraph, be guilty of –

- (a) an offence under this Order; and
- (b) a corresponding offence under the 2008 Order.

Penalties

6. (1) A person guilty of any offence under articles 2(a) or 4(1) of this Order is liable–

- (a) on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both;
- (b) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.

(2) A person guilty of an offence under articles 2(b) to (d), or 3 or 4(2) of this Order is liable –

- (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine or to both;
- (b) on summary conviction, to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or to both.

(3) In the case of an offence committed under the 1986 Act in connection with the prohibition of exportation in Article 1a(1)(a) of the Belarus Regulation, sections 69(3)(b) and 178(3)(b) of the 1986 Act have effect as if for the words “7 years” there were substituted the words “10 years”.

Application of the 1986 Act

7. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining –

- (a) whether there are grounds for believing that an offence under this Order has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 78A of the 1986 Act (provision as to information powers) applies to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Article 1a or 1b of the Belarus Regulation and accordingly references in section 78A of the 1986 Act to exportation shall be read as including any such activity.

(3) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties

under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) "The customs and excise Acts" and "assigned matter" have the same meanings as in section 184 of the 1986 Act.

Amendments to the 2008 Order related to Belarus arms embargo

8. In Schedule 4 to the 2008 Order –

- (a) in Part 2, at the appropriate place insert "Belarus";
- (b) in Part 4, omit "Belarus".

Review

9. (1) Before the end of each review period, the Treasury must –

- (a) carry out a review of articles 1 to 8 of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Belarus Regulation and the measures taken to implement them in member States.

(3) The report must in particular –

- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Belarus Regulation established by this Order and the measures taken to implement them,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) "Review period" means –

- (a) the period of five years beginning with the day on which this Order comes into force, and
- (b) subject to paragraph (5), each successive period of five years.

(5) If a report under this Order is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

Amendments to the Export Control (Syria and Miscellaneous Amendments) Order 2011

10. ...Omitted.

Mark Prisk
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

11th August 2011

2011 No. 2443

CLUSTER MUNITIONS

The Cluster Munitions (Prohibitions) Act 2010 (Isle of Man)
Order 2011

At the Court at Buckingham Palace, the 12th day of October 2011

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 33(3) of the Cluster Munitions (Prohibitions) Act 2010 is pleased, by and with the advice of Her Privy Council, to make the following Order:

Citation and commencement

1. This Order may be cited as the Cluster Munitions (Prohibitions) Act 2010 (Isle of Man) Order 2011 and shall come into force on 2nd November 2011.

Extension of the Cluster Munitions (Prohibitions) Act 2010 to the Isle of Man

2. The Cluster Munitions (Prohibitions) Act 2010 shall extend to the Isle of Man, subject to the exceptions and modifications specified in the Schedule to this Order.

Judith Simpson
Clerk to the Privy Council

SCHEDULE

Article 2

**Exceptions and modifications to be made in the extension of the
Cluster Munitions (Prohibitions) Act 2010 to the Isle of Man**

1. Any reference to an Act of Tynwald, or to a provision of an Act of Tynwald, shall be construed as including a reference to that Act or provision as amended or replaced by or under any other such Act or provision.
2. In section 2 (offences), in subsection (3) –
 - (a) for "indictment" substitute "information"; and
 - (b) for "imprisonment" substitute "custody".
3. In section 4 (application of section 2) –

-
- (a) in subsections (1), (2) and (4), for “United Kingdom” substitute “Isle of Man”;
 - (b) in subsection (3) –
 - (i) for “United Kingdom”, in the first place it occurs, substitute “Isle of Man”; and
 - (ii) in paragraph (c), after “the law of” insert “the Isle of Man or”;
 - (c) omit subsection (5);
 - (d) in subsection (7) –
 - (i) for “United Kingdom”, in the first place it occurs, substitute “Isle of Man”; and
 - (ii) for “any place in the United Kingdom” substitute “the Isle of Man”; and
 - (e) omit subsections (8) and (9).
4. In section 8 (visiting forces) –
- (a) in subsection (3), for “United Kingdom”, in each place it occurs, substitute “Isle of Man”; and
 - (b) in subsection (6), after “Visiting Forces Act 1952” insert “as it has effect in the Isle of Man”.
5. In section 9 (international military operations and activities), in subsection (3)(i), after “United Kingdom” insert “and the Isle of Man”.
6. In section 12 (power to enter premises and search for prohibited munitions), omit subsection (10).
7. In section 16 (power to enter premises and destroy immobilised prohibited munitions), omit subsection (11).
8. In section 17 (compensation for destruction), in subsection (2), for “High Court or, in Scotland, the Court of Session” substitute “High Court of Justice of the Isle of Man”.
9. In section 18 (offences relating to destruction etc.) –
- (a) in subsection (4) –
 - (i) in paragraph (a), for “the statutory maximum” substitute “£5,000”; and
 - (ii) in paragraph (b), for “indictment” substitute “information”; and
 - (b) in subsection (5) –
 - (i) in paragraph (a), for “the statutory maximum” substitute “£5,000”; and
 - (ii) in paragraph (b) –
 - (aa) for “indictment” substitute “information”; and
 - (bb) for “imprisonment” substitute “custody”.
10. In section 20 (information and records for Convention purposes) –
-

-
- (a) in subsection (8) –
 - (i) in paragraph (a), for “the statutory maximum” substitute “£5,000”; and
 - (ii) in paragraph (b), for “indictment” substitute “information”; and
 - (b) in subsection (9) –
 - (i) in paragraph (a), for “the statutory maximum” substitute “£5,000”; and
 - (ii) in paragraph (b) –
 - (aa) for “indictment” substitute “information”; and
 - (bb) for “imprisonment” substitute “custody”.
11. In section 21 (power to search and obtain evidence: issue of warrant), omit subsection (7).
12. In section 22 (power to search and obtain evidence: supplementary) –
- (a) in subsection (5), omit “(or, in Scotland, to confidentiality of communications)”; and
 - (b) in subsection (10) –
 - (i) in paragraph (a), for “the statutory maximum” substitute “£5,000”; and
 - (ii) in paragraph (b), for “indictment” substitute “information”.
13. In section 23 (disclosure of information) –
- (a) in subsection (2) –
 - (i) in paragraph (d), for “section 17(2)(a) to (d) of the Anti-terrorism, Crime and Security Act 2001 (disclosure related to criminal investigation or criminal proceedings)” substitute “section 56(2)(a) to (d) of the Anti-Terrorism and Crime Act 2003 (an Act of Tynwald (c.6)) (exercise of existing disclosure powers)”; and
 - (ii) in paragraph (f), after “United Kingdom” insert “or the Isle of Man”;
 - (b) in subsection (3) –
 - (i) for “Section 18 of the Anti-terrorism, Crime and Security Act 2001” substitute “Section 57 of the Anti-Terrorism and Crime Act 2003 (an Act of Tynwald (c.6))”; and
 - (ii) for “section 17” substitute “section 56”; and
 - (c) in subsection (4) –
 - (i) in paragraph (a) for “the statutory maximum” substitute “£5,000”; and
 - (ii) in paragraph (b) –
 - (aa) for “indictment” substitute “information”; and
 - (bb) for “imprisonment” substitute “custody”.
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14. In section 24 (consent to prosecution), for “may not be instituted” to the end substitute “may not be instituted except by or with the consent of the Attorney General for the Isle of Man.”.
 15. In section 28 (service of notices), for “United Kingdom” in each place it occurs substitute “Isle of Man”.
 16. In section 29 (power to modify Act), for subsections (1) to (4) substitute –
 - “(1) The Council of Ministers may by order make such additions to, omissions from or other modifications of this Act as it has effect in the Isle of Man as it considers necessary or desirable to give effect to any amendment of the Convention made in pursuance of the provisions of the Convention, being additions, omissions or modifications appearing to the Council of Ministers to be equivalent to those made by order by the Secretary of State under this section as it has effect in the United Kingdom.
 - (2) An order under subsection (1) may also make such modifications of any Act of Tynwald or any instrument of a legislative character made under an Act of Tynwald (whenever passed or made) as the Council of Ministers considers necessary or desirable in consequence of the modifications of this Act made by that order.
 - (3) An order under this section shall not have effect unless it is approved by Tynwald.”.
 17. In section 30 (interpretation), after the definition of “the Convention” insert –

““custody” has the same meaning as in the Custody Act 1995 (an Act of Tynwald (c.1));”.
 18. Omit section 31 (amendments of other Acts).
 19. In section 32 (Crown application) –
 - (a) in subsection (4), for “High Court or, in Scotland, the Court of Session” substitute “High Court of Justice of the Isle of Man”; and
 - (b) omit subsection (6).
 20. Omit section 33 (extent).
 21. In section 34 (commencement and short title), omit subsection (1).
 22. In Schedule 2 (offences to which section 9 applies) –
 - (a) omit paragraph 3; and
 - (b) in paragraph 8 for “United Kingdom”, in each place, it occurs, substitute “Isle of Man”.
 23. Omit Schedule 3 (amendments of other Acts).
-

2011 No. 2649

CUSTOMS

The Export Control (Al-Qaida and Taliban Sanctions) Regulations 2011

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to restrictive measures against persons or bodies listed by an international organisation.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for references to Annex I to Council Regulation (EU) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network and to Annex I to Council Regulation (EU) 753/2011 concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan to be construed as references to those Annexes as amended from time to time.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, by paragraph 1A of Schedule 2 to that Act, makes the following Regulations:

Citation, commencement and application

1. (1) These Regulations may be cited as the Export Control (Al-Qaida and Taliban Sanctions) Regulations 2011.
- (2) An offence may be committed under these Regulations –
 - (a) in the Island by any person;
 - (b) elsewhere by any person who is a Island person within the meaning of section 11 of the Export Control Act 2002.

Amendment of the Al-Qa'ida and Taliban (United Nations Measures) Order 2002

2. ...Omitted.

Interpretation

3. In these Regulations –
 - “the 1986 Act” means the Customs and Excise Management Act 1986;
 - “the 2008 Order” means the Export Control Order 2008 (as it has effect in the Isle of Man);
 - “the Al-Qaida Regulation” means Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network and a reference to Annex I to that Regulation is to be construed as a reference to that Annex as amended from time to time;

“the Taliban Regulation” means Council Regulation (EU) No 753/2011, as amended by Council Implementing Regulation (EU) No 968/2011, concerning restrictive measures directed against certain individuals, groups, undertakings and entities in view of the situation in Afghanistan.

Offences supplementing the Al-Qaida Regulation

4. (1) A person commits an offence and may be arrested who contravenes a prohibition in Article 3 of the Al-Qaida Regulation (prohibition on provision of technical advice, assistance or training related to military activities to any natural or legal person, entity, body or group listed in Annex I).

(2) A person commits an offence and may be arrested who participates, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in Article 3 of the Al-Qaida Regulation.

Offences supplementing the Taliban Regulation

5. (1) A person commits an offence and may be arrested who contravenes a prohibition in Article 2(a) of the Taliban Regulation (prohibition on provision of technical assistance related to the goods and technology listed in the Common Military List of the European Union to any person, group, undertaking or entity listed in Annex I).

(2) A person commits an offence and may be arrested who participates, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibition in Article 2(a) of the Taliban Regulation.

Overlap with the 2008 Order

6. A person is not guilty of an offence under the 2008 Order who would, apart from this article, be guilty of –

- (a) an offence under these Regulations; and
- (b) a corresponding offence under the 2008 Order.

Penalties

7. (1) A person guilty of an offence under regulation 4 or 5 is liable –

- (a) on summary conviction, to custody for a term not exceeding three months or to a fine not exceeding £5,000, or to both;
- (b) on conviction on information, to custody for a term not exceeding two years or to a fine, or to both.

Application of the 1986 Act

8. (1) A matter is treated as an assigned matter which the Treasury investigates or proposes to investigate with a view to determining –

- (a) whether there are grounds for believing that an offence under these Regulations has been committed; or
- (b) whether a person should be prosecuted for such an offence.

(2) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under these Regulations as it applies to the arrest of a person for an offence under the customs and excise Acts.

(3) Sections 152, 153, 154, 155, 157, 158, 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under these Regulations as they apply in relation to offences and penalties under the customs and excise Acts.

(4) "The customs and excise Acts" and "assigned matter" have the same meanings as in section 184 of the 1986 Act.

Review

9. (1) The Treasury must from time to time –

- (a) carry out a review of regulations 1 and 3 to 8,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Al-Qaida Regulation and the Taliban Regulation and the measures taken to implement them in member States.

(3) The report must in particular –

- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Al-Qaida Regulation and the Taliban Regulation established by those regulations and the measures taken to implement them,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations are deemed to have effect in the Isle of Man.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Mark Prisk
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

3rd November 2011

2013 No. 1964

CUSTOMS

The Export Control (Burma Sanctions) Order 2013

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002, makes the following Order:

Citation, commencement and application

1. (1) This Order may be cited as the Export Control (Burma Sanctions) Order 2013.
- (2) An offence may be committed under this Order –
 - (a) in the Island by any person;
 - (b) elsewhere by any person who is a Island person within the meaning of article 2 (1) of the Export Control Order 2008 (of Parliament), as it has effect in the Island.

