

**EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (SECURITY AND PARA-MILITARY GOODS)
ORDER 2008**

2008 No. 639

1. This explanatory memorandum has been prepared by the Department for Business, Enterprise and Regulatory Reform and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1. The Export Control (Security and Para-military Goods) Order 2008 (“the Order”) amends the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (“the 2003 Order”) and the Trade in Goods (Control) Order 2003 (“the Trade Order”), imposing new controls on so-called “sting sticks” and similar para-military police equipment.

2.2. The Order also refers to the Trade in Controlled Goods (Embargoed Destinations) Order 2004 (“the 2004 Order”) whose scope is determined by reference to the 2003 Order and the Trade Order. This is with a view to putting beyond doubt that “sting sticks”, etc. are to be within the scope of the 2004 Order.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. The Department is today laying before Parliament the Export Control (Security and Para-military Goods) Order 2008.

3.2. The Committee will note that among the enabling powers cited in the preamble is a power to make transfer controls in relation to technology (section 2 of the Export Control Act 2002). This is not obviously relevant to the amendments made by the Order. “Sting sticks” are goods. However, entry ML22.a. in Schedule 1 to the 2003 Order includes technology that is required for the development, production or use of goods controlled in the Part of the Schedule we are amending (this would include engineering designs and specifications, for example). Consequently, the Order automatically extends the scope of entry ML22.a. This in turn extends the scope of the transfer controls in relation to technology contained in article 6 of the 2003 Order.

4. Legislative Background

4.1. Schedule 1 to the 2003 Order contains definitions and a schedule of goods, software and technology. The schedule is composed of a mix of internationally agreed control lists and those introduced at a national level in order to satisfy public policy or national security concerns. There is a category within Schedule 1 (PL5001) which covers “other security and para-military police goods” and, within PL5001, a

narrower range of equipment - for example electric shock belts and shackles - has been designated as being closely related to acts of torture. This equipment is subject to the most stringent controls and so cannot be exported from the UK or traded from one third country to another (even where the trading activity is carried on outside the UK, if a UK person is responsible) without the granting of a licence.

4.2 Following the 2007 review of export controls, which included an extensive public consultation exercise, a commitment was made to extend the above controls on exporting and trading to include hand-held, spiked batons (commonly referred to as “sting sticks”). Article 2 of the Order introduces new controls in order to meet that commitment.

5. Extent

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

6. European Convention on Human Rights

6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 The Government considers that “sting sticks” are, by their nature, designed for the purposes of torture or similar inhumane acts and have no other legitimate use. The Government therefore believes that, in common with other equipment of a similar nature, the UK should apply the most stringent level of controls on the export and trading of “sting sticks”. The Government announced its intention to introduce these new controls in a Written Statement from Malcolm Wicks MP, Minister of State for Energy, dated 6 February 2008.

8. Impact

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

8.2. There is no or minimal impact on the public sector.

9. Contact

9.1. Melvyn Tompkins at the Department for Business, Enterprise and Regulatory Reform, Tel: 020 7215 8669, or email: Melvyn.Tompkins@berr.gsi.gov.uk can answer any queries regarding this instrument.

DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM

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