

**2013 No. 3182**

**CUSTOMS**

**The Export Control (North Korea and Ivory Coast Sanctions and Syria Amendment) Order 2013**

<i>Made</i>	- - - -	<i>12th December 2013</i>
<i>Laid before Parliament</i>		<i>17th December 2013</i>
<i>Coming into force</i>	- -	<i>7th January 2014</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States(b).

This Order makes provision for a purpose mentioned in section 2(2) of that Act and it appears to the Secretary of State that it is expedient for references to an Annex to Council Regulation (EC) No 329/2007(c) or an Annex to Council Regulation (EC) No 174/2005(d) to be construed as references to that Annex as amended from time to time.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, by paragraph 1A of Schedule 2 to that Act(e) and by sections 1, 2, 3, 4, 5 and 7 of the Export Control Act 2002(f), makes the following Order.

**PART I**

**Introductory**

**Citation, Commencement and Application**

**1.**—(1) This Order may be cited as the Export Control (North Korea and Ivory Coast Sanctions and Syria Amendment) Order 2013 and comes into force on 7th January 2014.

(2) An offence may be committed under this Order—

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- (a) 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
- (b) S.I. 1994/757, to which there are amendments not relevant to this Order.
- (c) OJ No L 88, 29.03.2007, p1; other relevant amending instruments are Council Regulation (EU) No 1283/2009 (OJ No L 346, 23.12.2009, p1) Council Regulation (EU) No 567/2010 (OJ L 163, 30.06.2010, p15), Council Regulation (EU) No 296/2013 (OJ L 90, 28.03.2013, p4) and Council Regulation (EU) No 696/2013 (OJ No L 198, 23.7.2013, p22).
- (d) OJ No L 29, 2.2.2005, p5; other relevant amending instruments are Council Regulation (EC) No 1791/2006 (OJ No L 363, 20.12.2006, p1), Council Regulation (EU) No 1032/2010 (OJ L298, 16.11.2010 p1), Council Regulation (EU) 668/2011 (OJ L 183, 13.07.2011, p2) and Council Regulation (EU) No 617/2012 (OJ L 179, 11.7.2012, p1).
- (e) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part I of the Schedule to the European Union (Amendment) Act 2008 (c.7).
- (f) 2002 c.28.

- (a) in the United Kingdom by any person;
- (b) elsewhere by any person who is a United Kingdom person within the meaning of section 11 of the Export Control Act 2002.

### **Revocations**

2. The legislation specified in column 1 of the Schedule to this Order is revoked to the extent specified in column 3 of that Schedule.

### **Interpretation**

3.—(1) In this Order—

“the 1979 Act” means the Customs and Excise Management Act 1979(a);

“EU authorisation” means an authorisation granted under Articles 3c or 5 of the North Korea Regulation or Article 4a of the Ivory Coast Regulation;

“the North Korea Regulation” means Council Regulation (EC) No 329/2007 as last amended by Council Regulation (EU) No 696/2013 concerning restrictive measures against the Democratic People’s Republic of Korea, and a reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time;

“the Ivory Coast Regulation” means Council Regulation (EC) No 174/2005 as last amended by Council Regulation (EU) No 617/2012 imposing restrictions on the supply of assistance related to military activities to Côte d’Ivoire and a reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time.

(2) An expression used both in this Order and in the North Korea Regulation or the Ivory Coast Regulation has the meaning that it bears in those Regulations.

