

EXPLANATORY MEMORANDUM TO

THE EXPORT CONTROL (SYRIA AND LIBYA SANCTIONS) (AMENDMENT) ORDER 2017

2017 No. 1311

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 To provide for enforcement and penalties of European Union wide sanctions regimes against Syria and Libya.
- 2.2 The Export Control (Syria and Libya Sanctions) (Amendment) Order 2017 (the “Amending Order”) amends the Export Control (Syria Sanctions) Order 2013 (the “Syria Order”). The Syria Order enforces trade restrictions (sanctions) against Syria as set out in Council Regulation (EU) No 36/2012 of 18 January 2012 (the “Syria Regulation”), most recently amended by Council Implementing Regulation (EU) 2017/1751 of 25 September 2017. The Amending Order is necessary to take account of changes to the EU’s trade restrictions against Syria.
- 2.3 The Amending Order also amends the Export Control (Libya Sanctions) Order 2016 (the “Libya Order”) to address the new trade restrictions against Libya concerning goods which could be used for the smuggling of migrants, as set out in Council Regulation (EU) 2017/1325 of 17 July 2017 (the “Amending Libya Regulation”) which in turn amends Regulation (EU) 2016/44 of 18 January 2016 concerning restrictive measures in view of the situation in Libya (the “Libya Regulation”).

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.

4. Legislative Context

Syria restrictive measures

- 4.1 The Council of the European Union’s first restrictive measures against Syria were adopted on 9 May 2011 in Council Regulation (EU) No 442/2011 in view of the situation in Syria. The Council expanded the scope of its measures against Syria a further four times before the end of 2011.
- 4.2 In view of the extent of the amendments introduced and the measures already adopted in relation to Syria, it was considered appropriate to consolidate all measures into a

new regulation which repealed and replaced Regulation (EU) No 442/2011. Hence, on 18 January 2012, the Council of the European Union adopted the Syria Regulation, which in turn has been amended, for example, to update the list of individuals subject to sanctions.

Libya restrictive measures

- 4.3 On 28 February 2011 the EU adopted Decision 2011/137/CFSP in accordance with United Nations Security Council Resolution 1970 (2011). The Decision provided for an arms embargo, a ban on internal repression equipment and restrictions on the admission and the freezing of funds and economic resources of certain persons and entities involved in serious human rights abuses against persons in Libya.
- 4.4 The Council of European Union adopted restrictive measures against Libya on 2 March 2011 as set out in Council Regulation (EU) 204/2011. This regulation has been repealed by the Libya Regulation setting out consolidated measures against Libya. The Libya Regulation has since in turn been amended.
- 4.5 In particular, on 17 July 2017 the Council adopted Decision (CFSP) 2017/1338 which applies export restrictions on certain goods to Libya that may be used for smuggling migrants and trafficking in human beings. The Amending Libya Regulation amends the Libya Regulation to this effect.

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 The purpose of the Amending Order is to:
 - (i) update references to reflect the amendments made to the Syria Regulation and the Libya Regulation since the Syria Order and the Libya Order came into force.
 - (ii) create domestic offences in relation to the prohibitions set out in the Amending Libya Regulation to ensure that the prohibitions can be enforced as a matter of domestic law including the export from the United Kingdom to Libya of inflatable vessels and outboard motors.

Consolidation

- 7.2 None.

8. Consultation outcome

- 8.1 The Amending Order consists of technical implementation of two directly applicable EU regulations. Accordingly, no consultation was necessary.

9. Guidance

- 9.1 Notices to Exporters are published on <https://www.gov.uk/government/collections/notices-to-exporters> explaining the purpose and effect of amendments to trade sanctions.

10. Impact

- 10.1 These amendments to existing sanctions regimes have minimal impact on business, charities or voluntary bodies. Business must apply for authorisation (an export licence) for the provision of the activities referred to in 7.1 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; but does not propose to put any regulatory burdens on business.
- 11.2 The Order provides for enforcement and penalties of amended EU trade sanctions regulations.
- 11.3 The penalties are only applied if a business deliberately breaches sanctions.

12. Monitoring & review

- 12.1 The Department will monitor developments in Syria and 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.
- 12.2 The Amending Order does not require an express review clause as both the Syria Order and Libya Order already contain one.

13. Contact

- 13.1 Peter Monday at the Department for International Trade, Tel: 020 7215 8810 or email: peter.monday@trade.gsi.gov.uk can answer any queries regarding the instrument.