EXPLANATORY MEMORANDUM TO

THE EUROPEAN COMMUNITIES (DEFINITION OF TREATIES) (PARTNERSHIP AND COOPERATION AGREEMENT) (REPUBLIC OF TAJIKISTAN) ORDER 2007

2007 No.

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

This Order would declare that the Partnership and Cooperation Agreement Establishing a Partnership between the European Communities and their Member States and the Republic of Tajikistan, signed on 11th October 2004, is to be regarded as a Community Treaty as defined in section 1(2) of the European Communities Act 1972. The provisions of section 2 of the European Communities Act 1972 (which provide for the general implementation of Community Treaties) would then apply in relation to the Agreement, and could be used for the implementation of its provisions.

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

None.

4. Legislative Background

4.1 The Agreement is concluded by the European Communities and all its Member States, and must be ratified by each of those States as well as by the Communities before it can come into force. The Government intends, subject to the making of this Order, to ratify the Agreement on behalf of the United Kingdom.

4.2 The United Kingdom must be in a position to implement all the provisions of the Agreement before it can ratify the Agreement. The proposed Order would provide the necessary powers, under section 2 of the European Communities Act 1972.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Secretary of State for Foreign and Commonwealth Affairs has made the following statement regarding Human Rights:

"In my view the provisions of the draft European Communities (Definition of Treaties)(Partnership and Cooperation Agreement)(Republic of Tajikistan) Order 2007 are compatible with the Convention rights."

7. Policy background

7.1 The Agreement, which is for an initial period of ten years, recognises the European Union's desire to deepen its partnership with Tajikistan. It provides a comprehensive framework for political dialogue at all levels and for development of trade between the European Union and Tajikistan. It will consolidate and strengthen the European Union's political, economic and trade relations with Tajikistan, and promote democratic reforms, economic growth, sustainable development and action against poverty in that country. Respect for democratic principles, human rights and the principles of a market economy form an integral part of the Agreement. It also includes clauses on action against terrorism and the proliferation of weapons of mass destruction

7.2 A summary of the main provisions of the Agreement is set out in the Annex to this Memorandum.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Jasper Thornton at the Foreign and Commonwealth Office (Tel: 020 – 7008 2415) or (email: Jasper Thornton@fco.gov.uk) can answer any queries regarding the instrument.

ANNEX

Summary of the Agreement

The Agreement provides for:

a. creation of regular political dialogue between the European Union and Tajikistan aimed at strengthening the links between the Parties;

b. cooperation between the parties on countering the proliferation of weapons of mass destruction;

c. reciprocal most-favoured nation treatment (MFN) by the Community and Tajikistan for trade in goods. Quantitative restrictions and measures having equivalent effect on goods are abolished;

d. special provisions on trade in nuclear materials and textiles; textiles have been brought within the scope of the agreement since the expiry on the 31st December 2004 of the separate bilateral textiles agreement between the Community and Tajikistan;

e. a safeguard clause, allowing the Community and Tajikistan to take appropriate measures if a surge of imports from the other Party causes, or threatens to cause, substantial injury to domestic products of like or directly competitive products;

f. an anti-dumping/countervailing clause confirming the Parties' right to take action in accordance with Article VI of the GATT 1994, the WTO Agreement on implementation of Article VI of the GATT 1994, the WTO Agreement on Subsides and Countervailing Measures or related internal legislation;

g. extension of the principle of non-discrimination in working conditions for nationals of the Parties lawfully employed in each other's territories;

h. provisions on establishment/operation of companies in the territories of either Party;

i. an undertaking to authorise, in freely convertible currency, current account payments between residents of the Community and Tajikistan connected with the movement of goods, services or persons;

j. provisions for the protection of intellectual, industrial and commercial property;

k. provisions for the approximation of laws between the Community and Tajikistan;

l. economic cooperation in a wide range of areas: goods and services, industry, investment promotion and protection, public procurement, standards and conformity assessment, mining and raw materials, science and technology, education and training, agriculture and the agro-industrial sector, energy, environment and health, transport, electronic communications and postal services, financial services and fiscal institutions, enterprise restructuring and privatisation,

regional development, social cooperation, tourism, small and medium-sized enterprises, information and communication, consumer protection, customs, statistical cooperation and economic science;

m. cooperation, including technical assistance, on matters relating to democracy and human rights;

n. cooperation on prevention of illegal activities (for example corruption, counterfeiting, arms trafficking) and articles covering, money laundering, the fight against drugs, migration (including readmission) and the fight against terrorism;

o. cultural cooperation;

p. financial cooperation by way of continued technical assistance grants to Tajikistan within the framework of the Community's TACIS programme and other Community instruments so as to ensure the optimum use of the resources available from the Community, the Member States and the European Bank for Reconstruction and Development;

q. the development of an institutional structure to supervise the implementation of the agreement, including the establishment of a Cooperation Council which will meet once a year at Ministerial level to examine any issues arising within the framework of the Agreement. A Cooperation Committee of senior officials will assist it;

r. establishment of a Parliamentary Cooperation Committee as a forum for exchange of views among members of the European Parliament and the Tajikistan Parliament; and

s. provisions relating to the settlement of disputes under the Agreement and permitting the Parties in the event of the a Party's non-compliance/non-fulfilment to take appropriate measures including, implicitly suspension of the Agreement.

There is also a Protocol attached to the Agreement on mutual administrative assistance in customs matters.

The Community has entered a number of reservations in relation to the establishment and operation of companies in accordance with Article 20(2) of the Agreement. These are set out in Annex II to the Agreement. There are also a number of joint declarations by the Parties relating to various articles in the Agreement.

In addition the Commission and the Council of the European Union have entered a declaration on the clause covering the return and readmission of illegal immigrants (Article 70) which makes clear that this clause is without prejudice to the internal division of powers between the European Community and its Member States for the conclusion of readmission agreements.