EXPLANATORY MEMORANDUM TO

THE INTERNATIONAL TAX ENFORCEMENT (CURAÇAO, SINT MAARTEN AND BES ISLANDS) ORDER 2011

2011 No. [XXXX]

1. This explanatory memorandum has been prepared by HM Revenue and 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 for the exchange of information for tax purposes between the Governments of the United Kingdom and the Kingdom of the Netherlands, in respect of Curaçao, Sint Maarten and the BES Islands (formerly the Netherlands Antilles) ("the Agreement").

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

3.1 None.

4. Legislative Context

4.1 The 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 The Order does not implement EU legislation.

5. Territorial Extent and Application

5.1 The Order extends 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 International Tax Enforcement (Curaçao, Sint Maarten and BES Islands) Order 2011 are compatible with the Convention rights."

7. Policy background

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

7.1 Tax Information Exchange Agreements of the kind contained in the Schedule to the Order facilitate the exchange of information between tax authorities relevant to the administration or enforcement or recovery of taxes, and debts relating to those taxes, covered by the Agreement. They therefore assist HMRC in carrying out its tax compliance activities, such as combating tax avoidance and evasion, by allowing it to receive information from and disclose information to other countries or territories which helps to ensure that taxpayers pay the right amount of tax at the right time in the right country or territory.

7.2 More generally, Tax Information Exchange Agreements assist in improving the efficiency of tax information exchange and help to ensure that the international consensus on fiscal transparency and exchange of information is met. All of the UK's recent Tax Information Exchange Agreements broadly follow the approach adopted in the Organisation for Economic Cooperation and Development's ("OECD") *Model Agreement on Exchange of Information on Tax Matters*. The Agreement continues that approach.

- ***Consolidation***

7.3 Not applicable.

8. Consultation outcome

8.1 HMRC regularly consults with external interested parties, including business representatives, about the effectiveness of existing agreements for the avoidance of double taxation and fiscal evasion, including information exchange, 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 Tax Information Exchange Agreements can be found on the HMRC web site at:

http://www.hmrc.gov.uk/manuals/intmanual/INTM156000.htm

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

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

10.3 In line with government commitments, 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 tax information exchange agreement.

11. Regulating small business

11.1 None of the provisions of the Agreement contained in the Schedule to the Order affect the taxation of small business.

12. Monitoring and review

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

13. Contact

Jeff Worrell at HM Revenue and Customs, (tel: 020 7147 2723 or e-mail: jeff.worrell@hmrc.gsi.gov.uk) can answer any queries regarding the Order.