## **PART 2**

### **Offences in relation to prohibitions in the North Korea Regulation**

#### **Offences related to equipment and goods and technology listed in Annex I, Ia and Ib or in the EU Common List of Military Equipment**

4. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export or the import of goods, prohibited by any of the following Articles of the North Korea Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 2(1)(a) (prohibition on sale etc. of goods or technology, including software, listed in Annexes I, Ia and Ib, whether or not originating in the Union, to any natural or legal person, entity or body in, or for use in North Korea);
- (b) Article 2(3) (prohibition on the purchase etc. of the goods and technology listed in Annexes I, Ia and Ib from North Korea, whether or not the item concerned originates in North Korea);
- (c) Article 3(1)(a) (prohibition on provision of technical assistance and brokering services related to goods or technology listed in the EU Common List of Military Equipment or in Annexes I, Ia and Ib and to the provision, manufacture, maintenance and use of goods listed in the EU Common List of Military Equipment or in Annexes I, Ia, and Ib to any natural or legal person, entity or body in, or for use in, North Korea);
- (d) Article 3(1)(b) (prohibition on provision of financing or financial assistance related to goods and technology listed in the EU Common List of Military Equipment or in

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(a) 1979 c.2.

Annexes I, Ia and Ib, to any natural or legal person, entity or body in, or for use in, North Korea);

- (e) Article 3(1)(c) (prohibition on obtaining technical assistance related to goods and technology in the EU Common List of Military Equipment or in Annexes I, Ia and Ib and to the provision, . manufacture, maintenance and use of goods listed in the EU Common List of Military Equipment or in Annexes I, Ia, and Ib from any natural or legal person, entity or body in, or for use in , North Korea);
- (f) Article 3(1)(d) (prohibition on obtaining financing or financial assistance related to goods and technology in the EU Common List of Military Equipment or in Annexes I, Ia and Ib, for any sale, supply, etc. of such items, or for any provision of related technical assistance from any natural or legal person, entity or body in, or for use in, North Korea).

#### **Offences related to the movement of luxury goods to North Korea**

5. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export of goods, prohibited by Article 4(a) of the North Korea Regulation (prohibition on sale, etc. of luxury goods, as listed in Annex III, to North Korea) with intent to evade a prohibition in that Article commits an offence and may be arrested.

#### **Offences related to the movement of gold, precious metals and diamonds listed in Annex VII**

6. A person who is knowingly concerned in an activity, other than the export or the import of goods, prohibited by any of the following Articles of the North Korea Regulation with intent to evade a prohibition in those Articles commits an offence and may be arrested—

- (a) Article 4a(1)(a) (prohibition on sale, etc. of gold, precious metals and diamonds, as listed in Annex VII, whether or not originating in the Union, to or from the Government of North Korea, its public bodies, corporations and agencies, the Central Bank of North Korea and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them);
- (b) Article 4a(1)(b) (prohibition on purchase, etc. of gold, precious metals and diamonds, as listed in Annex VII, whether or not originating in North Korea, from the Government of North Korea, its public bodies, corporations and agencies, the Central Bank of North Korea and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them);
- (c) Article 4a(1)(c) (prohibition on provision of technical assistance or brokering services or financing or financial assistance related to goods referred to in points (a) and (b) of Article 4a(1) of the North Korea Regulation, to the Government of North Korea, its public bodies, corporations and agencies, the Central Bank of North Korea and any person, entity or body acting on their behalf or at their direction, or any entity or body owned ore controlled by them).

#### **Offences related to the movement of North Korean bank notes and coins**

7. A person who is knowingly concerned in an activity, other than the export of goods, prohibited by Article 4b of the North Korea Regulation (prohibition on sale, etc. of newly printed or unissued North Korean denominated banknotes and minted coinage, to or for the benefit of the Central Bank of North Korea) with intent to evade the prohibitions in that Article commits an offence and may be arrested.

## PART 3

### Offences in relation to prohibitions in the Ivory Coast Regulation

#### **Offences related to equipment and goods and technology listed in Annex I**

8. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity, other than the export of equipment, prohibited by Article 3(a) of the Ivory Coast Regulation (prohibition on sale, etc. of equipment which might be used for internal repression as listed in Annex I whether or not originating in the Union, to any person, entity or body in, or for use in, Cote d'Ivoire) with intent to evade the prohibitions in that Article commits an offence and may be arrested.

