

**EXPLANATORY MEMORANDUM TO
THE EUROPEAN UNION (DEFINITION OF TREATIES) (STABILISATION AND
ASSOCIATION AGREEMENT) (REPUBLIC OF
SERBIA) ORDER 2011**

2011 No. 742

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office, **approved by the Minister for Europe, David Lidington**, 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 This Order would declare that the Stabilisation and Association Agreement between the European Communities and their Member States and the Republic of Serbia (“the Agreement”) signed on 29 April 2008 is to be regarded as an EU Treaty as defined in section 2(2) of the European Communities Act 1972. The provisions of section 2 of the European Communities Act 1972 (which provide for the general implementation of EU Treaties) would then apply in relation to the Agreement, and could be used for the implementation of its provisions.

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

3.1 None

4. **Legislative Context**

4.1 The Agreement is made by the European Community (the Agreement was signed before the Lisbon Treaty came into force) and all its Member States, and must be ratified by each of those States as well as by the European Union and Serbia before it can come into force. The Government intends, subject to the making of this Order, to ratify the Agreement on behalf of the United Kingdom.

4.2 The United Kingdom must be in a position to implement all the provisions of the Agreement before it can ratify it. The Order would provide the necessary powers, under section 2 of the European Communities Act 1972.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

The Minister for Europe has made the following statement regarding Human Rights:

In my view the provisions of the European Union (Definition of Treaties) (Stabilisation and Association Agreement) (Republic of Serbia) Order 2011 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 HMG strongly supports the EU's Stabilisation and Association process with the countries of Western Balkans. It will bring the countries of the Western Balkans closer to the EU, offering the prospect of eventual EU membership if the criteria for membership are met and regional cooperation satisfactorily established. It therefore offers a powerful incentive for change, and is an important way of building peace and stability in the region.

7.2 The Agreement, which is for an unlimited period, establishes an association between the Community and its Member States and the Republic of Serbia. The provisions for association (including the ultimate establishment of a Free Trade Area) are to be progressively realised over a transitional period of a maximum 6 years, from the entry into force of the Agreement. The Agreement creates a regular political dialogue and includes a commitment to promote regional cooperation and good neighbourly relations with other countries of the region. It also provides for the establishment of a Free Trade Area, assistance to support democratic, economic and institutional reforms, and cooperation in the field of Justice and Home Affairs.

7.3 The Agreement provides for asymmetric trade preferences during the transitional period, under which the EU is to abolish customs duties and quantitative restrictions on imports from Serbia on entry into force of the Agreement. Similar provisions will apply to Serbia on the basis of a progressive reduction and abolition of customs duties and quantitative restrictions (see Article 21 and Annex 1 of the Agreement). The asymmetry reflects the fact that the provisions in the Agreement do not provide for identical reciprocal concessions by Serbia in respect of the EU.

8. Consultation outcome

8.1 There has been no public consultation on this instrument.

9. Guidance

9.1 No guidance will be published.

10. Impact

10.1 The Impact Assessment has not been prepared for this instrument as it will have no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Formal monitoring and review mechanisms within the UK are not applicable. A Stabilisation and Association Council is to be established under the Agreement to supervise the application and implementation of the Agreement. The Council consists of the members of the Council of the European Union, members of the European Commission, as well as members of the Government of Serbia. The European Commission publishes annual progress reports on pre-accession countries' compliance with the stabilisation and association process and consults UK Ministers and officials regularly via Council and Committee meetings. FCO Ministers will ensure Parliament is kept informed.

13. Contact

Rebecca Drage, Desk Officer, Western Balkans Group, the Foreign and Commonwealth Office (0207.008.2843) or email: Rebecca.drage@fco.gov.uk can answer any queries regarding the instrument.