

2005 No. 1988

OVERSEAS TERRITORIES

**The Democratic Republic of the Congo (Restrictive Measures)
(Overseas Territories) (Amendment) Order 2005**

Made - - - - - *19th July 2005*

Laid before Parliament *20th July 2005*

Coming into force - - - *21st July 2005*

At the Court at Buckingham Palace, the 19th day of July 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and extent

1.—(1) This Order may be cited as the Democratic Republic of the Congo (Restrictive Measures) (Overseas Territories) (Amendment) Order 2005 and shall come into force on 21st July 2005.

(2) In this Order “the principal Order” means the Democratic Republic of the Congo (Restrictive Measures) (Overseas Territories) Order 2003(c).

(3) This Order shall extend to the territories listed in Schedule 1 to the principal Order.

Amendment of Article 2 of principal order

2. In Article 2(1) of the principal Order —

(a) insert before the definition of “Commander” the following new definition—

““assistance” means any form of assistance including technical assistance, services, financing and financial assistance;”;

(b) for the definition of “restricted goods”, substitute the following—

““restricted goods” means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control)

(a) 1833 c. 85.

(b) 1887 c. 54 and 1945 c. 7.

(c) SI 2003/2627

Order 2003(a) made under the Export Control Act 2002(b), as extended to the territories listed in Schedule 1 thereto by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004(c).”.

Replacement of Article 4 of principal Order

3. Article 4 of the principal Order is replaced by the following article —

“Exportation of restricted goods to the Democratic Republic of the Congo

4.—(1) Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in the Democratic Republic of the Congo or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in the Democratic Republic of the Congo.

(2) Any restricted goods which are exported or attempted to be exported shall be liable to forfeiture.

(3) Any person knowingly concerned in the exportation or attempted exportation of such goods shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty of an offence under paragraph (3) above and of an offence under article 3 (1), he shall not be guilty of the offence under paragraph (3) above.”.

Amendment of Article 5 of principal Order

4. Article 5 of the principal Order is amended by —

- (a) replacing the words “person in the Democratic Republic of the Congo” wherever that term appears, with the words “person, entity or body in, or for use in, the Democratic Republic of the Congo”; and
- (b) inserting after the term “military activities” the words “or to the provision, manufacture, maintenance or use of restricted goods”.

A. K. Galloway
Clerk of the Privy Council

(a) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.
(b) 2002 c. 28.
(c) S.I. 2004/3101.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Democratic Republic of the Congo (Restrictive Measures) (Overseas Territories) Order 2003.

Article 4 of the 2003 Order is replaced with a provision which prohibits the exportation of restricted goods to enable their seizure and forfeiture but which does not overlap with Article 3 of that Order, which makes it an offence for a person knowingly to export restricted goods (without the authority of a licence) from the Territory to the Democratic Republic of the Congo.

This Order also gives effect to the precise wording of the arms embargo wording in Common Position 2005/440 adopted by the Council of the European Union on 13 June 2005 to integrate the arms embargo imposed by Common Position 2002/829 with new measures imposed following the adoption of Resolution 1596 by the Security Council of the United Nations on 18 April 2005. This Order amends Article 5 of the 2003 Order to make it clear that it is prohibited to provide assistance, advice or training related to the provision, manufacture, maintenance and use of arms and related matériel and that the prohibition also applies where advice, assistance or training is provided to any person, entity or body in, or for use in, the Democratic Republic of the Congo.

The opportunity has also been taken to include in the 2003 Order a definition of “assistance” and to update the definition of restricted goods to refer to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004.

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