

EXPLANATORY MEMORANDUM ON THE ENHANCED PARTNERSHIP AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF KAZAKHSTAN, OF THE OTHER PART

Title of Treaty

Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the One Part, and Kazakhstan, of the Other Part.

Command Paper No 9380

SUBJECT MATTER

1. The document covered by this Explanatory Memorandum is an enhanced Partnership and Cooperation Agreement (ePCA) between the European Union and its Member States and Kazakhstan. The agreement provides a legal framework for further engagement and co-operation between the EU and Kazakhstan across a broad range of areas.
2. On 7 June 2016, the Council published its Proposal for a Council Decision on Conclusion of the EU-Kazakhstan enhanced Partnership and Cooperation Agreement (ePCA). The EU-Kazakhstan ePCA will enter into force on the first day of the second month following the notification of its conclusion (or ratification) by Kazakhstan, the EU and the EU Member States.
3. The Agreement sets out that democratic and human rights principles, as well as principles of a market economy, underpin the ePCA. It provides for a regular political dialogue in all areas of mutual interest in order to promote international peace, stability and security, on the basis of international law, effective cooperation with multilateral institutions and shared values.
4. Trade and investment measures in the Agreement include reciprocal most-favoured nation treatment for trade in goods and it addresses some barriers to trade. The Agreement includes sections on trade in goods; customs; addressing technical barriers to trade; sanitary and phyto-sanitary measures; trade in services and establishment; capital movement and payments; intellectual property; government procurement; raw materials and energy; trade and sustainable development; competition; state-owned enterprises; transparency and dispute settlement.
5. The Agreement seeks to strengthen existing economic ties and contribute to the process of economic reform and development in Kazakhstan and provides for economic dialogue. The Agreement calls for cooperation on public finance management; taxation; statistics; energy; transport; environment; climate change; industry; Small and Medium sized Enterprises; company law; financial services; information society; tourism; agriculture; labour relations; and health.

6. The Agreement also provides for co-operation on freedom, security and justice, and attaches importance to the promotion of the rule of law, including the independence of the judiciary, access to justice and the right to a fair trial, and respect for human rights and fundamental freedoms. It has articles addressing legal co-operation; protection of personal data; co-operation on migration; consular protection; money laundering and financing of terrorism; illicit drugs; organised crime and cyber crime.
7. In addition, the Agreement sets out a number of other areas of co-operation namely education and training; culture; research; sport; civil protection; space activities; consumer protection; regional co-operation; and civil service co-operation.
8. The Agreement is a mixed competence agreement and must therefore be ratified by all Member States as well as by the European Union itself.

MINISTERIAL RESPONSIBILITY

9. 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 ePCA, the Secretaries of State for Business, Energy and Industrial Strategy, International Trade, Home Affairs, Environment, Justice, Transport, Health, Work and Pensions, and the Chancellor of the Exchequer have an interest.

POLICY IMPLICATIONS

10. Partnership and Co-operation Agreements (PCAs) were introduced as an instrument for developing the EU's relationship with third countries in the early 1990s. They were primarily targeted at the countries of the former Soviet Union, though more recently their geographical scope has widened. These agreements provide a broad framework for developing the EU's political and economic relations with the countries in question, and establish an institutional basis within which these relations can be discussed regularly.
11. The Agreement is commercially important as it should make a significant contribution towards helping modernise the commercial environment in Kazakhstan and increase the ease of doing business for UK firms.
12. This Agreement is also geopolitically important, forming a key part of Kazakhstan's "multi-vector" foreign policy which is designed to diversify Kazakhstan's political and trading relationships.
13. On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

FINANCIAL IMPLICATIONS

14. The Agreement does not commit the UK to any expenditure beyond its existing contributions to EU budgets.

RESERVATIONS AND DECLARATIONS

15. None.

IMPLEMENTATION

16. The Agreement will enter into force on the first date of the month following the date on which the Parties notify each other of the completion of the procedures necessary for that purpose. No new legislation is required to enable the United Kingdom to implement the Agreement. The United Kingdom will, however, need to specify the Agreement as an EU treaty under section 1(3) of the European Communities Act 1972, which will require an Order in Council. The "One In, Three Out System" (a system to reduce the amount of regulation) has been considered, but is not applicable.

CONSULTATIONS

17. The relevant Whitehall departments were consulted during the negotiations on the text of the Agreement, and gave their approval to the final draft.

REGULATORY IMPACT ASSESSMENT

18. The Agreement will have no new regulatory impact.

FINANCIAL IMPLICATIONS

19. None.

OTHER OBSERVATIONS

20. Kazakhstan has recently become a member of the World Trade Organisation and is looking to expand its potential trading partners in this context. Now Kazakhstan's sights are set on achieving membership of the Organisation for Economic Cooperation and Development (OECD) by 2030. Last year it signed a Country Programme Agreement with the OECD and is focussing considerable efforts on implementing OECD standards.



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