

2012 No. 2125

CUSTOMS

**The Export Control (Syria and Burma Sanctions Amendment)
and Miscellaneous Revocations Order 2012**

<i>Made</i> - - - -	<i>15th August 2012</i>
<i>Laid before Parliament</i>	<i>16th August 2012</i>
<i>Coming into force</i> - -	<i>6th September 2012</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).

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

PART I
INTRODUCTORY

Citation, commencement and interpretation

1. This Order may be cited as the Export Control (Syria and Burma Sanctions Amendment) and Miscellaneous Revocations Order 2012 and comes into force on 6th September 2012.

Revocations

2. The following instruments are revoked—

- (a) The Export of Goods (Control) (Bosnia-Herzegovina) (ECSC) (Revocation) Order 1993(d),
- (b) The Export of Goods (Control) (Haiti) (Revocation) Order 1993(e), and
- (c) The Export of Goods (Federal Republic of Yugoslavia) (Control) (Revocation) Order 2002(f).

(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) 2002 c.28.

(d) S.I. 1993/1200.

(e) S.I. 1993/2232.

(f) S.I. 2002/315.

PART II

AMENDMENTS TO THE SYRIA ORDER

3. The Export Control (Syria Sanctions) and (Miscellaneous Amendments) Order 2012(a)—

- (a) in article 3(1)—
 - (i) in the definition of “EU authorisation” for “Articles 2(3), 3(2), 4(1) or 5” substitute “Articles 2(3), 2a(2), 2b, 3(2) to (4), 4(1) or 5”;
 - (ii) for the definition of “the Syria Regulation” substitute—

“the Syria Regulation” means Council Regulation (EU) No 36/2012 as last amended by Council Regulation (EU) No 509/2012(b) and Council Regulation (EU) No 545/2012(c) concerning restrictive measures in view of the situation in Syria, 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.”.
- (b) for article 4 substitute—

“Offences related to equipment and goods and technology listed in Annex I, IA, and IX or in the Common Military List of the European Union

4.—(1) A person who is knowingly concerned in an activity, other than the export of goods, prohibited by any of the following Articles of the Syria 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 equipment listed in Annex I to any person, entity or body in Syria, or for use in Syria);
 - (b) Article 2a(1)(a) (prohibition on sale etc. of equipment, goods or technology which might be used for internal repression as listed in Annex I to any person, entity or body in Syria or for use in Syria);
 - (c) Article 3(1)(a) (prohibition on provision of technical assistance related to the goods and technology listed in the Common Military List of the European Union to any person, entity or body in Syria, or for use in Syria);
 - (d) Article 3(1)(b) (prohibition on provision of technical assistance or brokering services related to equipment, goods or technology which might be used for internal repression listed in Annex I or IA to any person, entity or body in Syria, or for use in Syria);
 - (e) Article 3(1)(c) (prohibition on provision of financing or financial assistance related to goods and technology in the Common Military List of the European Union or listed in Annex I or IA to any person, entity or body in Syria, or for use in Syria).
- (2) A person commits an offence and may be arrested if that person—
- (a) is concerned in an activity, except by exporting goods and technology, for which authorisation is required by Article 2b of the Syria Regulation (authorisation required for sale, etc. of goods and technology listed in Annex IX, to any person, entity or body in Syria or for use in Syria);
 - (b) does not have the required authorisation; and
 - (c) is knowingly concerned in that activity with intent to evade a prohibition in that Article.
- (3) A person commits an offence and may be arrested if that person—
- (a) is concerned in an activity for which authorisation is required by Article 3(4) of the Syria Regulation (authorisation required for the provision of technical assistance,

(a) S.I. 2012/810.

(b) OJ No. L156, 16.6. 2012, p10.

(c) OJ No. L165, 26.6.2012, p23.

financing or financial assistance related to the goods listed in Annex IX, to any person, entity or body in Syria or for use in Syria);

(b) does not have the required authorisation; and

(c) is knowingly concerned in that activity with intent to evade a prohibition in that Article.”.

(c) after article 10 insert—

“Offences related to the movement of luxury goods to Syria

10A. A person who is knowingly concerned in an activity, other than the export of goods, prohibited by Article 11b of the Syria Regulation (prohibition on sale, etc. of luxury goods as listed in Annex X to Syria) with intent to evade the prohibitions in that Article commits an offence and may be arrested.”.

(d) in article 13—

(i) in paragraph (1)(a), after “2(1)(a)” insert “, 2a(1)(a), 2b” and after “11a(1)(a)” insert “, 11b (1)(a)”; and

(ii) in paragraph 2(a), after “3(1)(a) to (c)” insert “or (4)”.

