

# **EXPLANATORY MEMORANDUM ON AN EUROPEAN UNION PARTNERSHIP AND CO-OPERATION AGREEMENT.**

## **TITLE OF TREATY**

**Partnership and Cooperation Agreement establishing a Partnership between the European Communities and their Member States, of the one part, and Turkmenistan, of the other part**

**Command Paper Number:** 9537

## **SUBJECT MATTER**

1. This Explanatory Memorandum and Command Paper covers a Partnership & Cooperation Agreement (PCA) between the European Union and its Member States and Turkmenistan. The PCA was originally signed on 25 May 1998 but has yet to enter into force. It will replace an EU-Turkmenistan Interim Trade Agreement. Turkmenistan is the only Central Asian State that does not have a PCA with the EU.
2. The EU-Turkmenistan PCA is a mixed agreement. It will come into force when it has been ratified by Turkmenistan and all EU Member States, the European Parliament has given consent, and it has been concluded and ratified by the EU. Turkmenistan ratified the PCA in 2004. EU Member States at first delayed ratification citing human rights concerns. A few years ago, despite lack of progress, EU Member States began to ratify. The UK is now the only EU Member State that has not ratified this PCA.
3. The Government has decided to ratify this agreement as the PCA would allow a closer relationship and potentially greater scope to encourage progress on human rights and good governance. It would enable wider engagement on energy, business and the environment. Parliamentary scrutiny was completed in 2015. Since then we have awaited the position of the European Parliament and considered domestic legislative changes including by the Northern Ireland devolved administration.
4. Despite initially setting tough human rights benchmarks as pre-conditions, the European Parliament has shown interest in consenting to the PCA, with human rights conditions attached to implementation, to enable the EU to engage with and support Turkmenistan. Once the European Parliament has consented to the PCA, the EU will wish to conclude the agreement without delay.

## **NATURE OF THE AGREEMENT**

5. This PCA contains provisions including: reciprocal most-favoured nation treatment for trade in goods; provisions which address some existing

barriers to trade in Turkmenistan by providing for equal treatment of nationals in employment, the establishment and equal treatment of companies; and provisions on cross border services and enhanced economic co-operation for example through facilitating currency convertibility and limiting restrictions on the movement of capital and payments for goods and services.

6. The section on legislative cooperation provides that, with technical assistance, Turkmenistan will seek to make its legislation compatible with EU legislation, focusing on customs law, company law, laws on banking and financial services, company accounts and taxes, intellectual property, protection of workers at the workplace, rules on competition and practices affecting trade, public procurement, the protection of health and safety of people, animals and plants, the environment, consumer protection, indirect taxation, technical rules and standards, nuclear legislation and regulations, transport and telecommunications.
7. PCA provisions on economic cooperation seek to strengthen ties and support economic reform and development. Cooperation will concentrate on economic and social development, the development of human resources, support for enterprises (including privatisation, investment and financial services), agriculture and food, energy and civil nuclear safety, transport, postal services and telecommunications, tourism, environmental protection and regional cooperation.
8. The PCA provides for technical assistance to reinforce democratic institutions, strengthen the rule of law and protect human rights and freedoms. There are provisions on crime and illegal immigration focusing on economic crime and illegal transactions and provisions on cultural and financial cooperation. A Cooperation Council will meet annually at Ministerial level to oversee implementation.
9. The agreement includes the following Annexes:
  - Annex I Indicative list of advantages granted by Turkmenistan to the Independent States in accordance with Article 7(3);
  - Annex II Community reservations in accordance with Article 21(2);
  - Annex III Turkmen reservations in accordance with Article 21(4);
  - Annex IV Financial services, referred to in Article 24(3);
  - Annex V Intellectual, industrial and commercial property conventions referred to in Article 40.

#### **MINISTERIAL RESPONSIBILITY**

10. The Secretary of State for Foreign and Commonwealth Affairs is the Minister with overall responsibility for UK policy on the EU's Common

Foreign and Security Policy. Given the broad content of the Agreement, the Secretaries of State at BEIS, DIT, the Home Office, DExEU, DEFRA, HMRC, HM Treasury, the Ministry of Justice, and the Departments of Transport, Health, Work and Pensions have an interest.

## **POLICY CONSIDERATIONS**

11. The UK previously withheld ratification of the PCA because, like other EU Member States and the European Parliament, we had human rights concerns. President Berdimuhamedov undertook to introduce a number of reforms, notably in health, education, agriculture and pensions. Progress has been slow. International human rights organisations continue to report allegations of torture, wrongful imprisonment and severe restrictions on freedom of religion or belief and on freedom of information. The Office for Democratic Institutions and Human Rights criticised the 2017 presidential elections for procedural shortcomings and lack of a real choice. There has been limited progress on investigations into enforced disappearances. Turkmenistan therefore remains an FCO human rights "Priority Country".
12. There have however been some positive developments, including the adoption of a new constitution in 2016 which provided for a human rights ombudsman and the selection of an appointee in March 2017. The Turkmen government have an ongoing dialogue with the EU on human rights, engaged during Turkmenistan's second Universal Periodic Review in 2013 and sent delegations to the OSCE's Human Dimension meetings in Warsaw in 2015 and 2016. Our Embassy in Ashgabat works closely with the UN and the Organization for Security and Co-operation in Europe to promote further governance and human rights reform, in areas highlighted during Turkmenistan's second Universal Periodic Review in 2013 and in the FCO Human Rights Reports.
13. Therefore, while the human rights situation remains a serious concern, the Government assesses that a closer, broad-based relationship will give us and EU partners greater influence over the human rights and governance agendas and encourage mutually beneficial improvements to the business environment.
14. Until exit negotiations are concluded, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. During this period the Government will also continue to negotiate, implement and apply EU legislation and third country agreements. The Government therefore proposes to move ahead with ratification.

## **FINANCIAL IMPLICATIONS**

15. None.

## **RESERVATIONS AND DECLARATIONS**

16. None.

### **IMPLEMENTATION**

17. The Agreement will enter into force on the first day of the month following the date on which the Parties notify each other of the completion of the procedures necessary for that purpose.
18. As a mixed Agreement it will require specification as an EU Treaty in accordance with Section 1(3) of the European Communities Act 1972. The PCA's provisions will require Government to endeavour in future to make minor changes to some UK secondary legislation (the Equality Act 2010 (Work on Ships and Hovercraft) Regulations 2011 and the Race Relations Order 1997 (Amendment) Order (Northern Ireland) 2012) to ensure equality of employment conditions for Turkmen nationals employed in the UK. The OIOO rule has been considered as part of the process of concluding the Treaty, but is not applicable.

### **CONSULTATIONS**

21. The relevant Whitehall departments were consulted.



Sir Alan Duncan MP  
Minister for Europe and the Americas  
Foreign and Commonwealth Office