

EXPLANATORY MEMORANDUM TO
THE EXPORT CONTROL (LIBYA SANCTIONS) ORDER 2016

2016 No. 787

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for International Trade and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Export Control (Libya Sanctions) Order 2016 provides for the enforcement of trade restrictions against Libya set out in Council Regulation (EU) No 2016/44 (OJ L 12, 19.1.2016, p.1) (the “Libya Regulation”) of 18 January 2016.

2.2 The Order revokes the Export Control (Liberia) Order 2011 (S.I. 2011/145). A minor amendment to the Export Control Order 2008 is also made to move Liberia from Part 3 of Schedule 4 to Part 4 of Schedule 4 of that Order.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

3.3 This entire instrument applies only to England, Wales and Northern Ireland.

4. Legislative Context

4.1 On 31 July 2015, the Council of the European Union adopted new restrictive measures against Libya by means of Council Decision (CSFP) 2015/1333 (OJ L No 206, 1.8.2015, p34) concerning restrictive measures in view of the situation in Libya, and repealing Decision 2011/137/CFSP. This consolidated previous Decisions (CFSP) No 2015/818 and the Decision this amended, No 2011/137/CFSP. On 18 January 2016 the Council adopted Regulation (EU) No 2016/44, concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 2014/2011, so as to implement all those elements of those Decisions which fall within EU competence.

4.2 On 20 June 2016, the Council of the European Union adopted Council Decision (CFSP) 2016/994 repealing Common Position 2008/109/CFSP concerning restrictive measures imposed against Liberia. On the same day, the Council adopted Council Regulation (EU) 2016/983 repealing Regulation (EC) No 234/2004 concerning certain restrictive measures in respect of Liberia.

5. Extent and Territorial Application

5.1 The extent of this instrument is the whole of the United Kingdom.

5.2 The territorial application of this instrument is the whole of the United Kingdom.

6. European Convention on Human Rights

6.1 As the 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 This Order provides for the enforcement of trade restrictions against Libya specified in Council Regulation (EU) No 2016/44 concerning restrictive measures against Libya (OJ No L 12, 19.1.2016, p.1) (the “Libya Regulation”). This Order revokes and replaces the Export Control (Libya) Order 2011 (S.I. 2011/825).

7.2 The Order provides for national offences, penalties and licensing provisions that are set out in the Regulation. The following activities are prohibited:

- the sale, supply etc. of equipment that might be used for internal repression as listed in Annex I to any person, entity or body in Libya or for use in Libya;
- the purchase, import or transport from Libya of equipment that might be used for internal repression as listed in Annex I;
- the provision of technical assistance, financing or financial assistance related to equipment which might be used for internal repression as listed in Annex I or related to the goods and technology listed in the Common Military List to any person, entity or body in Libya or for use in Libya; and
- the provision of technical assistance, financing or financial assistance related to the provision of armed mercenary personnel in Libya or for use in Libya.

7.3 The Order also revokes the Export Control (Liberia) Order 2011 which implemented Regulation (EC) No 234/2004 which has been repealed by Council Regulation (EU) 2016/983.

8. Consultation outcome

8.1 The Order consists of a technical implementation of a directly applicable EU Regulation. Accordingly, no consultation was necessary.

9. Guidance

9.1 A Notice to Exporters will be published on <http://blogs.bis.gov.uk/exportcontrol/> explaining the purpose and effect of the Regulation.

10. Impact

10.1 There is minimal impact on business, charities or voluntary bodies. The impact is that business must apply for authorisation (an export licence) for the provision of the activities referred to in 7.2 above.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 The impact on small business is minimal.

12. Monitoring & review

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

13. Contact

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