## PART 4

### Supplementary Provisions as to Offences

#### **Circumvention of prohibitions in the North Korea Regulation**

9.—(1) A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 2(1)(a), 4(a), 4a(1)(a) and 4b of the North Korea Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 2(3), 3(1)(a) to 3(1)(d) and 4a(1)(b) or (c) of the North Korea Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

#### **Circumvention of prohibitions in the Ivory Coast Regulation**

10. A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Article 3(a) of the Ivory Coast Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

#### **Offences related to EU authorisations**

11.—(1) A person commits an offence (and may be arrested) who, for the purpose of obtaining an EU authorisation—

- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition to which the EU authorisation is subject commits an offence and may be arrested, unless—

- (a) the EU authorisation was modified after the completion of the act authorised; and

- (b) the failure to comply would not have been a failure had the EU authorisation not been so modified.

## PART 5

### Enforcement and Penalties

#### Penalties

**12.**—(1) A person guilty of an offence under articles 4(a), 5, 6(a), 7, 8, 9(1) or 10 of this Order is liable—

- (a) on summary conviction—
  - (i) in England and Wales, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
  - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine, or to both.

(2) In relation to an offence committed after the commencement of section 154(1) of the Criminal Justice Act 2003(a), for “six months” in paragraph (1)(a)(i) substitute “twelve months”.

(3) A person guilty of an offence under articles 4(b) to (f), 6(b) or (c), 9(2) or 11 of this Order is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

(4) In the case of an offence committed under the 1979 Act in connection with the prohibitions of exportation in Articles 2(1)(a), 4(a), 4a(1)(a) or 4b of the North Korea Regulation or Article 3 of the Ivory Coast Regulation, sections 68(3)(b) and 170(3)(b)(b) of the 1979 Act have the effect as if for the words “7 years” there were substituted the words “10 years”.

(5) In the case of an offence committed under the 1979 Act in connection with the prohibitions of importation in Articles 2(3) or 4a(1)(b) of the North Korea Regulation, sections 50(4)(b)(c) and 170(3)(b) of the 1979 Act have the effect as if for the words “7 years” there were substituted the words “10 years”.

#### Application of the 1979 Act

**13.**—(1) Where the Commissioners for Her Majesty’s Revenue and Customs investigate or propose to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under this Order has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 77A of the 1979 Act (provision as to information powers)(d) applies to a person concerned in an activity which, if not authorised by an EU authorisation, would contravene Articles 2, 3, 4, 4a or 4b of the North Korea Regulation or Article 3 of the Ivory Coast Regulation

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(a) 2003 c.44; at the date of this Order, section 154(1) had not been commenced.  
(b) Sections 68(3)(b) and 170(3)(b) were amended by the Finance Act 1988 (c.39), section 12(1) and (6).  
(c) Section 50(4)(b) was amended by the Finance Act 1988 (c.39), section 12(1) and (6).  
(d) Section 77A was inserted by the Finance Act 1987 (c. 16), section 10 and amended by Schedule 1, paragraph 7 of the Customs and Excise (Single Market etc.) Regulations 1992 (S.I. 1992/3095).

and accordingly references in section 77A of the 1979 Act to exportation shall be read as including any such activity.

(3) Section 138 of the 1979 Act (provision as to arrest of persons)(a) applies to the arrest of a person for an offence under this Order as it applies to the arrest of a person for an offence under the customs and excise Acts.

(4) Sections 145(b), 146(c), 146A(d), 147(e), 148, 150(f), 151(g), 152(h), 154(i), and 155(j) of the 1979 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under this Order as they apply in relation to offences and penalties under the customs and excise Acts.

(5) “The customs and excise Acts” and “assigned matter” have the same meanings as in section 1 of the 1979 Act.

## PART 6

### General

#### Amendment to the 2008 Order in relation to Syria

**14.**—(1) In Schedule 4 to the 2008 Order, in Part 4, at the appropriate place insert “Syria”.

(2) In this article, “the 2008 Order” means the Export Control Order 2008(k).