Revocations

2. ...Omitted.

Interpretation

3. (1) In this Order –

“the 1986 Act” means the Customs and Excise Management Act 1986 (an Act of Tynwald);

“EU licence” means an authorisation granted under Article 4 of the Burma Regulation;

“the Burma Regulation” means Council Regulation (EU) 401/2013 concerning restrictive measures in respect of Myanmar/Burma and repealing Regulation (EC) No 194/2008.
- (2) An expression used both in this Order and in the Burma Regulation has the meaning that it bears in the Burma Regulations.

Offences related to the sale, supply and transfer of equipment which might be used for internal repression listed in Annex I to the Burma Regulation

4. Unless authorised by an EU licence, a person who is knowingly concerned in an activity other than the export of goods, prohibited by Article 2(1) (prohibition on sale etc. of equipment listed in Annex I to any natural or legal person, entity or body in, or for use in Myanmar/Burma) of the Burma Regulation with intent to evade a prohibition in that Article commits an offence and may be arrested.

Offences related to technical and financial assistance in relation to military activities and equipment which might be used for internal repression listed in Annex I to the Burma Regulation

5. Unless authorised by an EU licence, a person who is knowingly concerned in an activity prohibited by any of the following Articles of the Burma Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested –

- (a) Article 3(1)(a) (prohibition on provision of technical assistance related to military activities etc. directly or indirectly to any natural or legal person, entity or body in, or for use in Myanmar/Burma);
- (b) Article 3(1)(b) (prohibition on provision of financing or financial assistance related to military activities etc. directly or indirectly to any natural or legal person, entity or body in, or for use in Myanmar/Burma);
- (c) Article 3(2)(a) (prohibition on provision of technical assistance related to the equipment listed in Annex I, directly or indirectly to any natural or legal person, entity or body in, or for use in Myanmar/Burma);
- (d) Article 3(2)(b) (prohibition of financing or financial assistance related to the equipment listed in Annex I, directly or indirectly to any natural or legal person, entity or body in, or for use in Myanmar/Burma).

Offences related to EU licences

6. (1) A person commits an offence and may be arrested who, for the purpose of obtaining an EU licence –

- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU licence granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU licence, fails to comply with a requirement or condition of the EU licence commits an offence and may be arrested, unless –

- (a) the EU licence was modified after the completion of the act licensed; and
- (b) the alleged failure to comply would not have been a failure had the EU licence not been so modified.

Circumvention of prohibitions

7. A person commits an offence and may be arrested who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly) to circumvent any of the prohibitions in the following Articles of the Burma Regulation, or to enable or facilitate the contravention of any such prohibition –

- (a) Article 2(1) of the Burma Regulation (prohibitions on sale, etc. of equipment which may be used for internal repression listed in Annex I to the Burma Regulation); or

-
- (b) Article 3(1) and (2) of the Burma Regulation (prohibitions on the provision of technical and financial assistance in relation to military activities and equipment which may be used for internal repression listed in Annex I to the Burma Regulation).

Penalties

- 8. (1) A person guilty of an offence under article 4 or 7(a) of this Order is liable –
 - (a) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both; or
 - (b) on conviction on information, to custody for a term not exceeding 10 years or to a fine or to both.
- (2) ...Omitted.
- (3) A person guilty of an offence under articles 5, 6 and 7(b) of this Order is liable –
 - (a) on summary conviction, to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or to both; or
 - (b) on conviction on information, to custody for a term not exceeding 2 years or to a fine or to both.
- (4) In the case of an offence committed under the 1986 Act in connection with the prohibition of exportation in Article 2(1) of the Burma Regulations, sections 69(3)(b) and 178(3)(b) of the 1986 Act have effect as if for the words “7 years” there were substituted “10 years”.

Application of the 1986 Act

- 9. (1) Where the Isle of Man Treasury investigates or proposes to investigate any matter with a view to determining –
 - (a) whether there are grounds for believing that an offence under this Order has been committed; or
 - (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 78A of the 1986 Act (information powers) shall apply to a person concerned in an activity which, if not authorised by an EU licence would contravene Articles 2 and 3 of the Burma Regulation and accordingly references in section 78A of the 1986 Act to exportation shall be read as including any such activity.

(3) Section 145 of the 1986 Act (provisions as to arrest of persons) shall apply to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) “The customs and excise Acts” and “assigned matters” have the same meanings as in section 184 of the 1986 Act.

Review

10. (1) The Isle of Man Treasury must from time to time –
 - (a) carry out a review of articles 3 to 9 of this Order,
 - (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) In carrying out the review the Isle of Man Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Burma Regulation and the measures taken to implement them in member States.
- (3) The report must in particular –
 - (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Burma Regulation established by this Order and the measures taken to implement them,
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this Order must be published before the end of the period of five years beginning with the day on which this article comes into force.
- (5) Reports under this Order are afterwards to be published at intervals not exceeding five years.

Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

31st July 2013

SCHEDULE REVOCATIONS

Article 2

...Omitted.

2013 No. 2012

CUSTOMS

The Export Control (Syria Sanctions) Order 2013

<i>Made - - - -</i>	<i>12th August 2013</i>
<i>Laid before Parliament</i>	<i>15th August 2013</i>
<i>Coming into force - -</i>	<i>6th September 2013</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States.

This Order makes provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for references to an Annex to Council Regulation (EU) No 36/2012 to be construed as references to that Annex as amended from time to time.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, by paragraph 1A of Schedule 2 to that Act and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002, makes the following Order.

PART I

Introductory

Citation, Commencement and Application

1. (1) This Order may be cited as the Export Control (Syria Sanctions) Order 2013.
- (2) An offence may be committed under this Order—
 - (a) in the Island by any person;
 - (b) elsewhere by any person who is a *Island* person within the meaning of article 2(1) of the Export Control Order 2008 (of Parliament), as it has effect in the Island.

Revocations

2. ... Omitted.

Interpretation

3. (1) In this Order—

“the 1986 Act” means the Customs and Excise Management Act 1986;

“the 2008 Order” means the Export Control Order 2008;

“EU authorisation” means an authorisation or an approval granted under Articles 2a (2), 2b, 3(3) and (4), 4, 5, 6a, 7a, 9a and 13a of the Syria Regulation;

“the Syria Regulation” means Council Regulation (EU) No 36/2012 as last amended by Council Regulation (EU) No 827/2014 concerning restrictive measures in view of the situation in Syria, and a reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time;

“Isle of Man Licence” means a licence in writing granted by the Isle of Man Treasury that authorises an act or acts that would otherwise be prohibited by articles 4 and 5 of this Order, and the provisions in articles 26(2), (3) and (6), 27, 28, 29, 31 to 33 of the 2008 Order are to apply to a Isle of Man licence granted under articles 4 and 5 of this Order as if it were a Isle of Man licence granted under the 2008 Order;

“Syrian person” has the same meaning as in Article 1(o) of the Syria Regulation;

(2) Unless otherwise defined in this article or any other part of this Order, any expression used in this Order has the meaning that it bears in the Syria Regulation.

PART 2

Export and Brokering Controls

Export and transfer controls on equipment which might be used for internal repression

4. Unless authorised by an Isle of Man licence, a person commits an offence and may be arrested if that person (directly or indirectly) exports, supplies or transfers equipment, goods or technology which might be used for internal repression or for the manufacture and maintenance of products which could be used for internal repression as listed in Schedule 2 to any person, entity or body in Syria or for use in Syria.

Brokering controls on equipment which might be used for internal repression

5. (1) Unless authorised by an Isle of Man licence, a person commits an offence and may be arrested if that person (directly or indirectly) provides brokering services related to the equipment, goods or technology which might be used for internal repression or for the manufacture and maintenance of products which could be used for internal repression as listed in Schedule 2 to any person, entity or body in Syria or for use in Syria.

(2) In this article, “brokering services” means—

- (a) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology from one third country to any other third country; or
- (b) the selling or buying of goods and technology that are located in third countries for their transfer to another third country.

PART 3

Offences in relation to the prohibitions of the Syria Regulation

Offences related to equipment and goods and technology listed in Annex I or IX or in the Common Military List of the European Union

6. (1) A person who is knowingly concerned in an activity, other than the export of goods, prohibited by any of the following Articles of the Syria Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 2a(1)(a) (prohibition on sale etc. of equipment, goods or technology which might be used for internal repression as listed in Annex IA, whether or not originating in the Union *or the Island* to any person, entity or body in Syria, or for use in Syria);
 - (b) Article 3(1)(a) (prohibition on provision of technical assistance or brokering services related to equipment goods or technology which might be used for internal repression as listed in Annex IA to any person, entity or body in Syria, or for use in Syria);
 - (c) Article 3(1)(b) (prohibition on provision of financing or financial assistance related to goods and technology listed in Annex IA to any person, entity or body in Syria, or for use in Syria);
 - (d) Article 3a (prohibition on provision of financing or financial assistance, brokering services, etc. relating to the goods and technology listed in the Common Military List of the European Union for any purchase, import or transport of such items if they originate in Syria, or are being exported from Syria to any other country).
- (2) A person commits an offence and may be arrested if that person—
- (a) is concerned in an activity, except by exporting goods and technology, for which EU authorisation is required by Article 2b of the Syria Regulation (authorisation required for sale, etc. of goods and technology which might be used for internal repression as listed in Annex IX, to any person, entity or body in Syria or for use in Syria);
 - (b) does not have the required EU authorisation; and
 - (c) is knowingly concerned in that activity with intent to evade a prohibition in that Article.
- (3) A person commits an offence and may be arrested if that person—

- (a) is concerned in an activity for which EU authorisation is required by Article 3 (4) of the Syria Regulation (authorisation required for the provision of technical assistance, brokering services, financing or financial assistance related to the equipment, goods and technology listed in Annex IX, to any person, entity or body in Syria or for use in Syria);
- (b) does not have the required EU authorisation; and
- (c) is knowingly concerned in that activity with intent to evade a prohibition in that Article.

Offences related to equipment, technology and software listed in Annex V

7. A person commits an offence and may be arrested if that person—

- (a) is concerned in an activity, except by exporting goods and technology, for which EU authorisation is required by any of the following Articles of the Syria Regulation—
 - (i) Article 4(1) (authorisation required for the sale etc. of items listed in Annex V to any person, entity or body in Syria or for use in Syria);
 - (ii) Article 5(1)(a) (authorisation required for the provision of technical assistance or brokering services related to items listed in Annex V to any person, entity or body in Syria or for use in Syria);
 - (iii) Article 5(1)(b) (authorisation required for the provision of financing or financial assistance related to items listed in Annex V to any person, entity or body in Syria, or for use in Syria);
 - (iv) Article 5(1)(c) (authorisation required for the provision of any telecommunications or internet monitoring or interception services of any kind to, or for the direct or indirect benefit of, the State of Syria, its Government, its public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction).
- (b) does not have the required EU authorisation; and
- (c) is knowingly concerned in that activity with intent to evade a prohibition in those Articles.

Offences related to crude oil and petroleum products listed in Annex IV

8. A person who is knowingly concerned in an activity, other than the import of goods, prohibited by any of the following Articles of the Syria Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 6(b) (prohibition on purchase of crude oil or petroleum products which are located in or which originated in Syria);
- (b) Article 6(c) (prohibition on transporting crude oil or petroleum products if they originate in Syria, or are being exported from Syria to any other country);
- (c) Article 6(d) (prohibition on provision of financing or financial assistance related to the prohibitions set out in points (a) to (c) of Article 6 of the Syria Regulation).

Offences related to jet fuel and fuel additives as identified in Annex Va

8A. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export of goods, prohibited by any of the following Articles of the Syria Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested –

- (a) Article 7a(1)(a) (prohibition on the sale, supply etc. of jet fuel and fuel additives as identified in Annex Va to any person, entity or body in Syria, or for use in Syria);
- (b) Article 7a(1)(b) (prohibition on the provision of financing or financial assistance related to the sale, supply etc. of jet fuel and fuel additives as identified in Annex Va to any person, entity or body in Syria, or for use in Syria);
- (c) Article 7a(1)(c) (prohibition on the provision of brokering services with regard to the sale, supply etc. of jet fuel and fuel additives as identified in Annex Va to any person, entity or body in Syria, or for use in Syria).

Offences related to key equipment and technology listed in Annex VI

9. A person who is knowingly concerned in an activity, other than the export of equipment or technology, prohibited by any of the following Articles of the Syria Regulation with intent to evade the prohibitions in those Articles commits an offence and may be arrested—

- (a) Article 8(1) (prohibition on sale, etc. of equipment and technology listed in Annex VI to any Syrian person, entity or body, or for use in Syria);
- (b) Article 9(a) (prohibition on provision of technical assistance or brokering services related to equipment and technology listed in Annex VI, to any Syrian person, entity or body, or for use in Syria);
- (c) Article 9(b) (prohibition on provision of financing or financial assistance related to equipment and technology listed in Annex VI, to any Syrian person, entity or body, or for use in Syria).

