EXPLANATORY MEMORANDUM TO

THE EUROPEAN COMMUNITIES (DEFINITION OF TREATIES) (CENTRAL AFRICA INTERIM ECONOMIC PARTNERSHIP AGREEMENT) ORDER 2010

2010 No. 2983

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The instrument is intended to give effect under domestic law to the 2007 Interim Agreement with a View to an Economic Partnership Agreement between the European Community and its Member States, of the one part, and the Central Africa Party, of the Other Part ("the Agreement"). Cameroon initialled the agreement in 2007 and is the only Central African country to be party to it. The "Central Africa Party" in this context therefore refers to Cameroon alone. The Agreement is designed to be a World Trade Organisation (WTO) compatible and development-friendly trade agreement. The Agreement requires ratification by the European Union and all its Member States, and by Cameroon.

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

3.1 None.

4. Legislative Context

4.1 The Agreement will need to be specified as a Community Treaty by Order in Council in accordance with section 1(3) of the European Communities Act 1972 in order to have legal effect in the UK but will not require any further new legislation to be introduced by the United Kingdom and no other implementation is required.

4.2 The Order is intended to give effect under domestic law to the Agreement on the ground that it is a "mixed competence" agreement which is binding on Member States under Article 216(2) TFEU and to which the UK must give effect.

4.3 The Agreement has been published in full in a Command Paper.

4.4 Procedurally, the Commission has already presented a proposal for a Decision by the Council and the representatives of the Governments of the Member States which, when adopted, will complete the decision-making process for the conclusion and ratification of the Agreement on behalf of the European Union and its Member States. The proposed Decision has been the basis for Explanatory Memoranda (11913/08 and 11959/08) to the relevant Parliamentary Scrutiny Committees.

4.5 The Decision will only be adopted by the Council and the Representatives of Governments of the Member States once all Member States' parliamentary procedures for ratification of the Agreement are complete, when the Agreement will enter into force.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister for Employment Relations, Consumer and Postal Affairs at the Department for Business, Innovation and Skills has made the following statement regarding Human Rights:

"In my view the provisions of the European Communities (Definition of Treaties) (Central Africa Interim Economic Partnership Agreement) Order 2010 are compatible with the Convention rights."

7. Policy background

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

7.1 The Agreement represents the outcome of negotiations undertaken up until 2007 by the European Commission (acting on behalf of the European Community and its Member States) with a group of Central African countries, of which only Cameroon eventually signed the Agreement. The agreement requires ratification by the European Union and all its Member States.

7.2 Since 1975 African, Caribbean and Pacific (ACP) countries have been accorded non-reciprocal preferential trade access to EU markets. The EU and ACP were required to eliminate these trade preferences by 31 December 2007, following a World Trade Organisation (WTO) ruling where the preferences were deemed incompatible with WTO rules. The Central Africa Interim Economic Partnership Agreement (EPA) replaces these trade preferences and has been designed to ensure WTO compatibility by being reciprocal and non-discriminatory in nature.

7.3 The Agreement was initialled by Cameroon on 17 December 2007. Cameroon was subsequently added to the list of countries in Annex 1 of the EU EPA Market Access Regulation (Council Regulation (EC) No 1528/2007 of 20 December 2007). This provided Duty Free Quota Free access (DFQF) for goods coming from Cameroon into the EU market from 1 January 2008 (except for rice and sugar which are subject to short transition periods).

7.4 On 15 January 2009, Cameroon signed the Agreement, which ensured that the terms of the Market Access Regulation were made permanent. Failure to sign the Agreement whilst continuing to benefit from the Market Access Regulation would have left them vulnerable to WTO challenge. The Agreement covers only trade in goods and maybe superseded by a more comprehensive regional Agreement which will include the 7 States of CEMAC[1] plus Sao Tomé e Principe (STP).

7.5 Development is a core component of the Agreement. Whilst the EU immediately provides 100% DFQF access to Cameroon (with transitional periods for rice and sugar), Cameroon gradually liberalises its markets over 15 years and, even after that time, will continue to maintain tariffs on 21% of its imports, allowing it to protect sensitive domestic sectors. The Agreement enables both parties to take measures to protect their national markets in particular circumstances, including a safeguard clause which allows both parties (EC and the Cameroon) to raise duties or impose quotas for those sectors and industries that are threatened and a safeguard provision for Cameroon’s infant industries. The Agreement also contains best endeavour provisions on development co-operation, including financial support.

