

Explanatory Statement

Issued by the Authority of the Minister for Foreign Affairs

Autonomous Sanctions Act 2011

Autonomous Sanctions (Export Sanctioned Goods – Syria) Designation 2012

The *Autonomous Sanctions Regulations 2011* (the Regulations) commenced on 15 December 2011. The purpose of the Regulations is to facilitate the conduct of Australia's relations with certain countries, and with specific entities or persons outside Australia, through the imposition of autonomous sanctions in relation to those countries, or targeting those entities or persons.

Subregulation 4 (3) of the Regulations provide that the Minister may, by legislative instrument, designate goods as export sanctioned goods for a country mentioned in the designation.

On 15 June 2012, the Australia Group, an informal forum of countries which, through the harmonisation of export controls, seeks to ensure that exports do not contribute to the development of chemical or biological weapons, announced its intention to impose controls on a list of items of particular concern if destined for end users in Syria. Australia chairs the Australia Group and – like other Group members – undertook to implement the decisions of the Group in conformity with domestic legislation, regulations or other practices, such as through sanctions or export controls.

In furtherance of this, the Minister has designated each good listed in Schedule 1 of the *Autonomous Sanctions (Export Sanctioned Goods – Syria) Designation 2012* (the Designation) for the purposes of sub-regulations 4 (3) of the Regulations. The specified goods are items of particular concern if destined for end users in Syria.

The direct or indirect supply, sale or transfer of export sanctioned goods to, or for the use in or benefit of, Syria is a “sanctioned supply”. Similarly, the provision to Syria, or to a person in Syria, or to a person for use in Syria, of technical advice, assistance or training, a financial service, or financial or other assistance that assists with a sanctioned supply for Syria, or the manufacture, maintenance or use of an export sanctioned good for Syria, is a “sanctioned service”.

Regulation 12 of the Regulations prohibits the making of a sanctioned supply, other than as authorised by a permit granted under regulation 18 (authorised supply). Regulation 13 prohibits the provision of a sanctioned service, other than in relation to an authorised supply, or, in other cases, as specifically authorised by a permit granted under regulation 18. Both regulations 12 and 13 apply to conduct engaged in either in Australia, or by an Australian citizen or a body corporate anywhere in the world, or by a person using an Australian aircraft or ship. Additionally, a body corporate with effective control over the actions of another body corporate or entity, wherever incorporated or situated, is liable for any unauthorised sanctioned supply made, or sanctioned service provided, by that other body corporate or entity.

Regulations 12 and 13 are specified as “sanction laws” by the Minister under section 6 of the *Autonomous Sanctions Act 2011* (the Act). Consequently, a contravention of regulations 12 or 13 is an offence under section 16 of the Act.

In order to meet the policy objective of prohibiting unauthorised supply to Syria of the goods designated in the Designation, the Department is satisfied that wider consultation beyond those it has already undertaken would be inappropriate (subsections 18 (1) and (2) (e) of the *Legislative Instruments Act 2003*).

The Designation commences on the day after it is registered.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Autonomous Sanctions (Export Sanctioned Goods – Syria) Designation 2012

The *Autonomous Sanctions (Export Sanctioned Goods – Syria) Designation 2012* does not engage, and is therefore compatible with, the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.