EXPLANATORY MEMORANDUM TO

THE EUROPEAN UNION (DEFINITION OF TREATIES) (ENHANCED PARTNERSHIP AND COOPERATION AGREEMENT) (KAZAKHSTAN) ORDER 2017

2017 No. [XXXX]

1. Introduction

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

2. Purpose of the instrument

2.1 This Order declares the Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part, signed at Astana on 22nd December 2015 (the "Agreement") to be an EU Treaty as defined in section 1(2) of the European Communities Act 1972.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland.

4. Legislative Context

4.1 The parties to the Agreement must each ratify or approve the Agreement in accordance with their internal procedures before the Agreement can enter into force. The United Kingdom must be in a position to implement all of its obligations, including its EU obligations, in respect of the Agreement before ratifying the Agreement. Declaring the Agreement to be an EU Treaty is a necessary step in ensuring that the UK is able to implement its obligations in respect of the Agreement.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister of State for Europe and the Americas, Sir Alan Duncan MP, has made the following statement regarding Human Rights:

"In my view the provisions of the European Union (Definition of Treaties) (Enhanced Partnership and Cooperation Agreement) (Kazakhstan) Order 2017 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 The Order declares that the Agreement is to be regarded as one of the EU Treaties under the European Communities Act 1972. One of the effects of this is that certain rights and obligations under the Agreement automatically become law in the United Kingdom. In addition, subordinate legislation can be made to give effect to the provisions of the Agreement, although we do not consider this will be necessary for this Agreement. We anticipate that this Agreement will come into force in 2018 or 2019.

7.2 Partnership and Co-operation Agreements (PCAs) were introduced as an instrument for developing the EU's relationship with third countries in the early 1990s. They were primarily targeted at the countries of the former Soviet Union, though more recently their geographical scope has widened. These agreements provide a broad framework for developing the EU's political and economic relations with the countries in question, and establish an institutional basis within which these relations can be discussed regularly.

7.3 The Agreement is commercially important as it should make a significant contribution towards helping modernise the commercial environment in Kazakhstan and increase the ease of doing business for UK firms. Trade and investment measures in the Agreement include reciprocal most-favoured nation treatment for trade in goods and the Agreement addresses some barriers to trade. The Agreement includes sections on trade in goods; customs; addressing technical barriers to trade; sanitary and phyto-sanitary measures; trade in services and establishment; capital movement and payments; intellectual property; government procurement; raw materials and energy; trade and sustainable development; competition; state-owned enterprises; transparency and dispute settlement. The Agreement also contains political co-operation provisions.

7.4 Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will also continue to negotiate, implement and apply EU legislation and third country agreements. Although the UK is leaving the EU, the Government would not wish our exit to delay ratification of agreements which are important to our EU partners and to the third countries in question. The Government is committed to seeking continuity in its current trade and investment relationships outside the EU, including those covered by EU FTAs or other EU preferential arrangements.

Consolidation

7.5 This Order does not amend another instrument and therefore consolidation is not relevant.

8. Consultation outcome

8.1 As this Order is an enabling instrument, no public consultation has been carried out. Whitehall departments were consulted on and approved relevant sections of the text of the Agreement to which this Order relates.

9. Guidance

9.1 No guidance will be published.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 No specific monitoring or review of this Order is planned. However, the Agreement to which the Order relates provides for the establishment of a Cooperation Council which will supervise and regularly review the application and implementation of the Agreement, and examine any major issues arising within the framework of the Agreement.

13. Contact

13.1 Peter Dalby at the Foreign and Commonwealth Office (Telephone: 020 7008 2841 or email: peter.dalby@fco.gov.uk) or Andrew Bizley (Telephone: 020 7008 7649 or email: andrew.bizley@fco.gov.uk) can answer any queries regarding the instrument.