#### Amendment to the Export Control (Syria Sanctions) Order 2013

**15.** The Export Control (Syria Sanctions ) Order 2013(l) is amended as follows—

- (a) in article 4, for “a person shall not (directly or indirectly) export, supply or transfer” substitute “a person commits an offence and may be arrested if that person (directly or indirectly) exports, supplies or transfers”;
- (b) in article 5(1) for “a person shall not (directly or indirectly) provide” substitute “a person commits an offence and may be arrested if that person (directly or indirectly) provides”.

#### Review

**16.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,

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- (a) Section 138 was amended by the Police and Criminal Evidence Act 1984 (c. 60), sections 114(1) and 119, Schedule 6, paragraph 37 and Schedule 7, Part 1; by the Finance Act 1988 (c. 39), section 11; by the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341), article 90(1) and Schedule 6, paragraph 9; and by the Serious Organised Crime and Police Act 2005 (c. 15), Schedule 7, paragraph 54.
  - (b) Section 145 was amended by the Police and Criminal Evidence Act 1984, section 114(1); and by the Commissioners for Revenue and Customs Act 2005 (c. 11), sections 50(6), 52(2), Schedule 4, paragraphs 20 and 23.
  - (c) Section 146 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 22.
  - (d) Section 146A was inserted by the Finance Act 1989 (c. 26), section 16(1) and amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraphs 20 and 24.
  - (e) Section 147 was amended by the Magistrates’ Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 176; by the Criminal Justice Act 1982 (c. 48), sections 77 and 78, Schedule 14, paragraph 42 and Schedule 16; and by the Finance Act 1989, section 16(2), (4), 187, Schedule 17, Part I.
  - (f) Section 150 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20 and 25.
  - (g) Section 151 was amended by the Magistrates’ Courts Act 1980, section 154 and Schedule 7, paragraph 177.
  - (h) Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, sections 50(6) and 52(1) and (2), Schedule 4, paragraphs 20 and 26 and Schedule 5.
  - (i) Section 154 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 23.
  - (j) Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, sections 50(6), 52(2), Schedule 4, paragraphs 20, 21(j) and 27 and Schedule 5.
  - (k) S.I.2008/3231; relevant amending instruments are S.I. 2009/1305, S.I. 2009/1852, S.I. 2009/2151, S.I. 2009/2969, S.I. 2009/2748, S.I. 2010/121, S.I. 2010/2007, S.I. 2011/1043, S.I. 2011/1304, S.I. 2012/1910 and S.I. 2013/428.
  - (l) S.I. 2013/2012.

(b) set out the conclusions of the review in a report, and

(c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the North Korea Regulation and the Ivory Coast Regulation and the measures taken to implement them in other member States.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the North Korea Regulation and the Ivory Coast Regulation established by this Order and the measures taken to implement them,

(b) assess the extent to which those objectives are achieved, and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this Order must be published before the end of the period of five years beginning with the day on which this Order comes into force.

(5) Reports under this Order are afterwards to be published at intervals not exceeding five years.

*Michael Fallon*

Minister of State for Business and Enterprise  
Department for Business, Innovation and Skills

12th December 2013

## SCHEDULE

Article 2

### REVOCATIONS

(1)	(2)	(3)
Orders revoked	Reference	Extent of revocation
Export Control (Iraq and Ivory Coast) Order 2005	S.I. 2005/232(a)	The whole Order
The Export Control (North Korea) Order 2007	S.I. 2007/1334	The whole Order
The Export Control (North Korea) (Amendment) Order 2010	S.I. 2010/132	The whole Order
The Export Control (Eritrea and Miscellaneous Amendments) Order 2011	S.I. 2011/2125	Article 7

### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision for the enforcement of certain trade restrictions against North Korea specified in Council Regulation (EC) No 329/2007 (OJ L 88, 29.3.2007, p1) as last amended by

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(a) S.I. 2008/3231 repealed articles 6 and 7 of S.I. 2005/232.

