

**EXPLANATORY MEMORANDUM TO
THE IRAN (UNITED NATIONS SANCTIONS)
ORDER 2009/886**

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument:

2.1 This instrument, The Iran (United Nations Sanctions) Order 2009 (“the Order”) implements aspects of United Nations sanctions against Iran, to supplement existing trade controls. In particular, the Order prohibits the procurement of military goods from Iran, and the use of UK flag vessels and aircraft for the carriage of such goods.

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

3.1 None. The Order will be made at the Privy Council Meeting on 8th April 2009 and will be laid before Parliament on the following day. The Order will come into force on the day after it is laid so that the sanctions provisions can be enforced immediately.

4. Legislative Background

4.1. The Order supplements existing UK trade controls, by prohibiting the procurement of arms from Iran, and the carriage of such goods to any destination using UK flag vessels or aircraft.

4.2. The procurement of proliferation-sensitive goods from Iran was prohibited under UN Security Council Resolution 1737 (2006). This was given effect by Council Regulation (EC) No 423/2007 which prohibited the purchase, import or transport of proliferation-sensitive goods and dual-use goods, including by use of the flag vessels or aircraft of Member States.

4.3. The procurement of military goods from Iran was prohibited under UN Security Council Resolution 1747 (2007). Trade in military goods within the EU is a matter of Member State competence, not by EU Regulation. The main UK export control legislation “The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003”, prohibits transit movements of certain military and dual-use goods if they are banned weapons going to an embargoed destination. This would include by the use of a UK flag vessel or aircraft which was under the control of a UK person. From 6th April 2009 the above export control legislation is replaced by new legislation, “The Export Control Order 2008”.

4.4 Where military goods are procured from Iran, UK trade controls under the Export Control Order 2008 will prohibit persons in the UK, or UK persons anywhere from procuring such goods from Iran destined for a third country which is an embargoed destination under international sanctions. The existing trade controls do not apply however to the supply of such goods to an embargoed destination using UK flag vessels or aircraft not under the control of a UK person, or the supply of most items on the military list to a destination which is not an embargoed destination.

4.5. The Order supplements existing UK trade controls in relation to Iran, until such time as the Export Control Act 2002 may be amended. In particular the Act may require to be amended to enable trade controls to apply to procurement outwith the UK from an embargoed origin, other than to an embargoed destination, and to provide the necessary powers to control the use of UK flag vessels or aircraft in the course of prohibited trade outside the UK, where they are not under the control of a UK person.

4.6. The Order prohibits the procurement of military goods from Iran, regardless of destination. The prohibition means that any person in the UK or any UK person anywhere else, involved in procurement or attempted procurement, commits a criminal offence. Any military goods which are procured or are attempted to be procured are liable to be seized and forfeited. In addition, the Order prohibits the use of UK flag vessels or aircraft for the carriage of military goods from Iran to any destination. Any person in control of a UK flag vessel or aircraft, used by them knowingly for the carriage of procured goods, commits an offence. Ancillary powers of investigation are provided in relation to suspected breaches of these prohibitions. Criminal penalties are provided for breaches of the provisions of the Order.

5. Territorial extent and application

5.1. The Order extends to all of the United Kingdom. It also applies to UK persons and UK flag vessels and aircraft outwith the United Kingdom

6. European Convention on Human Rights

6.1. The Order is made under section 1 of the United Nations Act 1946, and although laid, is not subject to any Parliamentary procedure. There are no human rights implications.

7. Policy Background

7.1. The UK fully supports UN restrictive measures against Iran.

7.2. The Order assists the UK's compliance with its UN obligations to implement restrictive measures.

8. Consultation outcome

8.1 There was no consultation in the UK.

9. Guidance

9.1. Guidance may be sought from the contacts below.

10. Impact

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

10.2. The impact on the public sector is low.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 UN sanctions measures are monitored and reviewed by the Security Council.

12.2 If the UN measures are suspended or lifted, this Order will be reviewed and suspended or revoked as necessary.

13. Contacts

William Taylor (policy), David Ballantyne (legal), at the Foreign and Commonwealth Office can answer questions regarding this instrument; e-mail William.Taylor@fco.gov.uk (tel 020 7008 3583); or David.Ballantyne@fco.gov.uk (tel 020 7008 2131).