

Export Control (Eritrea) and Miscellaneous Amendments Order 2011

Department for International Trade

RPC rating: fit for purpose

21 October 2016

Description of measure

The measure introduced penalties for UK exporters found to be in breach of EU-wide sanctions preventing illegal trade in controlled goods (i.e. arms) from the EU to Eritrea. The UK was obliged by the EU Regulation 667/2010 to “lay down the rules on penalties applicable to infringements of the Regulation (...) and take all measures necessary to ensure that they are implemented”. The main policy objective of the proposal was “to introduce effective, proportional and dissuasive penalties.” The Regulation is still in force and therefore the UK is obliged to keep the penalties in place. The post implementation review only considers the enforcement mechanisms and not the wider effects of the EU-wide trade ban.

Impacts of the measure

As the trade ban was directly applicable with immediate effect no domestic impact assessment was conducted, and no impact assessment was produced for the introduction of the penalty measures. There is, therefore, no previous analysis against which the effects of the policy can be compared. However, the post implementation review states that the measure does not impose direct costs on businesses since the penalties apply only to non-compliant exporters.

Quality of submission

The review provides sufficient evidence to support the decision to keep the regulation in place.

The document states that no significant breaches of the ban were detected which suggests that the policy met the objective of providing effective disincentive to export. This conclusion is reached using a theoretical framework (taken from the Macrory Review of Regulatory Penalties (2006)) suggesting that the number of breaches should increase if penalties are too low. This reasoning provides sufficient evidence for the generic suitability of the policy. However, as this approach requires reliable data on the number of breaches of the ban, the robustness of the analysis

would be considerably strengthened by including evidence about the effectiveness of the detection regime and the extent to which it has changed over time.

In general, the very small number of businesses applying for export licences for Eritrea (a total of 14 in the period between 2010 and 2015), with no increase in the volume of correspondence or calls related to penalties, suggests the Department's approach to the analysis and the level of evidence used are proportionate.

The submission explains that the level of penalties is in line with other similar penalty measures for domestically-set sanctions, which indicates that the introduced measures are not excessive. It also states that policy alternatives are not available due to the limited flexibility of the rules set out in the EU Regulation.

Departmental recommendation	Keep
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RPC assessment

Is the evidence in the PIR sufficiently robust to support the departmental recommendation?	Yes
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Michael Gibbons CBE, Chairman