Offences related to the movement of Syrian bank notes and coins

10. A person who is knowingly concerned in an activity, other than the export of goods, prohibited by Article 11 of the Syria Regulation (prohibition on sale, etc. of new Syrian denominated banknotes and coinage, printed or minted in the Union, to the Central Bank of Syria) with intent to evade the prohibitions in that Article commits an offence and may be arrested.

Offences related to the movement of gold, precious metals and diamonds listed in Annex VIII

11. A person who is knowingly concerned in an activity, other than the export or the import of goods, prohibited by any of the following Articles of the Syria Regulation with intent to evade the prohibitions in those Articles commits an offence and may be arrested—

- (a) Article 11a(1)(a) (prohibition on sale, etc. of gold, precious metals and diamonds, as listed in Annex VIII, to the Government of Syria, its public bodies, corporations

and agencies, the Central Bank of Syria, any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them);

- (b) Article 11a(1)(b) (prohibition to purchase, etc. of gold, precious metals and diamonds, as listed in Annex VIII, from the Government of Syria, its public bodies, corporations and agencies, the Central Bank of Syria and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them);
- (c) Article 11a(1)(c) (prohibition on provision of technical assistance or brokering services or financing or financial assistance related to goods listed in Annex VIII to the Government of Syria, its public bodies, corporations and agencies, the Central Bank of Syria and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them).

Offences related to the movement of luxury goods to Syria

12. A person who is knowingly concerned in an activity, other than the export of goods, prohibited by Article 11b of the Syria Regulation (prohibition on sale, etc. of luxury goods as listed in Annex X to Syria, etc.) with intent to evade the prohibitions in that Article commits an offence and may be arrested.

Offences related to the movement of Syrian cultural property goods, etc including those listed in Annex XI

12A. A person who is knowingly concerned in an activity, other than the export or import of goods, prohibited by Article 11c of the Syria Regulation (prohibition on import, export, transfer or provision of brokering services related to import, export or transfer, of Syrian cultural property goods, etc, including those listed in Annex XI, where there are reasonable grounds to suspect that the goods have been removed from Syria without the consent of the legitimate owner or in breach of Syrian or international law) with intent to evade the prohibitions in that Article commits an offence and may be arrested.

Offences related to equipment and technology listed in Annex VII

13. A person who is knowingly concerned in an activity, other than the export of equipment or technology, prohibited by any of the following Articles of the Syria Regulation with intent to evade the prohibitions in those Articles commits an offence and may be arrested—

- (a) Article 12(1)(a) (prohibition on sale, etc. of equipment or technology listed in Annex VII to be used in the construction or installation in Syria of new power plants for electricity production);
- (b) Article 12(1)(b) (prohibition on the provision of financial or technical assistance in relation to any project referred to in point (a) of Article 12(1) of the Syria Regulation).

Offences related to restrictions on financing certain enterprises

14. A person who is knowingly concerned in an activity prohibited by any of the following Articles of the Syria Regulation with intent to evade the prohibitions in those Articles commits an offence and may be arrested—

- (a) Article 13(1)(a) (prohibition on the granting of any financial loan or credit to any Syrian person, entity or body engaged in certain specified activities);
- (b) Article 13(1)(b) (prohibition on the acquisition or extension of a participation in any Syrian person, entity or body engaged in certain specified activities);
- (c) Article 13(1)(c) (prohibition on the creation of a joint venture with any Syrian person, entity or body engaged in certain specified activities).

PART 4

Supplementary Provisions as to Offences

Offences related to EU authorisations and Isle of Man Licenses

15. (1) If, for the purpose of obtaining an EU authorisation or an Isle of Man Licence, a person—

- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,
- (c) that person commits an offence and may be arrested.

(2) An EU authorisation or an Isle of Man Licence granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation or an Isle of Man Licence, fails to comply with a requirement or condition of the EU authorisation or Isle of Man Licence commits an offence and may be arrested, unless—

- (a) the EU authorisation or Isle of Man Licence was modified after the completion of the act authorised; and
- (b) the alleged failure to comply would not have been a failure had the EU authorisation or the Isle of Man Licence not been so modified.

Circumvention of prohibitions

16. (1) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in articles 4 or 5 of this Order or Articles 2a, 2b, 4, 7a(1)(a), 7a(1)(c), 8, 11, 11a(1)(a), 11b(1)(a) or 12(1)(a) of the Syria Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 3(1)(a), (b) or 3(4), 3a(a), 5(1)(a) to (c), 6(b) to (d), 7a(1)(b), 9(a) or (b), 11a(1)(b) or (c), 12(1)(b) or 13(1)(a) to (c) of the Syria Regulation, or
- (b) to enable or facilitate the contravention of any such a prohibition.

PART 5

Enforcement and Penalties

Penalties

17. (1) A person guilty of an offence under articles 4, 5, 6(1)(a) or (2), 7(a)(i), 8a(a) or (c), 9(a), 10, 11(a), 12, 13(a) or 16(1) of this Order is liable—

- (a) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both; or
- (b) on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both.

(2) ... omitted

(3) A person guilty of an offence under articles 6(1)(b) to (c) or (3), 7(a)(ii) to (iv), 8, 8A(b), 9(b) or (c), 11(b) or (c), 12A, 13(b), 14, 15 or 16(2) of this Order is liable—

- (a) on summary conviction, to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or to both; or
- (b) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both.

(4) In the case of an offence committed under the 1986 Act in connection with the prohibitions of exportation in article 4 of this Order or Articles 2a, 2b, 4, 7a(1)(a), 8(1), 11, 11a(1)(a), 11c(1) or 12(1)(a) of the Syria Regulation, sections 69(3)(b) and 178(3)(b) of the 1986 Act have the effect as if for the words "7 years" there were substituted the words "10 years".

(5) In the case of an offence committed under the 1986 Act in connection with the prohibitions of importation in Articles 6(a), 11a(1)(b) or 11c(1) of the Syria Regulation, sections 47(4)(b) and 178(3)(b) of the 1986 Act have the effect as if for the words "7 years" there were substituted the words "10 years".

Application of the 1986 Act

18. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under this Order has been committed; or

-
- (b) whether a person should be prosecuted for such an offence, the matter shall be treated as an assigned matter.

(2) Section 78A of the 1986 Act (provision as to information powers) applies to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Articles 2 to 5 of the Syria Regulation and accordingly references in section 78A of the 1986 Act to exportation shall be read as including any such activity.

(3) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) "The customs and excise Acts" and "assigned matter" have the same meanings as in section 184 of the 1986 Act.

PART 6

General

Review

19. (1) Before the end of each review period, the Treasury must—
- (a) carry out a review of articles 1 and 3 to 18 of this Order,
 - (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) In carrying out the review the Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Syria Regulation and the measures taken to implement them in other member States.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by the regulatory system established by Part 2 of this Order and by the rules on penalties applicable to infringements of the provisions of the Syria Regulation established in Parts 3 to 5 this Order and the measures taken to implement them,
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) "Review period" means—

(a) the period of five years beginning with the day on which this Order comes into force, and

(b) subject to paragraph (5), each successive period of five years.

(5) If a report under this Order is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

12th August 2013

Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

SCHEDULE 1

Article 2

REVOCATIONS

Omitted

SCHEDULE 2

Articles 4 and 5

LIST OF EQUIPMENT WHICH MIGHT BE USED FOR INTERNAL REPRESSION AS REFERRED TO IN ARTICLES 4 AND 5

Definitions

1. In this Schedule—

“the UK Military List” means the list of military goods, software and technology in Schedule 2 to the 2008 Order;

“the Dual-Use Regulation” means Council Regulation (EC) No 428/2009.

Equipment which might be used for internal repression

2. The list of equipment which might be used for internal repression includes the following—

(a) weapon sights not controlled by the UK Military List;

(b) bombs and grenades not controlled by the UK Military List;

(c) ground vehicles as follows, and specially designed components therefor—

(i) vehicles specially designed or modified to remove barricades, including construction equipment with ballistic protection;

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- (ii) vehicles specially designed for the transport of prisoners and/or detainees;
 - (iii) vehicles specially designed to deploy mobile barriers;
 - (d) protective equipment not controlled by ML13 of the UK Military List or Annex I of the Dual-Use Regulation as follows—
 - (i) body armour providing ballistic and/or stabbing protection;
 - (ii) helmets providing ballistic and/or fragmentation protection;
 - (iii) anti-riot helmets;
 - (e) night vision, thermal imaging equipment and image intensifier tubes, other than those controlled by the UK Military List or Annex I of the Dual-Use Regulation;
 - (f) razor barbed wire;
 - (g) military knives, combat knives and bayonets with blade lengths in excess of 10 cm;
 - (h) production equipment specially designed for the items specified in this list other than that controlled by the UK Military List or Annex I of the Dual-Use Regulation;
 - (i) technology which is specifically required for the development, production or use of the items specified in this list, other than that controlled by the UK Military List or Annex I of the Dual-Use Regulation.

2013 No. 3182

CUSTOMS

The Export Control (North Korea and Ivory Coast Sanctions and Syria Amendment) Order 2013

Made - - - - - 12th December 2013

Laid before Parliament 17th December 2013

Coming into force - - 7th January 2014

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States.

This Order makes provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for references to an Annex to Council Regulation (EC) No 329/2007 or an Annex to Council Regulation (EC) No 174/2005 to be construed as references to that Annex as amended from time to time.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, by paragraph 1A of Schedule 2 to that Act and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002, makes the following Order.

PART I

Introductory

Citation, Commencement and Application

1. (1) This Order may be cited as the Export Control (North Korea and Ivory Coast Sanctions and Syria Amendment) Order 2013.
- (2) An offence may be committed under this Order—
 - (a) in the Island by any person;
 - (b) elsewhere by any person who is a Island person within the meaning of article 2(1) of the Export Control Order 2008 (as it has effect in the Island).

Revocations

2. The legislation specified in column 1 of the Schedule to this Order is revoked to the extent specified in column 3 of that Schedule.

Interpretation

3. (1) In this Order—

“the 1986 Act” means the Customs and Excise Management Act 1986;

“EU authorisation” means an authorisation granted under Articles 3c or 5 of the North Korea Regulation or Article 4a of the Ivory Coast Regulation;

“the North Korea Regulation” means Council Regulation (EC) No 329/2007 as last amended by Council Regulation (EU) No 696/2013 concerning restrictive measures against the Democratic People’s Republic of Korea, and a reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time;

“the Ivory Coast Regulation” means Council Regulation (EC) No 174/2005 as last amended by Council Regulation (EU) No 617/2012 imposing restrictions on the supply of assistance related to military activities to Côte d’Ivoire and a reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time.

(2) An expression used both in this Order and in the North Korea Regulation or the Ivory Coast Regulation has the meaning that it bears in those Regulations (as they have effect in the Island).

PART 2

Offences in relation to prohibitions in the North Korea Regulation

Offences related to equipment and goods and technology listed in Annex I, Ia and Ib or in the EU Common List of Military Equipment

4. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export or the import of goods, prohibited by any of the following Articles of the North Korea Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 2(1)(a) (prohibition on sale etc. of goods or technology, including software, listed in Annexes I, Ia and Ib, whether or not originating in the Union, to any natural or legal person, entity or body in, or for use in North Korea);
- (b) Article 2(3) (prohibition on the purchase etc. of the goods and technology listed in Annexes I, Ia and Ib from North Korea, whether or not the item concerned originates in North Korea);
- (c) Article 3(1)(a) (prohibition on provision of technical assistance and brokering services related to goods or technology listed in the EU Common List of Military Equipment or in Annexes I, Ia and Ib and to the provision, manufacture,

maintenance and use of goods listed in the EU Common List of Military Equipment or in Annexes I, Ia, and Ib to any natural or legal person, entity or body in, or for use in, North Korea);

- (d) Article 3(1)(b) (prohibition on provision of financing or financial assistance related to goods and technology listed in the EU Common List of Military Equipment or in Annexes I, Ia and Ib, to any natural or legal person, entity or body in, or for use in, North Korea);
- (e) Article 3(1)(c) (prohibition on obtaining technical assistance related to goods and technology in the EU Common List of Military Equipment or in Annexes I, Ia and Ib and to the provision, manufacture, maintenance and use of goods listed in the EU Common List of Military Equipment or in Annexes I, Ia, and Ib from any natural or legal person, entity or body in, or for use in, North Korea);
- (f) Article 3(1)(d) (prohibition on obtaining financing or financial assistance related to goods and technology in the EU Common List of Military Equipment or in Annexes I, Ia and Ib, for any sale, supply, etc. of such items, or for any provision of related technical assistance from any natural or legal person, entity or body in, or for use in, North Korea).

Offences related to the movement of luxury goods to North Korea

5. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export of goods, prohibited by Article 4(a) of the North Korea Regulation (prohibition on sale, etc. of luxury goods, as listed in Annex III, to North Korea) with intent to evade a prohibition in that Article commits an offence and may be arrested.

