EXPLANATORY MEMORANDUM TO

THE UNITED NATIONS (INTERNATIONAL TRIBUNALS) (FORMER YUGOSLAVIA AND RWANDA) (AMENDMENT) (NO. 2) ORDER 2006

2006 No. 3326

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

2 **Description**

2.1 This order amends the United Nations (International Tribunals) (Former Yugoslavia and Rwanda) (Amendment) Order 2006, Statutory Instrument 2006/1923. This is required to remedy a technical defect in that Order (see paragraph 3.1 below).

2.2 The United Nations (International Tribunals) (Former Yugoslavia and Rwanda) (Amendment) Order 2006 amended the Schedule to the United Nations (International Tribunal) (Rwanda) Order 1996, which set out the provisions of the Statute of the International Tribunal for Rwanda. This enabled the United Kingdom to meet its international obligations by giving effect to the decisions of the Security Council of the United Nations in resolutions 1411 (2002), 1431 (2002), 1503 (2003) and 1512 (2003).

3. **Matters of Interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments**

3.1 This Order amends Statutory Instrument 2006/1923, so as to correct a technical defect in article 3 of that Order. It is made in response to an enquiry forwarded to the Department by the Joint Committee on Statutory Instruments on 25 October 2006, and fulfils the Department's undertaking to make a correcting Order as soon as possible.

3.2 This Order deletes the reference in article 3 of the United Nations (International Tribunals) (Former Yugoslavia and Rwanda) (Amendment) Order 2006 to articles 12 *bis*, 12 *ter* and 12 *quater* of the Statute of the International Tribunal for Rwanda. These articles were not included in the Schedule to the United Nations (International Tribunal) (Rwanda) Order 1996 (as amended). The reference to the deletion of those articles was included in error.

4. **Legislative background**

4.1 The International Tribunal for Rwanda was established by Resolution 955 (1994) of the Security Council. The Statute of the Tribunal was annexed to Resolution 955. The Security Council retains the authority to amend the Statute by subsequent resolution.

4.2 The international obligation of the United Kingdom to give effect to the decision of the Security Council establishing the Tribunal was implemented by the United Nations (International Tribunal) (Rwanda) Order 1996. The Schedule to that Order reproduces the provisions of the Statute. When the Security Council amends the Statute of the Tribunal, it is necessary to also amend the provisions of the Schedule to that Order.

4.3 The Order to be amended by this Order was made under section 1, sub-section 1 of the United Nations Act 1946 ("the 1946 Act"). Section 1, paragraph 3 of the 1946 Act provides that any Order made under section 1 may be varied or revoked by a subsequent Order in Council.

5 Extent

5.1 This instrument applies to all of the United Kingdom.

6 European Convention on Human Rights

6.1 As the instrument is not subject to parliamentary procedure and does not amend primary legislation, no statement is required.

7 Policy Background

7.1 The United Nations (International Tribunals) (Former Yugoslavia and Rwanda) (Amendment) Order 2006 gave effect to several resolutions of the Security Council amending the Statute for the International Tribunal for Rwanda. These amendments were as follows. First, an amendment recognising that judges of the Tribunal may hold the nationalities of two or more States (**Resolution 1411**, 17 May 2002). Second, the decision of the Security Council to establish a pool of ad litem (non-permanent) judges for the Tribunal so as to expedite the conclusion of its work (**Resolution 1431**, 14 August 2002). Third, the decision of the Security Council to create a separate position of Prosecutor for the Tribunal, the Prosecutor for the International Tribunal for the Former Yugoslavia having previously performed both roles (**Resolution 1503**, 28 August 2003). Fourth, the decision by the Council to enhance the powers of ad litem judges so that, during their period of appointment to a trial, the ad litem judge could adjudicate pre-trial proceedings in other cases. The Council also decided to increase the number of ad litem judges that may serve in the Trial Chambers at any one time from four to nine so as better to enable the Tribunal to complete trial activities by 2008 (**Resolution 1512**, 27 October 2003).

8 Impact

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

9 Contact

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