EXPLANATORY MEMORANDUM TO

THE DOUBLE TAXATION RELIEF (AIRCRAFT CREW) (BRAZIL) ORDER 2011

2011 No. 2723

1. This explanatory memorandum has been prepared by HM Revenue & Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 The Order brings into effect an agreement between the Governments of the United Kingdom and the Federative Republic of Brazil for the avoidance of the double taxation of salaries, wages and other remuneration derived by a member of the crew of an aircraft operated in international traffic who is a resident of one or both of the countries ("the Agreement").

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

3.1 None.

4. **Legislative context**

4.1 This Order is being made to give effect in UK legislation to the Agreement. The Agreement is scheduled to the Order, and is thus given domestic legislative effect.

4.2 This Order does not implement EU legislation.

5. **Territorial extent and application**

5.1 This Order applies to all of the United Kingdom.

6. **European Convention on Human Rights**

The Exchequer Secretary to the Treasury, David Gauke, has made the following statement regarding human rights:

"In my view the provisions of the Double Taxation Relief (Aircraft Crew) (Brazil) Order 2011 are compatible with the Convention rights."

7. Policy background

- ***What is being done and why***

7.1 The Agreement aims to ensure that aircraft crew members who are residents of one or both countries for tax purposes do not escape income tax in

both countries while ensuring that they are not subject to tax by both countries on the salaries, wages and other remuneration paid to them in respect of their employment as crew members of aircraft operated in international traffic. The Agreement provides for clarity and simplicity in the tax affairs of those to whom it applies by giving the sole right to tax to the country in which they are resident for the purposes of the Agreement.

- ***Consolidation***

7.2 Not applicable.

8. Consultation outcome

8.1 HMRC regularly consults with external interested parties, including business representatives, about the effectiveness of existing arrangements for the avoidance of double taxation and fiscal evasion, as well as new needs. The annual treaty negotiating programme is agreed with Ministers and published on the HMRC web site.

9. Guidance

9.1 General guidance on the operation of the UK's double taxation agreements can be found on the HMRC web site at:
http://www.hmrc.gov.uk/manuals/intmanual/INTM150000.htm

or in the Double Taxation Relief Manual at:
http://www.hmrc.gov.uk/manuals/dtmanual/index.htm

A new page to this Manual regarding the Agreement will be added once it enters into force.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible. The provisions of the Agreement do not introduce new tax burdens; rather, they provide relief from tax and thus are of benefit to business. Taxpayers may have to make a claim to HMRC or the other country's fiscal authority in order to benefit from the Agreement.

10.2 There is no impact on the UK public sector. HMRC already operates the terms of many similar agreements currently in force.

10.3 A Tax Information and Impact Note has not been prepared for this Order as it gives effect to a previously announced policy to enact a double taxation agreement.

11. Regulating small business

11.1 None of the provisions of the Agreement scheduled to the Order affect the taxation of small business. No special approach for small business is therefore necessary.

12. Monitoring and review

12.1 Both Governments will keep the Agreement scheduled to the Order under review to ensure that it meets the policy objectives set out above in section 7.

13. Contact

Douglas Rankin at HMRC (tel: 020 7147 2696 or e-mail: douglas.rankin@hmrc.gsi.gov.uk) can answer any queries regarding the Order.