

**EXPLANATORY MEMORANDUM TO
THE SYRIA (RESTRICTIVE MEASURES) (OVERSEAS TERRITORIES) ORDER
2011**

2011 No. 1678

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument, The Syria (Restrictive Measures) (Overseas Territories) Order 2011 (“the Order”), gives effect in specified Overseas Territories to:

(i) EU autonomous measures (“the EU measures”) imposed in the EU by Council Decision 2011/273/CFSP of 9 May 2011 implemented by Council Regulation (EU) No. 442/2011 adopted on 9 May 2011, Council Implementing Decision 2011/302/CFSP of 23 May 2011 implemented by Council Implementing Regulation (EU) No. 504/2011 adopted on 23 May 2011, Council Implementing Decision 2011/367/CFSP of 23 June 2011 implemented in Council Implementing Regulation (EU) No. 611/2011 of 23 June 2011. The EU measures came into force on the date of their publication.

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

3.1 None. The Order will be made at the Privy Council meeting on 13 July 2011 and laid before Parliament on the following day. The Order will come into force the day after it is laid so that the sanctions can be enforced in the overseas territories immediately.

4. Legislative Context

4.1 This Order is made in exercise of statutory powers and the legislative power of the Royal Prerogative, in the absence of statutory powers, to implement autonomous

EU restrictive measures against Syria in certain Overseas Territories. The Order gives effect to the measures adopted by the EU in Council Decision 2011/273/CFSP (“the Council Decision”) and implemented by Council Regulation (EU) No 442/2011, as subsequently amended, which entered into force on 10 May 2011 (“the Council Regulation”).

4.2 The Order gives effect in the specified Overseas Territories to the EU arms embargo against Syria and related asset freeze. The measures in the Order include a prohibition on the supply and delivery of arms and related materiel. The Order also makes provision to freeze the funds and economic resources of those persons responsible for the violent repression against the civilian population of Syria and those associated with them as listed in Annex II to the Regulation. In addition, the Order prohibits making funds and economic resources available to persons or entities listed under Annex II to the Council Regulation.

4.3 The statutory and prerogative powers to legislate for the Overseas Territories are applicable to the territories as follows:

- The Saint Helena Act 1833 applies to Saint Helena;
- The British Settlement Acts 1887 and 1945 are applicable to Ascension and Tristan da Cunha, British Antarctic Territory, the Falkland Islands, Pitcairn (including Henderson, Ducie and Oeno Islands), and South Georgia and the South Sandwich Islands;
- The prerogative legislative power is applicable to Anguilla, British Indian Ocean Territory, Cayman Islands, Montserrat, the Sovereign Base Areas of Akrotiri and Dhekelia, Turks and Caicos Islands, and the Virgin Islands.

5. Territorial Extent and Application

5.1 This instrument applies to the following territories: Anguilla, British Antarctic Territory, British Indian Ocean Territory, Cayman Islands, Falkland Islands, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, St Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands, the Sovereign Base

Areas of Akrotiri and Dhekelia in the Island of Cyprus, Turks and Caicos Islands and the Virgin Islands. All the territories were consulted. Bermuda will adopt its own implementing legislation as the UK is unable to legislate for Bermuda using prerogative powers. The restrictive measures are given effect to in Gibraltar by the Council Regulation which is directly applicable in Gibraltar.

6. European Convention on Human Rights

6.1 The procedures for designating individuals are fully compliant with fundamental rights. Individuals may only be listed where evidence exists that they meet the criteria for listing in the Council Decision. Details of persons listed are published in the Official Journal of the European Union and those listed are given the opportunity to make representations. Furthermore, individuals subject to restrictive measures are entitled to challenge the Council Regulation before the General Court of the European Union.

7. Policy background

- *What is being done and why*

7.1 The UK fully supports the EU restrictive measures against Syria. This Order implements the autonomous EU restrictive measures in the Overseas Territories.

7.2 In view of the seriousness of the situation in Syria, and the violent repression of civilian protestors by the Syrian regime, on 9 May the EU adopted Council Decision 2011/273/CFSP and Council Regulation (EU) No 442/2011 which included an arms embargo, a ban on equipment which might be used for internal repression, a travel ban and the freezing of funds and economic resources of persons responsible for the violent repression in Syria or persons or entities associated with them.

7.3 In view of the further violent acts being carried out against civilians, and the failure of the regime to discontinue these activities, the EU adopted Council Implementing Decision 2011/302/CFSP of 23 May 2011 implemented by Council Implementing Regulation (EU) No. 504/2011 adopted on 23 May 2011, adding to the

list of persons and entities covered by the EU asset freeze. Council Implementing Decision 2011/367/CFSP of 23 June 2011 implemented by Council Implementing Regulation (EU) No. 611/2011 of 23 June, added further persons and entities responsible for and associated with the violent repression.

8. Consultation

8.1 The Overseas Territories to which the Order applies have been consulted on the initial draft Order.

9. Guidance

9.1 Guidance may be sought from the contact below.

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible.

11. Regulating small business

11.1 The legislation applies to small business, as it does to all persons and businesses in the Overseas Territories.

12. Monitoring & review

12.1 EU restrictive measures are monitored and reviewed by the Council of the European Union.

12.2 If the EU measures are suspended or lifted, this Order will be reviewed and suspended or revoked as necessary.

13. Contact

Kevin Lockwood at the Foreign and Commonwealth Office, Tel: 020 7008 3830 or email: kevin.lockwood@fco.gov.uk can answer any queries regarding the instrument.