EXPLANATORY MEMORANDUM TO

THE VISITING FORCES AND INTERNATIONAL MILITARY HEADQUARTERS (NATO AND PFP) (TAX DESIGNATION) ORDER 2012

2012 No. 3071

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

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

2. Purpose of the instrument

The Order designates the Member countries of the North Atlantic Treaty Organisation (NATO) and the Partnership for Peace (PfP) and also the relevant NATO military headquarters in order that they may receive the tax treatment required by the NATO and PfP Status of Forces Agreements.

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

None.

4. Legislative Context

The Order is being made to give effect in UK legislation to the requirements of the NATO and PfP Status of Forces Agreements. These Agreements are between the Member countries of NATO and the PfP concerning the status of their military and civilian staff serving with NATO and of NATO headquarters.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The instrument is not subject to a parliamentary procedure and does not amend primary legislation, so no statement is required.

7. Policy background

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

7.1 Article X of the Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty dated 19th June 1951; Article VII of the Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty dated 28th August 1952 and Article I of the Agreement among the State Parties to the North Atlantic Treaty and the Other States Participating in the Partnership for Peace regarding the Status of their Forces dated 19th June 1995 require member countries to grant certain tax privileges to visiting forces and military headquarters. UK tax law provides these privileges in respect of countries and headquarters designated by Order in Council.

Previous designation orders made in 1961 (NATO) and 1998 (PfP) are now out of date. This order therefore revokes the earlier Orders and updates and consolidates the list of NATO countries, PfP countries and headquarters.

8. Consultation outcome

The measure was not the subject of consultation as it is merely updates and consolidates existing designations.

9. Guidance

Guidance on the tax treatment of visiting forces can be found on the HMRC website at http://www.hmrc.gov.uk/manuals/remanual/RE2200+.htm. A new page to this Manual regarding the EU SOFA will be added once it enters into force.

10. Impact

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

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument has not been prepared for this Instrument as it contains no substantive changes to tax policy but updates and consolidates previous Orders in Council

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

This measure will be kept under review through communication with affected taxpayer groups.

13. Contact

Geoff Barnard at HM Revenue & Customs Tel: 020 7147 2734 or email: geoff.barnard@hmrc.gsi.gov.uk can answer any queries regarding the instrument.