

**EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL ORDER 2006**

2006 No. 1331

1. This explanatory memorandum has been prepared by The Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Order amends the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 ('the 2003 Order') by removing references to Iraq in Schedule 2 (Prohibited Dual-Use goods, software and technology) to the 2003 Order.

2.2 The Order also replaces Schedule 1 to the 2003 Order with a new Schedule 1 which includes a number of changes to the control list as a consequence of changes agreed by the United Kingdom as a member State of the Wassenaar Arrangement, which is an international non-proliferation regime. The opportunity has been taken to clarify the meaning of some national controls. In consequence of the amendments to Schedule 1, Schedule 2 to the 2003 Order has been amended to provide a General Technology Note for the purposes of that Schedule.

2.3 The Order also amends the Trade in Goods (Control) Order 2003 and the Trade in Controlled Goods (Embargoed Destinations) Order 2004 to delete references to the address of the Export Control Organisation.

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

3.1 None

4. Legislative Background

4.1 This Order is made under sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002.

4.2 Schedule 2 to the 2003 Order prohibits the export or transfer of certain dual-use goods, software and technology to certain countries. Such a prohibition is no longer necessary with regard to Iraq following the lifting of sanctions on Iraq. Therefore, Article 6 of the Order removes Iraq from the country specific control in entries PL 9005, PL 9008 and PL 9009 in Schedule 2 to the 2003 Order.

4.3 Schedule 1 to the 2003 Order contains a Schedule of goods, software and technology. This schedule is compiled from the international control lists established by Wassenaar and other international non-proliferation regimes together with those goods the UK control at a national level for public policy and national security reasons. Following changes to these lists agreed by Member States of the non-proliferation regimes it is necessary, in order to meet our international obligations as a Member State of the regimes, to amend a number of entries shown in Schedule 1. Article 3 substitutes a new Schedule 1 to the 2003 Order which reflects the agreed

changes including the deletion of the current general technology note and amends ML 22 and other references to technology.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister, Mr Malcolm Wicks, has made the following statement regarding Human Rights:

In my view the provisions of the Export of Goods Control Order 2006 are compatible with the European Convention on Human Rights.

7. Policy background

7.1 The amending Order replaces the existing Schedule 1 to the 2003 Order as a consequence of a number of minor amendments agreed by the United Kingdom as a Member States of the Wassenaar Arrangement which is an international non-proliferation regime. A number of minor and technical amendments are also made to assist the clarity of meaning in the controls.

7.2 The main changes are

- changes to definitions include;
 - i) new definition for ‘lighter-than-air vehicles’ ;
 - ii) amending the definition for “riot control agents” to include tear gases; and as a consequence,
 - iii) deleting the express control on “tear gases” in ML7.
- clarifying the scope of ML6.b. i.e., does not include those vehicles specified in ML6.a;
- amendment of ML7 including replacement of ML7.a and removal of technology;
- in ML 10 replacing ‘unmanned airborne vehicles’ with a control on ‘unmanned aerial vehicles’.
- addition of Global Navigation Satellite Systems (GNSS) jamming equipment to ML11;
- amendment of ML22 (technology) to incorporate the General Technology Note (GTN) and technology previously controlled within ML7. Also includes using the defined term “required” in the entry.;
- clarifying the scope of PL8001.

A number of minor changes have also been made to other control entries including, ML4, ML8, ML9, ML13, ML21 and PL5001.

7.3 Although there would normally be public and media interest shown in relation to Government policy on military exports, there is little or no public interest in this amendment which merely implements a series of minor changes already agreed internationally or are minor and technical and which are neither political or legally important.

8. Impact

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

8.2 The impact on the public sector is minimal.

9. Contact

Jim Bouttell at the Department of Trade and Industry, Export Control Organisation. Tel: 0207 215 4648 or e-mail: jim.bouttell@dti.gsi.gov.uk, can answer any queries regarding the instrument.

DEPARTMENT OF TRADE AND INDUSTRY
4 th May 2006