Offences related to the movement of gold, precious metals and diamonds listed in Annex VII

6. A person who is knowingly concerned in an activity, other than the export or the import of goods, prohibited by any of the following Articles of the North Korea Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 4a(1)(a) (prohibition on sale, etc. of gold, precious metals and diamonds, as listed in Annex VII, whether or not originating in the Union, to or from the Government of North Korea, its public bodies, corporations and agencies, the Central Bank of North Korea and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them);
- (b) Article 4a(1)(b) (prohibition on purchase, etc. of gold, precious metals and diamonds, as listed in Annex VII, whether or not originating in North Korea, from the Government of North Korea, its public bodies, corporations and agencies, the Central Bank of North Korea and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them);
- (c) Article 4a(1)(c) (prohibition on provision of technical assistance or brokering services or financing or financial assistance related to goods referred to in points (a) and (b) of Article 4a(1) of the North Korea Regulation, to the Government of North Korea, its public bodies, corporations and agencies, the Central Bank of North Korea and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them).

Offences related to the movement of North Korean bank notes and coins

7. A person who is knowingly concerned in an activity, other than the export of goods, prohibited by Article 4b of the North Korea Regulation (prohibition on sale, etc. of newly printed or unissued North Korean denominated banknotes and minted coinage, to or for the benefit of the Central Bank of North Korea) with intent to evade the prohibitions in that Article commits an offence and may be arrested.

PART 3

Offences in relation to prohibitions in the Ivory Coast Regulation

Offences related to equipment and goods and technology listed in Annex I

8. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export of equipment, prohibited by Article 3(a) of the Ivory Coast Regulation (prohibition on sale, etc. of equipment which might be used for internal repression as listed in Annex I whether or not originating in the Union, to any person, entity or body in, or for use in, Cote d'Ivoire) with intent to evade the prohibitions in that Article commits an offence and may be arrested.

PART 4

Supplementary Provisions as to Offences

Circumvention of prohibitions in the North Korea Regulation

9. (1) A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 2(1)(a), 4(a), 4a(1)(a) and 4b of the North Korea Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 2(3), 3(1)(a) to 3(1)(d) and 4a(1)(b) or (c) of the North Korea Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

Circumvention of prohibitions in the Ivory Coast Regulation

10. A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Article 3(a) of the Ivory Coast Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

Offences related to EU authorisations

11. (1) A person commits an offence (and may be arrested) who, for the purpose of obtaining an EU authorisation—

- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition to which the EU authorisation is subject commits an offence and may be arrested, unless—

- (a) the EU authorisation was modified after the completion of the act authorised; and
- (b) the failure to comply would not have been a failure had the EU authorisation not been so modified.

PART 5

Enforcement and Penalties

Penalties

12. (1) A person guilty of an offence under articles 4(a), 5, 6(a), 7, 8, 9(1) or 10 of this Order is liable—

- (a) on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both;
- (b) on conviction on information, to custody for a term not exceeding ten years or to a fine, or to both.

(2) ...Omitted.

(3) A person guilty of an offence under articles 4(b) to (f), 6(b) or (c), 9(2) or 11 of this Order is liable—

- (a) on summary conviction to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or to both;
- (b) on conviction on information, to custody for a term not exceeding two years or to a fine, or to both.

(4) In the case of an offence committed under the 1986 Act in connection with the prohibitions of exportation in Articles 2(1)(a), 4(a), 4a(1)(a) or 4b of the North Korea Regulation

or Article 3 of the Ivory Coast Regulation, sections 69(3)(b) and 178(3)(b) of the 1986 Act have the effect as if for the words “7 years” there were substituted the words “10 years”.

(5) In the case of an offence committed under the 1986 Act in connection with the prohibitions of importation in Articles 2(3) or 4a(1)(b) of the North Korea Regulation, sections 47(3)(b) and 178(3)(b) of the 1986 Act have the effect as if for the words “7 years” there were substituted the words “10 years”.

Application of the 1986 Act

13. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under this Order has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 78A of the 1986 Act (provision as to information powers) applies to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Articles 2, 3, 4, 4a or 4b of the North Korea Regulation or Article 3 of the Ivory Coast Regulation and accordingly references in section 78A of the 1986 Act to exportation shall be read as including any such activity.

(3) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) “The customs and excise Acts” and “assigned matter” have the same meanings as in section 184 of the 1986 Act.

PART 6

General

Amendment to the 2008 Order in relation to Syria

14. (1) In Schedule 4 to the 2008 Order, in Part 4, at the appropriate place insert “Syria”.

(2) In this article, “the 2008 Order” means the Export Control Order 2008 (as it has effect in the Island).

Amendment to the Export Control (Syria Sanctions) Order 2013

15. ...Omitted.

Review

16. (1) The Treasury must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the North Korea Regulation and the Ivory Coast Regulation and the measures taken to implement them in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the North Korea Regulation and the Ivory Coast Regulation established by this Order and the measures taken to implement them,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this Order must be published before the end of the period of five years beginning with the day on which this Order comes into force.

(5) Reports under this Order are afterwards to be published at intervals not exceeding five years.

12th December 2013

Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

SCHEDULE

Omitted

2014 No. 1942

HEALTH AND SAFETY

The Control of Explosives Precursors Regulations 2014

<i>Made - - - -</i>	<i>18th July 2014</i>
<i>Laid before Parliament</i>	<i>24th July 2014</i>
<i>Coming into force - -</i>	<i>2nd September 2014</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the notification and control of substances.

The Secretary of State, in exercise of the powers conferred by section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972, makes the following Regulations.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for any reference to an Annex of Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15th January 2013 on the marketing and use of explosives precursors to be construed as a reference to that Annex as amended from time to time.

Citation and commencement

1. (1) These Regulations may be cited as the Control of Explosives Precursors Regulations 2014.
(2) ...Omitted.

General interpretation

2. In these Regulations—

“the EU Regulation” means Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15th January 2013 on the marketing and use of explosives precursors;

“exports” includes removal from the Island and exportation from the Island to a place outside the United Kingdom;

“licence” (unless otherwise indicated) means a licence granted under regulation 7;

“member of the general public” means an individual who is acting (alone or with others) for purposes not connected with his or her trade, business or profession or the performance by him or her of a public function;

“mixture” means a mixture or solution composed of two or more substances;

“recognised non-GB licence” has the meaning given in regulation 10;

“substance” means a chemical element and its compounds in the natural state or obtained by any manufacturing process—

- (a) including any additive necessary to preserve its stability and any impurity deriving from the process used, but
- (b) excluding any solvent that may be separated without affecting the stability of the substance or changing its composition;

“supply” means any kind of supply or making available for exportation or removal from the Island, whether in return for payment or free of charge.

Meaning of “regulated explosives precursor” and “reportable explosives precursor”

3. (1) This regulation defines what is meant for the purposes of these Regulations by “regulated explosives precursor” and “reportable explosives precursor”.

- (2) Except for the purposes of regulation 6, “regulated explosives precursor”—
 - (a) means a substance listed in Annex I of the EU Regulation in a concentration higher than the corresponding limit value set out in that Annex, and
 - (b) includes a mixture or other substance in which a substance listed in that Annex is present in a concentration higher than the corresponding limit value,but, in each case, only if the substance or mixture is not excluded.
- (3) For the purposes of regulation 6, “regulated explosives precursor”—
 - (a) means a substance listed in Annex I of the EU Regulation, and
 - (b) includes a mixture or other substance in which a substance listed in that Annex is present,but, in each case, only if the substance or mixture is not excluded.
- (4) “Reportable explosives precursor”—
 - (a) means a substance listed in Annex II of the EU Regulation, and
 - (b) includes a mixture or other substance in which a substance listed in that Annex is present,but, in each case, only if the substance or mixture is not excluded.
- (5) A substance or mixture is “excluded” if it is—
 - (a) medicinal, or
 - (b) contained in a specific object.
- (6) For these purposes, a substance or mixture is “medicinal” if it is—

- (a) a medicinal product as defined by regulation 2 of the Human Medicines Regulations 2012 (of Parliament),
 - (b) an investigational medicinal product as defined by regulation 2 of the Medicines for Human Use (Clinical Trials) Regulations 2004 (of Parliament),
 - (c) a substance to which Part 12 of the Human Medicines Regulations 2012 (of Parliament) or Part 6 of the Medicines for Human Use (Clinical Trials) Regulations 2004 (of Parliament) applies by virtue of an order under section 104 or 105 of the Medicines Act 1968 (an Act of Parliament) (whether applying subject to exceptions and modifications or not and, in the case of an order under section 104, whether the substance is referred to in the order as a substance or an article), or
 - (d) a veterinary medicinal product as defined by regulation 2 of the Veterinary Medicines Regulations 2013 (of Parliament).
- (7) A substance or mixture is “contained in a specific object” if it is contained in—
- (a) an object that, during production, is given a special shape, surface or design that determines its function to a greater degree than does its chemical composition, or
 - (b) an article that contains explosive substances or an explosive mixture of substances designed to produce heat, light, sound, gas or smoke or a combination of such effects through self-sustained exothermic chemical reactions, including—
 - (i) pyrotechnic equipment falling within the scope of Council Directive 96/98/EC on marine equipment, and
 - (ii) percussion caps intended specifically for toys falling within the scope of Council Directive 88/378/EEC concerning the safety of toys.

(8) References in this regulation to an Annex of the EU Regulation are to that Annex as amended from time to time.

(9) The references to legislation in paragraph (6) include references to any legislative instrument that replaces or supersedes (with or without modification) any of that legislation.

Activities prohibited without a licence

4. ...Omitted.

Supply of regulated explosives precursors

5. (1) A person commits an offence if the person supplies a regulated explosives precursor to a member of the general public without first verifying, where the supply involves export from the Island, that the member of the general public has a licence issued or recognised in accordance with Article 7 of the EU Regulation by the United Kingdom or a member State, as the case may be, where he or she is acquiring the explosives precursor allowing him or her to acquire and possess (or acquire, possess and use) the explosives precursor.

(2) In order to verify that someone has the requisite licence, it is sufficient for these purposes to—

- (a) inspect the person’s licence, and

- (b) inspect the form of identification specified in that licence (or, if no form is specified, a form of identification sufficient to allow the supplier to verify that the person is the holder of the licence in question).

(3) A person commits an offence if the person supplies a regulated explosives precursor to a member of the general public without first entering details of the transaction (or causing details of the transaction to be entered) in the licence that the person inspected for the purposes of paragraph (1).

(4) A person commits an offence if the person supplies a regulated explosives precursor to a member of the general public without first ensuring that a warning label is affixed to the packaging in which the explosives precursor is supplied.

(5) A “warning label” is a label clearly indicating that the acquisition, possession and use of the explosives precursor in question are subject to a restriction as set out in Article 4 of the EU Regulation.

(6) Before 3rd March 2016, paragraphs (1) and (5) have effect as if the references to possession and use of the explosives precursor were omitted.

(7) ...Omitted.

(8) ...Omitted.

Reporting of suspicious transactions, disappearances and thefts

6. (1) A supplier must report any relevant transaction that it makes or proposes to make if the supplier has reasonable grounds for believing the transaction to be suspicious.

(2) A “relevant transaction” is a transaction involving the supply of a regulated explosives precursor or a reportable explosives precursor to a customer, whether an end user or a customer higher up the supply chain and whether a business or a private customer.

(3) A relevant transaction is “suspicious” if there are reasonable grounds for suspecting that the explosives precursor in question is intended for the illicit manufacture of explosives.

(4) In deciding whether there are reasonable grounds for suspecting such a thing, regard must be had to all the circumstances of the case, including in particular where the prospective customer—

- (a) appears unclear about the intended use of the explosives precursor,
- (b) appears unfamiliar with the intended use of the explosives precursor or cannot explain it plausibly,
- (c) intends to buy regulated explosives precursors in quantities, combinations or concentrations uncommon for private use,
- (d) is unwilling to provide proof of identity or place of residence, or
- (e) insists on using unusual methods of payment, including large amounts of cash.

(5) ...Omitted.

(6) ...Omitted.

(7) A duty under this regulation to “report” something is a duty to give notice of it to the Treasury as soon as reasonably practicable and in accordance with such requirements as may be published from time to time by the Treasury for the purposes of this paragraph.

- (8) A person who fails to comply with paragraph (1) commits an offence.

Licences

7. ...Omitted.

Applications for a licence

8. ...Omitted.

Internal review of decisions with regard to a licence

9. ...Omitted.

Recognised non-GB licences

10. (1) The Treasury must publish a list from time to time of recognised member States (if any).

(2) A member State is “recognised” for these purposes if licences granted by the competent authority of that State in accordance with the EU Regulation are recognised in the United Kingdom under Article 7(6) of that Regulation.

- (3) References in these Regulations to a “recognised non-GB licence” are to—

- (a) a licence granted in accordance with the EU Regulation by the competent authority of a member State that is included in the list (or latest list) published under paragraph (1), or
- (b) a licence granted under relevant Northern Ireland legislation.

- (4) “Relevant Northern Ireland legislation” means –

- (a) regulations made under the Explosives Act (Northern Ireland) 1970 (1970 c.10 (N.I.) of Parliament) by virtue of the Explosives (Northern Ireland) Order 1972 (S.I. 1972 No. 730 (N.I. 3));
- (b) any legislative instrument that implements the EU Regulation in Northern Ireland; and
- (c) any legislative instrument that replaces or supersedes (with or without modification) anything falling within sub-paragraph (a) or (b).

Proof of lack of knowledge

11. (1) In any proceedings for any offence under regulation 4 or 5, it is a defence for the accused to prove that the accused neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution that it is necessary for the prosecution to prove if the accused is to be convicted of the offence charged.

