

EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (SYRIA AND MISCELLANEOUS
AMENDMENTS) ORDER 2011

2011 No. 1304

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

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

2. **Purpose of the instrument**

2.1 The Export Control (Syria and Miscellaneous Amendments) Order 2011 (“the Syria Order”) makes provision relating to the enforcement of certain restrictive measures against Syria set out in Council Regulation (EU) No. 442/2011 of 9 May 2011 (“the Syria Regulation”). The enforcement prohibitions in the Syria Regulation in relation to the export of goods are covered by the Customs and Excise Management Act 1979.

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

3.1 The Department is today laying before Parliament the Export Control (Syria) Order 2011.

3.2 The Syria Regulation to which this Syria Order supplements was adopted by the EU as an urgent response to the grave concern regarding the situation unfolding in Syria and the deployment of military and security forces in a number of Syrian cities.

3.3 The Department considers that in order to give effect to our European obligations in respect of Syria, it is necessary for the Syria Order to come into force as soon possible. In particular, the Syria Regulation, which is directly applicable, came into force on its publication in the Official Journal on 10 May 2011. The offences and penalties provisions in the Syria Order are needed to make this Regulation fully effective in the UK.

3.4 Thus in view of the urgency of this measure, the Department is seeking not to apply the 21 day rule so that the Order can come into force the day after it is laid in Parliament.

4. **Legislative Context**

4.1 The Council of the European Union adopted urgent restrictive measures against Syria by means of Council Decision (Decision

2011/273/CFSP) on 9 May 2011. On the same date, the Council adopted the Syria Regulation which implements those elements of the Decision that fall within the EU competence.

4.2 Thus the Syria Regulation contains a number of restrictive measures in relation to Syria. These include prohibitions on trade, technical assistance, financing, financial assistance or brokering in equipment which may be used for internal repression and restrictions on the provision of technical assistance, financing or financial assistance related to the goods and technology listed in the Common Military List of the European Union, to any entity or body in Syria or for use in Syria.

5. Territorial Extent and Application

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

• *What is being done and why*

7.1 The government's policy is to support the EU legislation concerning restrictive measures against Syria.

7.2 The Syria Order provides for national offences, penalties and licensing provisions that are required to supplement articles 2 and 3 of the Syria Regulation. These provisions are concerned with prohibiting:-

- Trade with Syria in equipment which may be used for internal repression;
- Technical and financial assistance or brokering regarding such internal repression equipment;
- Technical and financial assistance related to the goods and technology listed in the Common Military List of the European Union.

7.3 The Syria Order also provides for an amendment to the Export Control Order 2008 (S.I. 2008/3231) to make Syria an "embargo destination" for the purposes of the trade controls in that Order, so that stricter levels of control apply, including restrictions on the activities of United Kingdom persons overseas.

7.4. The opportunity has also been taken to include in the Syria Order a technical amendment to the Export Control (Libya) Order 2011 (S.I. 2011/825) in order to implement the amendment to Council Regulation (EU) No. 204/2011 of 2 March 2011 concerning restrictive measures against Libya made by Council Regulation (EU) No. 296/2011 of 25 March.

7.5 The Syria Order is also in line with the general policy to implement EU Legislation in a timely and appropriate manner.

8. Consultation outcome

8.1 This is purely a technical implementation of a directly applicable EU Regulation, so no consultation was necessary.

9. Guidance

9.1 A notice to exporters has been published on <http://www.bis.gov.uk/policies/export-control-organisation/eco-notice-exporters> explaining the purpose and effect of the Syria Regulation.

10. Impact

10.1 The Syria Order provides for the offences and penalties in relation to the restrictive measures in the Syria Regulation which came into force on 10 May 2011 and is directly applicable in Member States. Thus, a regulatory impact assessment has not been prepared for this instrument as it has no or minimal impact on business, charities or voluntary bodies.

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

11. Regulating small business

11.1 This legislation applies to small business.

12. Monitoring & review

12.1 The Department will monitor the developments in Syria, the actions taken by the EU and the impact of the Syria Order and give effect to any necessary changes if the sanctions are reviewed.

13. Contact

13.1 Christopher Chew at the Department for Business, Innovation and Skills, Tel: 020 7215 8088 or email: chris.chew@bis.gsi.gov.uk can answer any queries regarding the instrument.