(e) in article 14—

(i) in paragraph (1), for “articles 4(a) or 5(a), 7(a), 8, 9(a), 10(a) or 13(1)” substitute “articles 4(1)(a), (b) or (2), 5(a), 7(a), 8, 9(a), 10(a), 10A or 13(1)”;

(ii) in paragraph (3), for “articles 4(b) to (d)” substitute “articles 4(1)(c) to (e) or (3)”; and

(iii) in paragraph (4), for “Articles 2(1)(a), 4(1), 8(1), 11, 11a(1)(a) and 12(1)(a)” substitute “articles 2(1)(a), 2a(1)(a), 2b, 4(1), 8(1), 11, 11a(1)(a), 11b(1)(a) or 12(1)(a)”.

PART III

AMENDMENTS AND MODIFICATIONS TO THE BURMA ORDER

4.—(1) The Export Control (Burma) Order 2008(a) (“the Burma Order”) is amended as follows—

(a) in article 1, for the definition of “the Regulation” substitute—

““the Regulation” means Council Regulation (EC) No 194/2008(b) as last amended by Council Regulation (EU) No 409/2012(c) renewing and strengthening the restrictive measures in respect of Burma/Myanmar.”.

(b) after article 12 insert—

“Review

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

(a) carry out a review of articles 1 to 11 of this Order,

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

(c) publish the report.

(a) S.I. 2008/1098 as amended by S.I. 2010/1675.

(b) OJ No. L66, 10.3.2008, p1.

(c) OJ L126 15.5.2012, p1. This Regulation suspends certain restrictive measures laid down by Regulation (EC) 194/2008 until 30 April 2013.

(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 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 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 in which this article comes into force.

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

(2) The following provisions of the Burma Order cease to have effect to the extent specified as from the date when this Order comes into force and until 30 April 2013—

- (a) Articles 2, 4, 6(1)(c) and 8;
- (b) Articles 6(2) and 7 insofar as they refer to Article 7(3) of the Regulation;
- (c) Article 9 insofar as it relates to authorisations under Articles 2(5), 5(3), 8(2) and 9(2) of the Regulation;
- (d) Article 10 insofar as it refers to articles 2,4,6(1)(c) and 8 of the Burma Order or to offences in articles 6(2) or 7 of that Order which relate to Article 7(3) of the Regulation;
- (e) Article 11(2) insofar as it refers to Articles 2, 5, 7(3) or 8 of the Regulation.

(3) A reference in paragraph (2) to “the Regulation” is a reference to the Regulation as defined in article 1 of the Burma Order.

David Willetts

Minister of State for Universities and Science
Department for Business, Innovation and Skills

15th August 2012

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the enforcement of certain new trade sanctions against Syria specified in Council Regulation (EU) No 509/2012 (OJ No L 156, 16.6.2012, p10) and Council Regulation (EU) No 545/2012 (OJ No L 165, 26.6.2012, p23) both of which amend Council Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria (“the Amended Syria Regulation”). It does so by amending the Export Control (Syria Sanctions) and (Miscellaneous Amendments) Order 2012 (S.I. 2012/810) (the “Syria Order”) which makes provision for the enforcement of all current trade restrictions against Syria.

The new measures include prohibitions on trade, technical assistance, financing, financial assistance or brokering of equipment which may be used for internal repression and a ban on the export or sale of luxury goods to Syria.

In addition, Council Regulation (EU) No 409/2012 (OJ No L 126, 15.5.2012, p1) (the “Burma Amendment Regulation”) temporarily suspends certain trade restrictions against Burma specified by Council Regulation (EC) No 194/2008 (OJ No L66, 10.3.2008, p1). This Order makes

consequential amendments to the Export Control (Burma) Order 2008 (S.I. 2008/1098) (the “Burma Order”) to provide for the enforcement provisions in relation to the trade measures which have been temporarily suspended by the Burma Amendment Regulation to cease to have effect until the date specified in that Regulation.

Article 3 revokes the Export of Goods (Control) (Bosnia-Herzegovina) (ECSC) (Revocation) Order 1993, the Export of Goods (Control) (Haiti) (Revocation) Order 1993 and the Export of Goods (Federal Republic of Yugoslavia) (Control) (Revocation) Order 2002, all of which have become spent.

Article 4 makes amendments to the Syria Order to provide for the enforcement of the additional trade sanctions specified by the Amended Syria Regulation.

Article 5 partly modifies the Burma Order to provide for the enforcement provisions in relation to the restrictive measures which have been suspended by the Burma Amendment Regulation to cease to have effect until 30 April 2013, which is the date specified in that Regulation for the suspension to end.

In addition, article 5 inserts as article 13 of the Burma Order a provision which requires the Secretary of State to review the operation and effect of the whole of the Burma Order and publish a report within five years after the new article 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 Burma 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. Further information is available from the Export Control Organisation, BIS, 1 Victoria Street, London SW1H 0ET and on BIS website (www.bis.gov.uk).

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STATUTORY INSTRUMENTS

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