- (2) This is subject to paragraph (4).

- (3) Paragraph (4) applies where, in any proceedings for an offence under regulation 4 or 5—

- (a) it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or mixture involved in the alleged offence was the regulated explosives precursor that the prosecution allege it to have been, and

- (b) it is proved that the substance or mixture in question was that regulated explosives precursor.
- (4) Where this paragraph applies—
- (a) the accused must not be acquitted of the offence charged by reason only of proving that the accused neither knew nor suspected nor had reason to suspect that the substance or mixture was the particular regulated explosives precursor alleged, but
 - (b) the accused must be acquitted of the offence charged if—
 - (i) the accused proves that the accused neither believed nor suspected nor had reason to suspect that the substance or mixture was a regulated explosives precursor, or
 - (ii) the accused proves that the accused believed the substance or mixture to be a regulated explosives precursor such that, if it had in fact been that regulated explosives precursor, the accused would not at the material time have been committing any offence to which this regulation applies.
- (5) Nothing in this regulation affects any defence that it is open to a person accused of an offence under regulation 4 or 5 to raise apart from this regulation.

Penalties

12. (1) A person guilty of an offence under regulation 4 or 5(1) is liable –
- (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or both; or
 - (b) on summary conviction, to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or both.
- (2) A person guilty of an offence under regulation 5(3) or (4) is liable on summary conviction to a fine not exceeding £500.
- (3) A person guilty of an offence under regulation 6 is liable on summary conviction to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or to both.
- (4) In the case of proceedings against a person for an offence under these Regulations in connection with the supply of a regulated explosives precursor, where the act in question was done by an employee—
- (a) it is not a defence that the employee acted without the authority of the employer, and
 - (b) any material fact known to the employee is deemed to have been known to the employer.
- (5) Notwithstanding any provision in any Act prescribing the period within which summary proceedings may be commenced, proceedings for an offence under regulation 5(3) or (4) or 6 may be commenced at any time—
- (a) within the period of 12 months next after the date of commission of the offence, or
 - (b) the period of 3 months next after the date on which evidence sufficient in the opinion of the Attorney General to justify a prosecution comes to the knowledge of the Treasury.

(6) ...Omitted.

(7) A document purporting to be a certificate signed by a person specified in paragraph (8) stating the result of an analysis made by that person is admissible in any proceedings under these Regulations as evidence of the matters stated in the certificate, but either party may require the person to be called as a witness.

(8) The persons are—

- (a) the public analyst;
- (b) a person appointed by the Treasury to make analyses for the purposes of these Regulations.

(9) ...Omitted.

Offences by bodies corporate etc

13. (1) If an offence under these Regulations is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to the neglect on the part of—

- (a) a director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) The reference in paragraph (1) to a director, in relation to a body corporate whose affairs are managed by its members, is a reference to a member of the body corporate.

(3) ...Omitted.

Application of *Police Powers and Procedures Act 1998* powers

14. Sections 11, 20 and 21 of the *Police Powers and Procedures Act 1998* (powers of entry and search) apply in relation to an offence under regulation 5(3) or (4) or regulation 6 as in relation to an offence triable on information.

Consequential amendments

15. ...Omitted.

16. ...Omitted.

17. ...Omitted.

18. ...Omitted.

Home Office
18th July 2014

James Brokenshire
Minister of State

CUSTOMS

**The Export Control (Russia, Crimea and Sevastopol Sanctions)
Order 2014**

Made - - - -	2 nd September 2014
Laid before Parliament	5 th September 2014
Coming into force - -	26 th September 2014

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not member States.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by sections 1, 2,3,4,5 and 7 of the Export Control Act 2002 makes the following Order.

PART 1

Introductory

Citation, Commencement and Application

1. (1) This Order may be cited as the Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014.
- (2) An offence may be committed under this Order—
 - (a) in the Island by any person;
 - (b) elsewhere by any person who is an Island person within the meaning of article 2(1) of the Export Control Order 2008 (of Parliament), as it has effect in the Island.

Interpretation

2. (1) In these Regulations—

“the 1986 Act” means the Customs and Excise Management Act 1986;

“EU authorisation” means an authorisation granted under Articles 2(2), 3, 4(2b) or 4(3) of the Russia Sanctions Regulation and Article 2e of the Crimea and Sevastopol Regulation as it has effect in the Island;

“the Russia Sanctions Regulation” means Council Regulation (EU) No 833/2014 as last amended by Council Regulation (EU) No 2015/1797 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, as it has effect in the Island;

“the Crimea and Sevastopol Regulation” means Council Regulation (EU) No 692/2014 as last amended by Council Regulation (EU) No 1351/2015 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol, as it has effect in the Island.
- (2) An expression used both in this Order and the Russia Sanctions Regulation or the Crimea and Sevastopol Regulation has the meaning that it bears in those Regulations.

PART 2

Offences in relation to prohibitions in the Russia Sanctions Regulation

Offences related to dual-use goods and technology

3. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export of goods, prohibited by any of the following Articles of the Russia Sanctions Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—
- (a) Article 2(1) (prohibition on sale etc. of dual-use goods or technology, to any natural or legal person, entity or body in Russia or for use in Russia, if those items are or may be intended, in their entirety or in part, for military use or for a military end-user);
 - (aa) Article 2a(1) (prohibition on sale etc. of dual-use goods and technology as included in Annex I to Regulation (EC) No 428/2009, whether or not originating in the Union, to natural or legal persons, entities or bodies in Russia as listed in Annex IV to the Russia Sanctions Regulation);
 - (ab) Article 2a(2)(a) (prohibition on the provision of technical assistance, brokering services etc. related to dual-use goods and technology included in Annex I to Regulation (EC) No 428/2009, directly or indirectly to any person, entity or body in Russia, as listed in Annex IV to the Russia Sanctions Regulation);
 - (ac) Article 2a(2)(b) (prohibition on the prohibition of financing or financial assistance related to dual-use goods and technology included in Annex I to Regulation (EC) No 428/2009, directly or indirectly to any person, entity or body in Russia, as listed in Annex IV to the Russia Sanctions Regulation);
 - (b) Article 4(1)(c) (prohibition on the provision of technical assistance or brokering services related to dual-use goods and technology, to any natural or legal person, entity or body in Russia or for use in Russia, if the items are or may be intended, in their entirety or in part, for military use or for a military end-user);
 - (c) Article 4(1)(d) (prohibition on the provision of financing or financial assistance related to dual-use goods and technology, to any natural or legal person, entity or body in Russia or for use in Russia, if the items are or may be intended, in their entirety or in part, for military use or for a military end-user).

Offences related to technologies listed in Annex II

4. (1) Except under the authority of an EU authorisation, items listed in Annex II of the Russia Sanctions Regulation are prohibited to be exported from the Island, to any natural or legal person, entity or body in Russia, including its Exclusive Economic Zone and Continental Shelf or in any other State, if such items are for use in Russia, including its Exclusive Economic Zone and Continental Shelf.
- (2) A person commits an offence and may be arrested if that person—
- (a) is concerned in an activity, other than the export of goods, for which EU authorisation is required by any of the following Articles of the Russia Sanctions Regulation—
 - (i) Article 3(1) (authorisation required for the sale, supply, etc. of items as listed in Annex II to any natural or legal person, entity or body in Russia, including its Exclusive Economic Zone and Continental Shelf or in any other State, if such items are for use in Russia, including its Exclusive Economic Zone and Continental Shelf);
 - (ii) Article 4(3)(a) (authorisation required for the provision of technical assistance or brokering services related to items listed in Annex II to any natural or legal person, entity or body in Russia, including its Exclusive Economic Zone and Continental Shelf or, if such assistance concerns items for use in Russia, including

its Exclusive Economic Zone and Continental Shelf, to any person, entity or body in any other State);

(iii) Article 4(3)(b) (authorisation required for the provision of financing or financial assistance related to items referred to in Annex II to any natural or legal person, entity or body in Russia, including its Exclusive Economic Zone and Continental Shelf or, if such assistance concerns items for use in Russia, including its Exclusive Economic Zone and Continental Shelf, to any person, entity or body in any other State);

- (b) does not have the required EU authorisation; and
- (c) is knowingly concerned in that activity with intent to evade a prohibition in those Articles.

Offences related to goods and technology listed in the Common Military List of the European Union

5. (1) A person who is knowingly concerned in an activity prohibited by any of the following Articles of the Russian Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 4(1)(a) (prohibition on provision of technical assistance or brokering services related to the goods and technology listed in the Common Military List, to any natural or legal person, entity or body in Russia or for use in Russia);
- (b) Article 4(1)(b) (prohibition on the provision of financing or financial assistance related to the goods and technology listed in the Common Military List, to any natural or legal person, entity or body in Russia or for use in Russia).

(2) A person commits an offence and may be arrested if that person -

- (a) is concerned in an activity for which EU authorisation is required by Article 4(2b) of the Russia Sanctions Regulation (authorisation required for the provision of technical assistance, financing or financial assistance related to the sale, supply, etc. and import, etc. of Hydrazine, the import, etc. of Unsymmetrical dimethyl hydrazine, or the sale, supply etc. and import, etc. of Monomethyl hydrazine, destined for the use of certain launchers) either -
 - (i) insofar as that Article concerns the provision of technical assistance; or
 - (ii) insofar as that Article concerns the provision of financing or financial assistance;
- (b) does not have the required EU authorisation; and
- (c) is knowingly concerned in that activity with intent to evade the prohibition in that Article.

Offences related to certain associated services necessary for certain types of oil exploration and production

5A. A person who is knowingly concerned in an activity prohibited by Article 3a(1) of the Russia Sanctions Regulation (prohibition on the provision of certain associated services necessary for certain types of oil exploration and production in Russia, including its Exclusive Economic Zone and Continental Shelf) with intent to evade the prohibition in that Article commits an offence and may be arrested.

PART 3

Offences in relation to prohibitions in the Crimea and Sevastopol Regulation

Offences related to the financing of imports of Crimean and Sevastopol goods

6. A person who is knowingly concerned in an activity prohibited by Article 2 (b) of the Crimea and Sevastopol Regulation (prohibition on the provision of financing or financial assistance as well as insurance and reinsurance related to the import of goods originating in Crimea or Sevastopol) with intent to evade a prohibition in that Article commits an offence and may be arrested.

Offences related to restrictions on financing enterprises in Crimea or Sevastopol

7. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following Articles of the Crimea and Sevastopol Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested –

- (a) Article 2a(1)(a) (prohibition on the acquisition or extension of a participation in ownership of real estate located in Crimea or Sevastopol);
- (b) Article 2a(1)(b) (prohibition on the acquisition or extension of a participation in ownership or control of an entity in Crimea or Sevastopol, including the acquisition in full of such an entity or the acquisition of shares, and other securities of a participating nature of such entity);
- (c) Article 2a(1)(c) (prohibition on the granting of or participation in any arrangement to grant any loan or credit or otherwise provide financing, including equity capital, to an entity in Crimea or Sevastopol, or for the documented purpose of financing such entity);
- (d) Article 2a(1)(d) (prohibition on the creation of any joint venture in Crimea or Sevastopol or with an entity in Crimea or Sevastopol);
- (e) Article 2a(1)(e) (prohibition on the provision of investment services directly related to the activities referred to in points (a) to (d) of Article 2a).

Offences related to equipment and technology listed in Annex II

8. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export of goods, prohibited by any of the following Articles of the Crimea and Sevastopol Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested –

- (a) Article 2b(1) (prohibition on the sale etc. of goods and technology as listed in Annex II to any natural or legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol);
- (b) Article 2b(2)(a) (prohibition on the provision of technical assistance or brokering services related to the goods and technology as listed in Annex II to any natural or legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol);
- (c) Article 2b(2)(b) (prohibition on the provision of financing or financial assistance related to the goods and technology as listed in Annex II to any natural or legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol).

Offences related to infrastructure in certain sectors

8A. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by Article 2c(1) of the Crimea and Sevastopol Regulation (prohibition on the provision of technical assistance, or brokering, construction or engineering services directly relating to infrastructure in Crimea or Sevastopol in the sectors referred to in Article 2b(1) as defined on the basis of Annex II) with intent to evade the prohibition in that Article commits an offence and may be arrested.

Offences related to tourism activities in Crimea or Sevastopol

8B. A person who is knowingly concerned in an activity prohibited by either of the following Articles of the Crimea and Sevastopol Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested –

- (a) Article 2d(1) (prohibition on the provision of services directly related to tourism activities in Crimea or Sevastopol);
- (b) Article 2d(2) (prohibition in particular on any ship providing cruise services, flying the flag of a Member State or owned and under the operational control of a Union shipowner, to enter into or call at any port situated in the Crimea Peninsula listed in Annex III).