Council Regulation (EU) No 696/2013 (OJ L 198, 23.7.2013, p22) (the “North Korea Regulation”). It also provides for the enforcement of trade restrictions against the Ivory Coast specified in Council Regulation (EC) No 174/2005 (OJ No L 29, 2.2.2005, p5) as last amended by Council Regulation (EU) No 617/2012 (OJ L 179, 11.7.2012, p1) (the “Ivory Coast Regulation”). The Order sets out offences in relation to these prohibitions and those offences can be committed by any person in the United Kingdom and, around the world, by any United Kingdom person, as defined in section 11 of the Export Control Act 2002(c. 28).

The Order consolidates in one single instrument the enforcement of the trade restrictions against North Korea and the Ivory Coast formerly covered by the Export Control (North Korea) Order 2007 (S.I. 2007/1334) and its subsequent amendments (S.I. 2010/132 and article 7 of S.I. 2011/2125) and the Export Control (Iraq and Ivory Coast) Order 2005 (S.I. 2005/232), which are revoked and replaced by this Order.

The measures against North Korea include prohibitions on the sale, supply, export or transfer of goods and technology listed in Annexes I, Ia and Ib of the North Korea Regulation and prohibitions in relation to providing or obtaining technical training, technical assistance, financing or financial assistance in relation to those items. There are also restrictions on the trade of gold or precious metals and diamonds to and from North Korea and restrictions on the trade of luxury goods and newly printed or unissued North Korean denominated banknotes and minted coinage.

The trade sanctions against the Ivory Coast have been significantly reduced following the adoption of Council Decision 2012/371/CFSP (OJ L 179, 11.7.2012, p21) and its implementing Regulation (EU) No 617/2012 (OJ L 179, 11.7.2012, p1) both of 10 July 2012. The measures include prohibitions on the supply, transfer or export of equipment which might be used for internal repression as listed in Annex I to the Ivory Coast Regulation.

Articles 4 to 7 create offences for contravention of the trade restrictions of the North Korea Regulation referred to there. Article 8 creates offences for contravention of the restrictions in Article 3(a) of the Ivory Coast Regulation. There are already offences relating to prohibited importation and exportation of goods in sections 50, 68 and 170 of the Customs and Excise Management Act 1979 (1979 c.2) (“the 1979 Act”).

Article 12 sets out the penalties relating to the offences in the Order and makes some consequential modifications to the 1979 Act to ensure that the offences covered by that Act are subject to the same penalties as those in the Order.

Article 13 provides for the ancillary provisions which apply to the enforcement of customs and excise legislation to also apply to the enforcement of this Order.

Article 14 amends the Export Control Order 2008 (S.I. 2008/3231) to include Syria in the list of countries in Part 4 of Schedule 4, so that the exemption for transit controls in article 17 of that Order does not apply when the goods in transit are those listed in Part 2 of Schedule 1 to the Order and they are being exported to Syria.

Article 15 amends the Export Control (Syria Sanctions) Order 2013 (S.I. 2013/2012) to expressly provide that a person carrying out any of the activities described in articles 4 and 5 without the authority of a UK licence commits an offence and may be arrested.

Article 16 requires the Secretary of State to review the operation and effect of the Order and publish a report within five years after the Order comes into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or amended. A further instrument would be needed to revoke the Order or to amend it.

A regulatory impact assessment has not been produced for this instrument as it has no or minimal impact on business, charities or voluntary bodies. A copy of the Explanatory Memorandum is published alongside the Order on [www.legislation.gov.uk](http://www.legislation.gov.uk). Further information is available from the Export Control Organisation, BIS, 1 Victoria Street, London SW1H 0ET and on the [gov.uk](http://www.gov.uk) website ([www.gov.uk](http://www.gov.uk)).



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