

**EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (AMENDMENT) ORDER 2014**

2014 No. 702

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 (Amendment) Order 2014 (“the Order”) amends Part 2 of Schedule 1 to the Export Control Order 2008 (S.I. 2008/3231), which lists goods subject to stricter export and trade controls.

The amendment gives effect to the requirements in Article 10 of the Arms Trade Treaty (brokering controls) adopted by the General Assembly of the United Nations by Resolution 67/234 B of 2 April 2013.

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

- 3.1 None

4. **Legislative Context**

- 4.1 On 2 April 2013, the General Assembly of the United Nations adopted the Arms Trade Treaty by means of Resolution 67/234 B (“the Treaty”). The Treaty regulates the international trade in conventional arms, from small arms to battle tanks, combat aircraft and warships, as listed in Article 2(1).

- 4.2 The United Kingdom signed the Treaty on 3 June 2013. The Treaty cleared the Parliamentary scrutiny required under section 20 of the Constitutional Reform and Governance Act 2010 on 5 November 2013. The only legislative change which is necessary to enable the United Kingdom to ratify the Treaty relates to its Article 10, which requires State Parties to regulate any brokering taking place under their jurisdiction for the conventional arms covered by Article 2(1) of the Treaty.

- 4.3 The Order makes provision to extend the list of goods subject to trade controls (brokering and trafficking) in Part 2 of Schedule 1 to the Export Control Order 2008, so as to include (in new paragraphs 18 to 22) all the conventional arms listed in Article 2(1) of the Treaty. These trade controls

apply to all United Kingdom persons specified under article 22(1) of the Export Control Order 2008, wherever they are in the world.

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 successful negotiation of an international treaty regulating the legitimate trade in conventional arms formed part of the Coalition Agreement. After seven years of preparatory work and hard negotiations, in which the United Kingdom was a leading player, the United Nations General Assembly adopted the text of the Treaty on 2 April 2013.

7.2 The Treaty aims to establish high common international standards for regulating the international trade in conventional arms and to prevent and eradicate the illicit trade in conventional arms and prevent their diversion.

7.3 The Treaty applies to the export, import, transit, transshipment and brokering in the conventional arms listed in its Article 2(1), which include (a) battle tanks; (b) armoured combat vehicles; (c) large-calibre artillery systems; (d) combat aircraft; (e) attack helicopters; (f) Warships; (g) missiles and missile launchers; and (h) small arms and light weapons. In addition, Article 5(3) of the Treaty requires State Parties that the national definitions of the categories listed in Article 2(1) shall not cover less than the descriptions used in the United Nations Register of Conventional Arms.

7.5 The Export Control Order 2008 currently includes all export, transit, and transshipment controls as are appropriate to give effect in the United Kingdom to the requirements of the Treaty (import controls are covered by different legislation). However, a minor modification to the list of items subject to trade controls (trafficking and brokering) in Part 2 of Schedule 1 to that Order is necessary so as to ensure that all the conventional arms listed in Article 2(1) of the Treaty are also subject to UK domestic brokering controls.

8. Consultation outcome

8.1 The Order consists of a minor technical implementation of the requirements of a single provision of an International Agreement. All other legislative provisions necessary to give effect to the Agreement in the UK are already in place. Accordingly, no consultation was necessary.

9. Guidance

9.1 A Notice to Exporters has been published on <http://blogs.bis.gov.uk/exportcontrol/> explaining the purpose and effect of this Order.

10. Impact

10.1 The Order provides for minor changes to existing legislation to enable the full operation of an International Agreement which the UK has already signed. 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 relation to the Treaty and give effect to any necessary changes if the Treaty is amended.

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.

Department for Business, Innovation and Skills
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