PART 4

Supplementary Provisions as to Offences

Circumvention of prohibitions

9. (1) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 2(1), 2a(1) or (2)(a), 3(1), 4(1)(a) or (c), 4(2b) insofar as the activity concerns the provision of technical assistance, or 4(3)(a) of the Russia Sanctions Regulation or Articles 2b(1) or (2)(a) of the Crimea and Sevastopol Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 2a(2)(b), 3a(1), 4(1)(b) or (d), 4(2b) insofar as the activity concerns the provision of financing or financial assistance, or 4(3)(b) of the Russia Sanctions Regulation or Articles 2(b), 2a, 2b(2)(b), 2c(1) or 2d of the Crimea and Sevastopol Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

Offences related to EU authorisations

10. (1) A person commits an offence (and may be arrested) who, for the purpose of obtaining an EU authorisation—

- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition to which the EU authorisation is subject commits an offence and may be arrested, unless—

- (a) the EU authorisation was modified after the completion of the act authorised; and

- (b) the alleged failure to comply would not have been a failure had the EU authorisation not been so modified.

PART 5

Enforcement and Penalties

Penalties

11. (1) A person guilty of an offence under articles 3(a), (aa), (ab) or (b), 4(2)(a)(i) or (ii), 5(1)(a), 5(2)(a)(ii), 8(a) or (b) or 9(1) of this Order is liable—
- (a) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both; or
 - (b) on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both.
- (2) ... Omitted.
- (3) A person guilty of an offence under articles 3(ac) or (c), 4(2)(a)(iii), 5(1)(b), 5(2)(a)(ii), 5A, 6, 7, 8(c), 8A, 8B, 9(2) or 10 of this Order is liable—
- (a) on summary conviction, to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or to both; or
 - (b) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both.
- (4) In the case of an offence committed under the 1986 Act in connection with the prohibitions of exportation in Articles 2(1), 2a(1) or 3(1) of the Russia Sanctions Regulation, article 4(1) of this Order or Article 2b(1) of the Crimea and Sevastopol Regulation, sections 69(3)(b) and 178(3)(b) of the 1986 Act have the effect as if for the words “7 years” there were substituted the words “10 years”.
- (5) In the case of an offence committed under the 1986 Act in connection with the prohibitions of importation in Article 2(a) of the Crimea and Sevastopol Regulation, sections 47(4)(b) and 178(3)(b) of the 1986 Act have the effect as if for the words “7 years” there were substituted the words “10 years”.

Application of the 1986 Act

12. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining—
- (a) whether there are grounds for believing that an offence under this Order has been committed; or
 - (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 78A of the 1986 Act (provision as to information powers) applies to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Articles 2, 3 or 4(3) of the Russia Sanctions Regulation and accordingly references in section 78A of the 1986 Act to exportation shall be read as including any such activity.

(3) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) “The customs and excise Acts” and “assigned matter” have the same meanings as in section 184 of the 1986 Act.

PART 6

General

Amendment to the Export Control Order 2008 in relation to Russia

13. In Schedule 4 to the Export Control Order 2008—
- (a) in Part 2, insert “Russia” at the appropriate place;
 - (b) in Part 4, omit “Russia”.

Review

14. (1) The Treasury must from time to time—
- (a) carry out a review of this Order,
 - (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) In carrying out the review the Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Russia Sanctions Regulation and the Crimea and Sevastopol Regulation and the measures taken to implement them in other member States.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Russia Sanctions Regulation and the Crimea and Sevastopol Regulation established by this Order and the measures taken to implement them,
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this Order must be published before the end of the period of five years beginning with the day on which this Order comes into force.
- (5) Reports under this Order are afterwards to be published at intervals not exceeding five years.

2nd September 2014

Matthew Hancock
Minister of State for Business and Enterprise and Energy
Department for Business, Innovation and Skills

2014 No. 3258

CUSTOMS

The Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014

Made - - - - 9th December 2014

Laid before Parliament 10th December 2014

Coming into force - - 31st December 2014

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, makes the following Regulations.

PART 1

Introductory

Citation, commencement and application

1. (1) These Regulations may be cited as the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014.
- (2) An offence may be committed under these Regulations—
 - (a) in the Island by any person;
 - (b) elsewhere by any person who is an Island person within the meaning of article 2(1) of the Export Control Order 2008 (of Parliament), as it has effect in the Island.

Revocations and savings

2. ... Omitted.

Interpretation

3. (1) In these Regulations—

“the 1986 Act” means the Customs and Excise Management Act 1986;

“EU authorisation” means an authorisation granted under Article 3 of the Sudan Regulation or Article 3 of the South Sudan Regulation, as it has effect in the Island;

“the Central African Republic Regulation” means Council Regulation (EU) No 224 /2014 concerning restrictive measures in view of the situation in the Central African Republic, as it has effect in the Island;

“the South Sudan Regulation” means Council Regulation (EU) No 2015/735 concerning restrictive measures in respect of the situation in South Sudan and repealing Regulation (EU) No 748/2014;

“the Sudan Regulation” means Council Regulation (EU) No 747/2014 concerning restrictive measures in view of the situation in Sudan and repealing Regulations (EC) No 131/2004 and (EC) No 1184/2005, as it has effect in the Island.

(2) An expression used both in these Regulations and the Sudan Regulation, the South Sudan Regulation or the Central African Republic Regulation has the meaning that it bears in those Regulations.

PART 2

Offences in relation to prohibitions in the Sudan and the South Sudan Regulations

Offences supplementing the Sudan Regulation

4. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following sub-paragraphs of Article 2 of the Sudan Regulation with intent to evade a prohibition in those sub-paragraphs commits an offence and may be arrested—

- (a) Article 2(a) (prohibition on provision of technical assistance or brokering services related to military activities, directly or indirectly to any natural or legal person, entity or body in, or for use in Sudan);
- (b) Article 2(b) (prohibition on provision of financing or financial assistance related to military activities, directly or indirectly to any natural or legal person, entity or body in, or for use in Sudan).

Offences supplementing the South Sudan Regulation

5. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following sub-paragraphs of Article 2 of the South Sudan Regulation with intent to evade a prohibition in those sub-paragraphs commits an offence and may be arrested—

- (a) Article 2(1) (prohibition on provision of technical assistance related to military activities to any person, entity or body in, or for use in South Sudan);
- (b) Article 2(2) (prohibition on provision of financing or financial assistance related to military activities to any person, entity or body in, or for use in South Sudan).

PART 3

Offences in relation to prohibitions in the Central African Republic Regulation

Offences supplementing the Central African Republic Regulation

6. A person who is knowingly concerned in an activity prohibited by any of the following sub-paragraphs of Article 2 of the Central African Republic Regulation with intent to evade a prohibition in those sub-paragraphs commits an offence and may be arrested—

- (a) Article 2(a) (prohibition on provision of technical assistance and brokering services related to the goods or technology listed in the Common Military List of the European Union or related to the provision, manufacture, maintenance and use of goods included in that list, to any person, entity or body in the Central African Republic or for use in the Central African Republic);
- (b) Article 2(b) (prohibition on provision of financing or financial assistance related to the sale, supply, transfer or export of goods and technology listed in the Common Military List, to any person, entity or body in the Central African Republic or for use in the Central African Republic);
- (c) Article 2(c) (prohibition on provision of technical assistance, financing or financial assistance, brokering services or transport services related to the provision of armed mercenary personnel in the Central African Republic or for use in the Central African Republic).

PART 4

Supplementary Provisions as to Offences

Circumvention of prohibitions

7. A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 2 of the Sudan Regulation, Article 2 of the South Sudan Regulation or Article 2 of the Central African Republic Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

Offences related to EU authorisations

8. (1) A person commits an offence (and may be arrested) who, for the purpose of obtaining an EU authorisation—

- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition to which the EU authorisation is subject commits an offence and may be arrested, unless—

- (a) the EU authorisation was modified after the completion of the act authorised; and
- (b) the failure to comply would not have been a failure had the EU authorisation not been so modified.

PART 5

Enforcement and Penalties

Penalties

9. A person guilty of an offence under regulations 4 to 8 of these Regulations is liable—
- (a) on summary conviction, to *custody* for a term not exceeding three months or to a fine not exceeding £5,000, or to both;
 - (b) on conviction on information, to custody for a term not exceeding two years or to a fine, or to both.

Application of the 1986 Act

10. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining—
- (a) whether there are grounds for believing that an offence under these Regulations has been committed; or
 - (b) whether a person should be prosecuted for such an offence, the matter shall be treated as an assigned matter.
- (2) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under these Regulations as it applies to the arrest of a person for an offence under the customs and excise Acts.
- (3) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under these Regulations as they apply in relation to offences and penalties under the customs and excise Acts.
- (4) “The customs and excise Acts” and “assigned matter” have the same meanings as in section 184 of the 1986 Act.

PART 6

General

Review

11. (1) The Treasury must from time to time—
- (a) carry out a review of these Regulations,
 - (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) In carrying out the review the Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Sudan Regulation, the South Sudan Regulation and the Central African Republic Regulation and the measures taken to implement them in other member States.

-
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Sudan Regulation, the South Sudan Regulation and the Central African Republic Regulation established by these Regulations and the measures taken to implement them,
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under these Regulations must be published before the end of the period of five years beginning with the day on which these Regulations come into force.
- (5) Reports under these Regulations are afterwards to be published at intervals not exceeding five years.

9th December 2014

Matthew Hancock
Minister of State for Business and Enterprise and Energy
Department for Business, Innovation and Skills

2015 No. 1546

CUSTOMS

The Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015

<i>Made - - - -</i>	<i>15th July 2015</i>
<i>Laid before Parliament</i>	<i>20th July 2015</i>
<i>Coming into force - -</i>	<i>11th August 2015</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not member States.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by sections 3, 4, 5 and 7 of the Export Control Act 2002, makes the following Order.

PART 1 Introductory

Citation, commencement and application

1. (1) This Order may be cited as the Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015.
- (2) An offence may be committed under this Order—
 - (a) in the Island by any person; or
 - (b) elsewhere by any person who is an Island person within the meaning of article 2(1) of the Export Control Order 2008 (of Parliament), as it has effect in the Island.

Revocations

2. ...Omitted.

Interpretation

3. (1) In this Order—

“the 1986 Act” means the Customs and Excise Management Act 1986;

“EU authorisation” means an authorisation granted under Article 1b of the Democratic Republic of Congo Regulation;

“the Democratic Republic of Congo Regulation” means Council Regulation (EC) No 1183/2005 as amended by Council Regulation (EU) 2015/613.

(2) An expression used both in this Order and the Democratic Republic of Congo Regulation has the meaning given in the Democratic Republic of Congo Regulation.

PART 2

Offences in relation to prohibitions in the Democratic Republic of Congo Regulation

Offences in relation to prohibitions in the Democratic Republic of Congo Regulation

4. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following Articles of the Democratic Republic of Congo Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 1a(1)(a) (prohibition on provision of technical assistance or brokering services related to the goods and technology listed in the Common Military List or related to the provision, manufacture, maintenance and use of goods included in that list, to any non-governmental entity or person operating in the territory of the Democratic Republic of Congo);
- (b) Article 1a(1)(b) (prohibition on provision of financing or financial assistance related to the sale, supply, etc. of goods and technology listed in the Common Military List to any non-governmental entity or person operating in the territory of the Democratic Republic of Congo).

PART 3

Supplementary provisions as to offences

Circumvention of prohibitions

5. (1) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent the prohibition in Article 1a(1)(a) of the Democratic Republic of Congo Regulation, or
- (b) to enable or facilitate the contravention of that prohibition.

(2) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent the prohibition in Article 1a(1)(b) of the Democratic Republic of Congo Regulation, or
- (b) to enable or facilitate the contravention of that prohibition.

Offences related to EU authorisation

6. (1) A person commits an offence and may be arrested who, for the purpose of obtaining an EU authorisation—

- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition to which the EU authorisation is subject commits an offence and may be arrested, unless—

- (a) the EU authorisation was modified after the completion of the act authorised; and
- (b) the alleged failure to comply would not have been a failure had the EU authorisation not been so modified.

PART 4 Enforcement and penalties

Penalties

7. (1) A person guilty of an offence under article 4(a) or 5(1) of this Order is liable—
- (a) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both; or
 - (b) on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both.
- (2) ...Omitted.
- (3) A person guilty of an offence under article 4(b), 5(2) or 6 of this Order is liable—
- (a) on summary conviction, to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or to both; or
 - (b) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both.

Application of the 1986 Act

8. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining—
- (a) whether there are grounds for believing that an offence under this Order has been committed; or
 - (b) whether a person should be prosecuted for such an offence, the matter shall be treated as an assigned matter.
- (2) Section 78A of the 1986 Act (provision as to information powers) applies to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Article 1a

(1)(a) or 1a(1)(b) of the Democratic Republic of Congo Regulation and accordingly references in section 78A of the 1986 Act to exportation shall be read as including any such activity.

(3) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) "The customs and excise Acts" and "assigned matter" have the same meanings as in section 184 of the 1986 Act.

PART 5
General

Amendment to the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014

9. ...Omitted.

Amendment to the Export Control Order 2008

10. ...Omitted.

Amendment to the Export Control (Syria Sanctions) Order 2013

11. ...Omitted.

Review

12. (1) The Treasury must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Democratic Republic of Congo Regulation and the measures taken to implement them in member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Democratic Republic of Congo Regulation established by this Order and the measures taken to implement them,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this Order must be published before the end of the period of five years beginning with the day on which this Order comes into force.

