

**EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (DEMOCRATIC REPUBLIC OF CONGO)
(AMENDMENT) ORDER 2008**

2008 No. 131

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 (Democratic Republic of Congo) (Amendment) Order 2008 (“the amendment Order”) implements certain European and other international obligations of the UK in respect of the supply of assistance related to military activities in the Democratic Republic of Congo (“DRC”). To this end it makes provision with regard to Council Regulation (EC) No 1377/2007 of 26 November 2007 (“the 2007 amending Regulation”) amending Council Regulation (EC) No 889/2005 concerning restrictive measures against Democratic Republic of Congo (“the 2005 Regulation”).

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

3.1. The Department is today laying before Parliament the Export Control (Democratic Republic of Congo) (Amendment) Order 2008.

3.2 The Department considers that in order to give effect to our European and other international obligations in respect of DRC, it is necessary for the amendment Order to come into force as soon as possible. In particular, the 2007 amending Regulation, which is directly applicable, came into force the day following its publication in the Official Journal on 27 November 2007. The clarification of the liability for the offence of providing financing and financial assistance related to military activities or related technical assistance and other services created by the amendment Order is required to make the 2007 amending Regulation fully effective in the UK.

4. Legislative Background

4.1 United Nations Security Council Resolution 1771 (2007) (“UNSCR1771”) was adopted on 10 August 2007 and extended the exemptions to the restrictions on trade with DRC, previously imposed by United Nations Security Council Resolution 1596 (2005). The response to UNSCR1771 has been co-ordinated at European level. The Council of the European Union adopted a Common Position (Common Position 2007/654/CFSP of 9 October 2007 amending Common Position 2005/440/CFSP concerning restrictive measures against DRC (“the Common Position”). The 2007

amending Regulation implements those elements of the Common Position that fall within Community competence.

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 instrument resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 The government's policy is to support the EU legislation concerning restrictive measures against DRC, in the same way as we support the United Nations Security Council Resolutions from which it derives.

7.2. The amendment Order provides clarification of when liability offences under national law arise.

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

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. Jim Bouttell at the Department for Business, Enterprise and Regulatory Reform, Tel: 020 7215 4648, or email: jim.bouttell@berr.gsi.gov.uk can answer any queries regarding this instrument.

DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM

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