1 Cemac is comprised of the following 7 States: Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Democratic Republic - Kinshasa), Equatorial Guinea, Gabon).

7.6 The UK Government believes that the Agreement represents a balanced outcome to the negotiations and considers the Agreement to be compatible with UK Policy on EPAs[2]. The UK has consistently stated that EPAs should deliver long term development, economic growth and poverty reduction for the ACP countries.

7.7 The Agreement provides for a gradual reduction of tariffs on goods coming from the EU into Cameroon over a fifteen year period. The removal of tariffs over 79% of their market will be phased in gradually, with 24.5% of tariffs removed by January 2013 and nearly 50% by 2017. Imports from the EU that will be liberalised are mainly machines (pumps, generators, turbines, etc), certain vehicles (boats, aircrafts, cars), and certain chemicals. These are all inputs used by Cameroonian industries and are not domestically produced, thus the elimination of tariffs should reduce production costs. This flexibility and long term market opening was pressed for by the UK during negotiations. Cameroon chose to exclude 21% of their imports from liberalisation including some agricultural and processed agricultural products. In doing so they were able to protect their most vulnerable domestic producers from EU competition.

7.8 The UK Government is pleased that the Agreement enables Cameroon to trade with the EU using improved Rules of Origin (ROOs) that are simpler than those applicable under the Cotonou Agreement, particularly in relation to agriculture, fisheries and textiles.

7.9 The UK supported the Commission's view that other aspects in addition to trade in goods should not be included in the Agreement. We believe that these inclusions should be at the request of the ACP countries and these countries should decide upon the pace and scope of the agreements themselves. In this case it is more appropriate for Cameroon to consider provisions beyond goods within the framework of the regional Central African EPA.

- ***Consolidation***

7.10 Not applicable

8. Consultation outcome

8.1 The Parliamentary EU Committees were consulted on the proposals relating to signature (and provisional application) and conclusion of the Agreement.

8.2 As part of the process of concluding the Central Africa Interim EPA we have consulted with officials in DFID, FCO, BIS, DEFRA and the UK's representatives in Brussels.

9. Guidance

9.1 The Agreement will not lead to any new regulatory measures. There is therefore no need for new guidance.

10. Impact

10.1 Cameroon already receives duty free quota free access to the EU market. This was previously granted, from 2000 to 2007, under the Cotonou Agreement and, before 2000, under the

[2] These principles include the belief that ACP countries should be able to decide the scope of issues covered within their IEPA; have flexibility over their market opening; benefit from DFQF access into the EU market with improved rules of origin; should benefit from effective safeguards to protect their markets when required and EU partners should provide ACP countries with development assistance so they can benefit from new trading opportunities while ensuring that aid is not conditional on signing an EPA.

Lomé agreement. Currently it is granted under European Commission Regulation 1528/07 which provisionally implements the EPAs for countries that have indicated an intent to sign by initialing. The Agreement therefore continues this granting of duty free quota free access under a new, reciprocal arrangement required to maintain compatibility with WTO law. There is therefore no change to the UK tariff and therefore no negative impact on UK trade and business is expected as a result of ratification of the Agreement.

10.2 No new primary or secondary legislation is required to implement the Agreement. There will be no regulatory or procedural impact on businesses.

10.3 Although there will be a small positive impact on UK business in the long term as a result of Cameroon removing tariffs on 80% of its markets, such an impact is expected to be very small. Cameroon has a very low share of UK exports, imports and investment[3] and both the costs and the benefits to the UK would be negligible. Furthermore, the Agreement was negotiated wholly to further the development of Cameroon with no pursuit of UK economic interests it would not be appropriate to assess these in detail.

10.4 For the reasons stated above, the Better Regulation Executive has confirmed that a full Impact Assessment does not need to be prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business. The Agreement will not lead to any new regulatory measures and there is therefore no regulatory impact on small business.

12. Monitoring & review

12.1 The UK, through the European Commission, is committed to monitoring and evaluating the implementation of the EPA and its impact on poverty.

13. Contact

13.1 Iain Mansfield at the Trade Policy Unit at the Department for International Development, telephone 020 7023 0955 and email i-mansfield@dfid.gov.uk can answer any queries regarding the instrument.

[3] Cameroon accounted for 0.013% of the UK's total exports of goods and 0.033% of the UK’s total imports of goods in 2009 (in total, Cameroon imports from and exports to the UK were £138m). Cameroon accounted for 0.002% of the UK outward Foreign Direct Investment (stock level) at year end 2008.