(5) Reports under this Order are afterwards to be published at intervals not exceeding five years.

15th July 2015

Anna Soubry
Minister of State for Small Business, Industry and Enterprise
Department for Business, Innovation and Skills

SCHEDULE

Revocations

...Omitted

Article 2

2015 No. 1586

CUSTOMS

The Export Control (Yemen Sanctions) Regulations 2015

<i>Made - - - -</i>	<i>2nd August 2015</i>
<i>Laid before Parliament</i>	<i>5th August 2015</i>
<i>Coming into force - -</i>	<i>27th August 2015</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not member States.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 makes the following Regulations.

PART 1 Introductory

Citation, commencement and application

1. (1) These Regulations may be cited as the Export Control (Yemen Sanctions) Regulations 2015.
- (2) An offence may be committed under these Regulations—
 - (a) in the Island by any person;
 - (b) elsewhere by any person who is an Island person within the meaning of article 2 (1) of the Export Control Order 2008 (of Parliament), as it has effect in the Island.

Interpretation

2. (1) In these Regulations—

“the 1986 Act” means the Customs and Excise Management Act 1986;

“the Yemen Regulation” means Council Regulation (EU) No 1352/2014, as amended by Council Regulation (EU) 2015/878, as they have effect in the Island.
- (2) An expression used both in these Regulations and the Yemen Regulation has the meaning given in the Yemen Regulation.

PART 2

Offences in relation to prohibitions in the Yemen Regulation

Offences in relation to prohibitions in the Yemen Regulation

3. A person who is knowingly concerned in an activity prohibited by any of the following Articles of the Yemen Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 1a(a) (prohibition on provision of technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, directly or indirectly to any natural or legal person, entity or body, as listed in Annex I to the Yemen Regulation);
- (b) Article 1a(b) (prohibition on provision of financial assistance related to military activities, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, etc. of arms and related materiel, or for the provision of related technical assistance, directly or indirectly to any natural or legal person, entity or body, as listed in Annex I to the Yemen Regulation).

PART 3

Supplementary provisions as to offences

Circumvention of prohibitions

4. A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Article 1a(a) or Article 1a(b) of the Yemen Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

PART 4

Enforcement and penalties

Penalties

5. A person guilty of an offence under regulation 3 or 4 of these Regulations is liable—

- (a) on summary conviction, to custody for a term not exceeding three months or to a fine not exceeding £5,000, or to both;
- (b) on conviction on information, to custody for a term not exceeding two years or to a fine, or to both.

Application of the 1986 Act

6. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under these Regulations has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under these Regulations as it applies to the arrest of a person for an offence under the customs and excise Acts.

(3) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under these Regulations as they apply in relation to offences and penalties under the customs and excise Acts.

(4) "The customs and excise Acts" and "assigned matter" have the same meanings as in section 184 of the 1986 Act.

PART 5 General

Amendment to the Export Control Order 2008 in relation to Yemen

7. In Schedule 4 to the Export Control Order 2008 as it has effect in the Island—
- (a) in Part 3, insert "Yemen" at the end;
 - (b) in Part 4, omit "Yemen".

Review

8. (1) The Treasury must from time to time—
- (a) carry out a review of these Regulations,
 - (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) In carrying out the review the Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Yemen Regulation and the measures taken to implement them in other member States.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Yemen Regulation established by these Regulations and the measures taken to implement them,
 - (b) assess the extent to which those objectives are achieved, and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under these Regulations must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under these Regulations are afterwards to be published at intervals not exceeding five years.

2nd August 2015

Anna Soubry
Minister of State for Small Business, Industry and Enterprise
Department for Business, Innovation and Skills

2016 No. 503

CUSTOMS

The Export Control (Iran Sanctions) Order 2016

<i>Made - - - -</i>	<i>12th April 2016</i>
<i>Laid before Parliament</i>	<i>15th April 2016</i>
<i>Coming into force - -</i>	<i>6th May 2016</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes this Order in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002.

PART 1

Introductory

Citation, commencement and revocation

1. (1) This Order may be cited as the Export Control (Iran Sanctions) Order 2016.
- (2) ...Omitted.

Application

2. An offence may be committed under this Order -
 - (a) in the Island by any person;
 - (b) elsewhere by any person who is a Island person within the meaning of article 2(1) of the Export Control Order 2008 (of Parliament), as it has effect in the Island.

Interpretation

3. (1) In this Order -

“the 1986 Act” means the Customs and Excise Management Act 1986;

“EU authorisation” means an authorisation granted under Article 2a, 3a, 10d and 15a of the Iran Sanctions Regulation or under Article 1b or 1c of the Iran Human Rights Regulation;

“the Iran Human Rights Regulation” means Council Regulation (EU) 359/2011, as it has effect in the Island, concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran and a reference to an Annex to that Regulation is a reference to that Annex as amended from time to time;

“the Iran Sanctions Regulation” means Council Regulation (EU) 267/2012, as it has effect in the Island, concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010, and a reference to an Annex to that Regulation is a reference to that Annex as amended from time to time;

“procurement” means procurement, other than by import into the Island and United Kingdom, by whatever means, including but not limited to by purchase, import or transport.

(2) An expression used in both this Order and in the Iran Sanctions Regulation or the Iran Human Rights Regulation has the meaning that it bears in those Regulations.

PART 2

Offences relating to prohibitions in the Iran Sanctions Regulation

Offences related to goods and technology listed in Annex I and investment in Iranian uranium mining and materials listed in Part 1 of the Nuclear Suppliers Group list

4. A person commits an offence and may be arrested if that person -
- (a) is concerned in an activity, other than the export or the import of goods, for which EU authorisation is required by any of the following Articles of the Iran Sanctions Regulation -
 - (i) Article 2a(1)(a) (authorisation required for the sale, supply, etc. of the goods and technology listed in Annex I to any Iranian person, entity or body or for use in Iran);
 - (ii) Article 2a(1)(b) (authorisation required for the provision of technical assistance or brokering services related to goods and technology listed in Annex I to any Iranian person, entity or body, or for use in Iran);
 - (iii) Article 2a(1)(c) (authorisation required for the provision of financing or financial assistance related to goods and technology listed in Annex I to any Iranian person, entity or body, or for use in Iran);
 - (iv) Article 2a(1)(d) (authorisation required before entering into an arrangement with an Iranian person, entity or body that would enable such person, entity or body to participate in or increase its participation in the commercial activities listed in Articles 2a(1)(d)(i) and (ii));
 - (v) Article 2a(1)(e) (authorisation required for purchase, import or transport from Iran of goods and technology listed in Annex I);
 - (b) does not have the required EU authorisation; and

- (c) is knowingly concerned in that activity with intent to evade a prohibition in those Articles.

Offences related to goods and technology listed in Annex II

5. A person commits an offence and may be arrested if that person -

- (a) is concerned in an activity, other than the export or the import of goods, for which EU authorisation is required by any of the following Articles of the Iran Sanctions Regulation -
 - (i) Article 3a(1)(a) (authorisation required for the sale, supply, etc. of the goods and technology listed in Annex II to any Iranian person, entity or body or for use in Iran);
 - (ii) Article 3a(1)(b) (authorisation required for the provision of technical assistance or brokering services related to goods and technology listed in Annex II to any Iranian person, entity or body, or for use in Iran);
 - (iii) Article 3a(1)(c) (authorisation required for the provision of financing or financial assistance related to goods and technology listed in Annex II to any Iranian person, entity or body, or for use in Iran);
 - (iv) Article 3a(1)(d) (authorisation required before entering into any arrangement with an Iranian person, entity or body that would enable such person, entity or body to participate in or increase its participation in commercial activities involving technologies listed in Annex II);
 - (v) Article 3a(1)(e) (authorisation required for the purchase, import or transport from Iran of goods and technology listed in Annex II);
- (b) does not have the required EU authorisation; and
- (c) is knowingly concerned in that activity with intent to evade a prohibition in those Articles.

Offences related to goods and technology listed in Annex III or any other item that could contribute to the development of nuclear weapon delivery systems

6. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export or the import of goods, prohibited by any of the following Articles of the Iran Sanctions Regulation with intent to evade a prohibition in that Article commits an offence and may be arrested -

- (a) Article 4a(1) (prohibition on the sale, supply, etc. of goods and technology listed in Annex III to any Iranian person, entity or body or for use in Iran) insofar as it concerns the goods and technology listed in Annex III;
- (b) Article 4b(a) (prohibition on the provision of technical assistance or brokering services related to the goods and technology listed in Annex III to any Iranian person, entity or body or for use in Iran);
- (c) Article 4b(b) (prohibition on the provision of financing or financial assistance related to the goods and technology listed in Annex III to any Iranian person, entity or body, or for use in Iran);

- (d) Article 4b(c) (prohibition on the entering into any arrangement with an Iranian person, entity or body, that would enable such person, entity or body to participate in or increase its participation in commercial activities involving technologies listed in Annex III);
- (e) Article 4c (prohibition on the purchase, import or transport from Iran of the goods and technology listed in Annex III).

Offences related to goods and technology listed in the Common Military List

7. (1) Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following Articles of the Iran Sanctions Regulation with intent to evade a prohibition in that Article commits an offence and may be arrested -

- (a) Article 5(a) (prohibition on the provision of technical assistance, brokering services and other services related to the goods and technology listed in the Common Military List to any Iranian person, entity or body or for use in Iran);
- (b) Article 5(b) (prohibition on the provision of financing or financial assistance related to the goods and technology listed in the Common Military List to any Iranian person, entity or body or for use in Iran);
- (c) Article 5(c) (prohibition on the entering into any arrangement for the participation or increase in participation in any Iranian person, entity or body engaged in the manufacture of goods or technology listed in the Common Military List).

(2) Unless authorised by a licence granted by the Treasury or the Secretary of State for Business, Innovation and Skills under this article or under the Export Control Order 2008, the procurement of goods and technology listed in the Common Military List from Iran is prohibited, whether or not originating in the territory of Iran.

(3) A person who is knowingly concerned in an activity prohibited by paragraph (2) with intent to evade that prohibition commits an offence and may be arrested.

Offence related to the software listed in Annex VIIA

8. A person commits an offence and may be arrested if that person -

- (a) is concerned in an activity, other than the export or the import of goods, for which EU authorisation is required by any of the following Articles of the Iran Sanctions Regulation -
 - (i) Article 10d(1)(a) (authorisation required for the sale, supply, etc. of the software listed in Annex VIIA to any Iranian person, entity or body or for use in Iran);
 - (ii) Article 10d(1)(b) (authorisation required for the provision of technical assistance or brokering services related to the software listed in Annex VIIA to any Iranian person, entity or body, or for use in Iran);
 - (iii) Article 10d(1)(c) (authorisation required for the provision of financing or financial assistance related to the software listed in Annex VIIA to any Iranian person, entity or body, or for use in Iran);
- (b) does not have the required EU authorisation; and

- (c) is knowingly concerned in that activity with intent to evade a prohibition in those Articles.

Offences related to graphite and raw or semi-finished metals as listed in Annex VIIB

9. A person commits an offence and may be arrested if that person -
- (a) is concerned in an activity, other than the export or the import of goods, for which EU authorisation is required by any of the following Articles of the Iran Sanctions Regulation -
 - (i) Article 15a(1)(a) (authorisation required for the sale, supply, etc. of graphite and raw or semi-finished metals as listed in Annex VIIB to any Iranian person, entity or body or for use in Iran);
 - (ii) Article 15a(1)(b) (authorisation required for the provision of technical assistance or brokering services related to graphite and raw or semi-finished metals as listed in Annex VIIB to any Iranian person, entity or body, for use in Iran);
 - (iii) Article 15a(1)(c) (authorisation required for the provision of financing or financial assistance related to graphite and raw or semi-finished metals as listed in Annex VIIB to any Iranian person, entity or body, or for use in Iran);
 - (b) does not have the required EU authorisation; and
 - (c) is knowingly concerned in that activity with intent to evade a prohibition in those Articles.

PART 3

Offences relating to prohibitions in the Iran Human Rights Regulation

Offences related to equipment listed in Annex III

10. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export of goods, prohibited by any of the following Articles of the Iran Human Rights Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested -

- (a) Article 1a(1)(a) (prohibition on the sale, supply, etc. of equipment which might be used for internal repression as listed in Annex III to any person, entity or body in Iran or for use in Iran);
- (b) Article 1a(1)(b) (prohibition on the provision of technical assistance or brokering services related to equipment which might be used for internal repression as listed in Annex III to any person, entity or body in Iran or for use in Iran);
- (c) Article 1a(1)(c) (prohibition on the provision of financing or financial assistance related to equipment which might be used for internal repression as listed in Annex III to any person, entity or body in Iran or for use in Iran).

