EXPLANATORY MEMORANDUM TO

THE AFRICAN DEVELOPMENT BANK (FURTHER PAYMENTS TO CAPITAL STOCK) ORDER 2011

2011 No. 1512

1. This explanatory memorandum has been prepared by Department for International Development and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This proposed Order permits the Secretary of State for International Development, in his role as United Kingdom Governor at the African Development Bank ("the Bank"), to make a payment of 43,986,199.50 Pounds Sterling towards the increased capital stock of the Bank. This payment will be made pursuant to arrangements that have been made between the Bank and Her Majesty's Government in accordance with Resolution No.B/BG/2010/08 of the Bank's Board of Governors dated 27th May 2010.

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

3.1 None

4. Legislative Context

4.1 The proposed Order is being made to enable the Secretary of State to contribute further to the Ordinary Capital Resources (OCR) of the Bank by subscribing to additional shares. The purpose of this further contribution, together with contributions pledged by other donors, is to increase the capital base of the Bank through the process known as a General Capital Increase (GCI). This will enable the Bank to increase its capability to reduce poverty in Africa by making loans to middle income countries and making loans to and equity investments in private sector organisations across the continent.

4.2 Where the Government of the United Kingdom becomes bound to make a payment to a multilateral development bank, Section 11 of the International Development Act 2002 permits the Secretary of State to make a payment to that bank, once he has made an order with the approval of the Treasury, a draft of which has been approved by the House of Commons.

4.3 The Bank is issuing additional shares to support its forward lending strategy. The UK currently holds 1.679% of the shares in the Bank and the Government wishes to increase its shareholding in the Bank proportionately. The UK has been allocated 73,434 shares (1.679% of the shares being issued in this GCI) for purchase at a cost of £734 million. Under the terms of this share issue, of the allocated shares, 6% must be paid for at a cost of £43,986,199.50. This is known as the 'Paid in Capital' and it is this amount that is covered by this Order. The remainder £689,123,781, will be 'callable' (i.e. a contingent liability). Parliamentary approval to incur this liability is obtained by a separate process explained below.

4.4 It is normal practice, when a government department proposes to undertake a contingent liability in excess of £250,000 for which there is no specific statutory authority, for the department concerned to present to Parliament a Minute giving particulars of the liability created and explaining the circumstances; and to refrain from incurring the liability until fourteen parliamentary sitting days after the issue of the Minute, except in cases of special urgency.

4.5 The Treasury has approved the proposal to undertake this contingent liability in principle and the Minute giving particulars of it has been laid in Parliament, together with this Draft Order. If, during the period of fourteen parliamentary sitting days, beginning on the date the Minute was laid, a Member signifies an objection by giving notice of a Parliamentary Question or by otherwise raising the matter in Parliament, final approval to proceed with incurring the liability will be withheld pending an examination of the objection.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Andrew Mitchell, the Secretary of State for International Development, has made the following statement regarding Human Rights:

In my view the provisions of the African Development Bank (Further Payments to Capital Stock) Order 2011 are compatible with the Convention rights.

7. Policy background

7.1 The Bank is a regional development bank established in 1964. Its major role is to contribute to the economic and social progress of its regional member countries and to contribute to the acceleration of the process of economic development of its regional members, both collectively and individually. The major regional shareholders are Nigeria Egypt and South Africa. The major non-regional shareholders are the USA, Japan and, Germany. The UK is a relatively small shareholder, with a shareholding of 1.679 percent.

7.2 DFID recognises that the Bank makes a significant contribution to tackling poverty in Africa, particularly helping countries to accelerate growth. Despite recent economic growth, about 128 million of Africa's 320 million poor (under USD1.25 a day) live in Middle Income Countries. In 2008, the Bank adopted poverty reduction as its overarching goal and centred its work around its Medium Term Strategy 2008-2012. The Bank's strategy recognised the major gains from the economic growth of the last few years and refocused efforts on development challenges and poverty reduction.

7.3 DFID has worked with other shareholders to help the Bank improve its focus on the key sectors where it has particular strengths, especially infrastructure, private sector development and regional integration, and has supported internal reforms to improve staff skills and performance and the effectiveness of evaluation systems. The Bank has also improved project management efficiency by tackling problem projects and making

various improvements such as; decreasing the length of time between project approval and initial fund disbursement from two years to thirteen months.

7.4 The Bank has two main lending windows to channel its development assistance: Ordinary Capital Resources (OCR) and the African Development Fund (ADF). The GCI will increase the Bank's OCR operations. OCR is used to lend at near market rates, mainly to Africa's middle-income countries. It also funds private sector operations in both low- and middle-income African countries.

7.5 The Bank requires a stronger capital base in order to respond effectively to the economic crisis and to implement the Medium Term Strategy 2008-2012. The Bank funds its lending from its capital and reserves, repayments of past loans, and investment income. Based on current capital levels, the Bank can only sustain annual lending of around £1.23 billion; the GCI could increase this to £3.489 billion. In late 2008, G20 leaders recognised that a significant response to the financial crisis would deplete the resources of the Bank and severely reduce its ability to finance long term infrastructure projects. The Bank needed to expand its capital base in order to ensure the level of lending required for future development in Africa.

7.6 The Bank's proposal of a 200% GCI with 6% paid between 2011 and 2018 was approved by Bank Governors when it met in Abidjan, Ivory Coast in May 2010. The GCI of 200% increases the Bank's authorised capital stock by 4,374,000 shares and authorises increases in individual member's subscriptions. This is equivalent to an increase of £43.6 billion in shares and a trebling in the size of its capital base. The increase will allow the Bank to increase its sustainable lending limit to £3.489 billion from 2011 to 2018.

7.7 The risk associated with the GCI is that the UK will be asked to pay for the callable shares. The new £689,123,781 liability resulting from this GCI will be added to our existing callable shares liability of £334 million, giving a total liability to the Bank of approximately £1.02 billion. Although the Bank has the right to call for payment for these callable shares if there is a crisis effecting the Bank's assets or loans, this has not occurred in relation to existing callable shares and given that the Bank has a AAA credit rating, it is very unlikely to occur in practice.

7.8 The Bank adopted the Sixth General Capital Increase Resolution B/BG/2010/08 on 27th May 2010. A copy of Resolution No. B/BG/2010/08 has been laid in the House of Commons library together with the GCI policy paper. If this draft Order is approved then in accordance with Resolution No.B/BG/2010/08, the United Kingdom's paid-in contribution will be made in eight annual instalments from 2011 to 2018, each in the form of a non-negotiable, non-interest bearing promissory note expressed in Pounds Sterling and encashable on demand according to an agreed encashment schedule.

8. Consultation Outcome

8.1 Not relevant in the context of this instrument.

9. Guidance

9.1 Not relevant in the context of this instrument.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument because there is no impact on business, charities or voluntary bodies in the United Kingdom.

11. Regulating small business

11.1 The legislation does not apply to small business in the United Kingdom.

12. Monitoring and review

12.1 The Bank has an agreed set of targets and milestones to measure progress and internal reforms. The Bank also produces annual reports as well as regular financial and operational statements.

12.2 The UK is represented on the Bank's Board of Directors and the UK shares its seat with Italy and the Netherlands. The GCI investment will be monitored by the Board of Directors, and will be subject to Annual Performance Reviews. DFID has produced a Logical Framework to monitor progress against a set of performance indicators that is available on DFID's public website.

13. Contact

13.1 Further information concerning the proposed instrument can be obtained from Paula Barrett at the Department for International Development via email: (p-barrett@dfid.gov.uk) or telephone (020 7023 0860).

Department for International Development.

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