Offences related to equipment, technology and software listed in Annex IV

11. A person commits an offence and may be arrested if that person -
- (a) is concerned in an activity for which authorisation is required by any of the following Articles of the Iran Human Rights Regulation -

- (i) Article 1b(1) (authorisation required for the sale, supply, etc. of equipment, technology or software identified in Annex IV to any person, entity or body in Iran or for use in Iran);
 - (ii) Article 1c(1)(a) (authorisation required for the provision of technical assistance or brokering services related to the equipment, technology and software identified in Annex IV to any person, entity or body in Iran or for use in Iran);
 - (iii) Article 1c(1)(b) (authorisation required for the provision of financing or financial assistance related to the equipment, technology or software identified in Annex IV to any person, entity or body in Iran or for use in Iran);
 - (iv) Article 1c(1)(c) (authorisation required for the provision of telecommunications or internet monitoring or interception services of any kind to, or for the direct or indirect benefit of, Iran's government, public bodies, corporations and agencies or any person or entity acting on their behalf or at their direction);
- (b) does not have the required EU authorisation; and
- (c) is knowingly concerned in that activity with intent to evade a prohibition in those Articles.

PART 4

Supplementary provisions as to offences

Circumvention of prohibitions in the Iran Sanctions Regulation

12. (1) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly) -

- (a) to circumvent any of the prohibitions in Articles 2a(1)(a), 2a(1)(b), 3a(1)(a), 3a(1)(b), 4a, 4b(a), 5(a), 10d(1)(a), 10d(1)(b), 15a(1)(a) and 15a(1)(b) of the Iran Sanctions Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly) -

- (a) to circumvent any of the prohibitions in Articles 2a(1)(c), 2a(a)(d), 2a(1)(e), 3a(1)(c), 3a(1)(d), 3a(1)(e), 4b(b), 4b(c), 4c, 5(b), 5(c), 10d(1)(c) and 15a(1)(c) of the Iran Sanctions Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

Circumvention of prohibitions in the Iran Human Rights Regulation

13. (1) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly) -

- (a) to circumvent any of the prohibitions in Articles 1a(1)(a), 1a(1)(b), 1b(1) and 1c(1)(a) of the Iran Human Rights Regulation, or

(b) to enable or facilitate the contravention of any such prohibition.

(2) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly) -

(a) to circumvent any of the prohibitions in Articles 1a(1)(c) or 1c(1)(b) and 1c(1)(c) of the Iran Human Rights Regulation, or

(b) to enable or facilitate the contravention of any such prohibition.

Offences related to an EU authorisation or a licence under this Order

14. (1) A person commits an offence and may be arrested who, for the purpose of obtaining an EU authorisation or a licence under this Order -

(a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or

(b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation or a licence under this Order granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation or a licence under this Order, fails to comply with a requirement or condition to which the EU authorisation or the licence is subject commits an offence and may be arrested, unless -

(a) the EU authorisation was modified after the completion of the act authorised; and

(b) the alleged failure to comply would not have been a failure had the EU authorisation not been so modified.

PART 5

Enforcement and penalties

Penalties

15. (1) A person guilty of an offence under article 4(a)(i), 4(a)(ii), 5a(i), 5a(ii), 6(a), 6(b), 7(1)(a), 8(a)(i), 8a(ii), 9(a)(i), 9(a)(ii), 10(a), 10(b), 11(a)(i), 11(a)(ii), 12(1) or 13(1) of this Order is liable -

(a) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both; or

(b) on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both.

(2) ...Omitted.

(3) A person guilty of an offence under article 4(a)(iii), 4(a)(iv), 4(a)(v), 5(a)(iii), 5(a)(iv), 5(a)(v), 6(c), 6(d), 6(e), 7(1)(b), 7(1)(c), 7(3), 8(a)(iii), 9(a)(iii), 10(c), 11(a)(iii), 11(a)(iv), 12(2), 13(2) or 14 of this Order is liable -

- (a) on summary conviction, to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or to both; or
- (b) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both.

(4) In the case of an offence committed under the 1986 Act in connection with a prohibition of exportation in Article 2a(1)(a), 3a(1)(a), 4a(1), 10d(1)(a) or 15a(1)(a) of the Iran Sanctions Regulation or Article 1a(1)(a) or 1b(1) of the Iran Human Rights Regulation, sections 69(3)(b) and 178(3)(b) of the 1986 Act have effect as if for the words "7 years" there were substituted the words "10 years".

(5) In the case of an offence committed under the 1986 Act in connection with a prohibition on importation in Article 2a(1)(e), 3a(1)(e) or 4c of the Iran Sanctions Regulation or article 7(3) of this Order, sections 47(4)(b) and 178(3)(b) of the 1986 Act have effect as if for the words "7 years" there were substituted the words "10 years".

Application of the 1986 Act

16. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining -

- (a) whether there are grounds for believing that an offence under this Order has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 78A of the 1986 Act (provisions as to information powers) applies to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Article 2a, 3a, 10d or 15a of the Iran Sanctions Regulation or Article 1b or 1c of the Iran Human Rights Regulation and accordingly references in section 78A of the 1986 Act to importation or exportation shall be read as including any such activity.

(3) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) "The customs and excise Acts" and "assigned matter" have the same meanings as in section 184 of the 1986 Act.

PART 6

Miscellaneous amendments

Amendment to the Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014

17. (1) The Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014, as it has effect in the Island, is amended as follows.

- (2) For article 5, substitute -

“5. (1) A person who is knowingly concerned in an activity prohibited by any of the following Articles of the Russia Sanctions Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested -

- (a) Article 4(1)(a) (prohibition on provision of technical assistance or brokering services related to the goods and technology listed in the Common Military List, to any natural or legal person, entity or body in Russia or for use in Russia);
 - (b) Article 4(1)(b) (prohibition on the provision of financing or financial assistance related to the goods and technology listed in the Common Military List, to any natural or legal person, entity or body in Russia or for use in Russia).
- (2) A person commits an offence and may be arrested if that person -
- (a) is concerned in an activity for which EU authorisation is required by Article 4(2b) of the Russia Sanctions Regulation (authorisation required for the provision of technical assistance, financing or financial assistance related to the sale, supply, etc. and import, etc. of Hydrazine, the import, etc. of Unsymmetrical dimethyl hydrazine, or the sale, supply, etc. and import, etc. of Monomethyl hydrazine, destined for the use of certain launchers) either -
 - (i) insofar as that Article concerns the provision of technical assistance; or
 - (ii) insofar as that Article concerns the provision of financing or financial assistance;
 - (b) does not have the required EU authorisation; and
 - (c) is knowingly concerned in that activity with intent to evade the prohibition in that Article.”.

Amendment to the Export Control Order 2008 in relation to the Central African Republic

18. The Export Control Order 2008 (as it has effect in the Island), is amended as follows -

- (a) in Part 4 of Schedule 4, omit “Central African Republic”;
- (b) in Part 2 of Schedule 4, after “Burma (Myanmar)”, insert “Central African Republic”.

PART 7

General

Review

19. (1) The Treasury must from time to time -

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Iran Sanctions Regulation and the Iran Human Rights Regulation and the measures taken to implement them in other member States.

(3) The report must in particular -

- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Iran Sanctions Regulation and the Iran Human Rights Regulation established by this Order and the measures taken to implement them,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this Order must be published before the end of the period of five years beginning with the day on which this Order comes into force.

(5) Reports under this Order are afterwards to be published at intervals not exceeding five years.

Anna Soubry
Minister of State for Small Business, Industry and Enterprise
Department for Business, Innovation and Skills

12 April 2016

2016 No. 787

CUSTOMS

The Export Control (Libya Sanctions) Order 2016

<i>Made - - - -</i>	<i>20th July 2016</i>
<i>Laid before Parliament</i>	<i>21st July 2016</i>
<i>Coming into force - -</i>	<i>12th August 2016</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for certain references to provisions of EU instruments to be construed as references to those provisions as amended from time to time.

The Secretary of State makes this Order in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002.

PART 1

Introductory

Citation and commencement

1. This Order may be cited as the Export Control (Libya Sanctions) Order 2016.

Revocation

2. ...Omitted.

Application

3. An offence may be committed under this Order -
 - (a) in the Island by any person;
 - (b) elsewhere by any person who is a Island person within the meaning of article 2(1) of the Export Control Order 2008 (of Parliament), as it has effect in the Island.

Interpretation

4. (1) In this Order -

“the 1986 Act” means the Customs and Excise Management Act 1986;

“EU authorisation” means an authorisation granted under Article 2(4) or 3(4) of the Libya Regulation; and

“the Libya Regulation” means Council Regulation (EU) 2016/44, as it has effect in the Island, concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011, and a reference to an Annex to that Regulation is a reference to that Annex as amended from time to time.

(2) An expression used in both this Order and in the Libya Regulation has the meaning that it bears in that Regulation.

PART 2

Offences relating to prohibitions in the Libya Regulation

Offences related to equipment which might be used for internal repression as listed in Annex I

5. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following Articles of the Libya Regulation with intent to evade a prohibition in that Article commits an offence and may be arrested -

- (a) Article 2(1)(a) (prohibition on the sale, supply, etc. of equipment that might be used for internal repression is listed in Annex I to any person, entity or body in Libya or for use in Libya);
- (b) Article 2(2) (prohibition on the purchase, import or transport from Libya of equipment that might be used for internal repression as listed in Annex I);
- (c) Article 3(1)(b) (prohibition on the provision of technical assistance related to equipment which might be used for internal repression as listed in Annex I to any person, entity or body in Libya or for use in Libya).

Offences related to goods and technology listed in the Common Military List and financing or financial assistance related to goods listed in Annex I

6. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following Articles of the Libya Regulation with intent to evade a prohibition in that Article commits an offence and may be arrested -

- (a) Article 3(1)(a) (prohibition on the provision of technical assistance related to the goods and technology listed in the Common Military List to any person, entity or body in Libya or for use in Libya);
- (b) Article 3(1)(c) (prohibition on the provision of financing or financial assistance related to the goods and technology listed in the Common Military List or in Annex I to any person, entity or body in Libya or for use in Libya);
- (c) Article 3(1)(d) (prohibition on the provision of technical assistance, financing or financial assistance related to the provision of armed mercenary personnel in Libya or for use in Libya).

PART 3

Supplementary offences

Circumvention of prohibitions in the Libya Regulation

7. (1) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly) -

- (a) to circumvent any of the prohibitions in Articles 2(1)(a), 3(1)(a) and 3(1)(b) of the Libya Regulation; or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person commits an offence and may be arrested where that person participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly) -

- (a) to circumvent any of the prohibitions in Articles 2(2), 3(1)(c) and 3(1)(d) of the Libya Regulation; or
- (b) to enable or facilitate the contravention of any such prohibition.

Offences related to an EU authorisation

8. (1) A person commits an offence and may be arrested where, for the purpose of obtaining an EU authorisation, that person -

- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation granted in the circumstances referred to in paragraph (1) is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition to which the EU authorisation is subject commits an offence and may be arrested, unless -

- (a) the EU authorisation was modified after the completion of the act authorised; and
- (b) the alleged failure to comply would not have been a failure had the EU authorisation not been so modified.

PART 4

Enforcement and penalties

Penalties

9. (1) A person guilty of an offence under article 5(a), 5(c), 6(a) or 7(1) of this Order is liable -

- (a) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both; or
 - (b) on conviction on information, to custody for a term not exceeding 10 years or to a fine, or to both.
- (2) ...Omitted.
- (3) A person guilty of an offence under article 5(b), 6(b), 7(2) or 8 of this Order is liable -
- (a) on summary conviction, to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or to both; or
 - (b) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both.

(4) In the case of an offence committed under the 1986 Act in connection with the prohibition of exportation in Article 2(1)(a) of the Libya Regulation, sections 69(3)(b) and 178(3)(b) of that Act have effect as if for the words "7 years" there were substituted the words "10 years".

(5) In the case of an offence committed under the 1986 Act in connection with the prohibition of importation in Article 2(2) of the Libya Regulation, sections 47(4)(b) and 178(3)(b) of that Act have effect as if for the words "7 years" there were substituted the words "10 years".

Application of the 1986 Act

10. (1) Where the Treasury investigates or proposes to investigate any matter with a view to determining -

- (a) whether there are grounds for believing that an offence under this Order has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 78A of the 1986 Act (provisions as to information powers) applies to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Article 2 or 3 of the Libya Regulation and accordingly references in section 78A of the 1986 Act to importation or exportation shall be read as including any such activity.

(3) Section 145 of the 1986 Act (provision as to arrest of persons) applies to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 152 to 155, 157 to 159, 161 and 162 of the 1986 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) In this article, "the customs and excise Acts" and "assigned matter" have the same meanings as in section 184 of the 1986 Act.

PART 5

Miscellaneous

Amendment of the Export Control Order 2008

11. The Export Control Order 2008 as it has effect in the Island, is amended as follows -
- (a) in Part 3 of Schedule 4, omit "Liberia"; and
 - (b) in Part 4 of Schedule 4, after "Krygyzstan", insert "Liberia".

PART 6

General

Review

12. (1) The Treasury must from time to time -
- (a) carry out a review of this Order;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) In carrying out the review the Treasury must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Libya Regulation and the measures taken to implement them in other member States.
- (3) The report must in particular -
- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Libya Regulation established by this Order and the measures taken to implement them;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this Order must be published before the end of the period of five years beginning with the day on which this Order comes into force.
- (5) Reports under this Order are afterwards to be published at intervals not exceeding five years.

Greg Hands
Parliamentary Under Secretary of State
Department for International Trade

20 July 2016

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Government

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