EXPLANATORY MEMORANDUM TO

THE AFRICAN DEVELOPMENT BANK (FURTHER PAYMENTS TO CAPITAL STOCK) ORDER 2020

2020 No. 1441

1. Introduction

1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order permits Her Majesty's Government (the 'Government') to make further payments of up to 110 million Pounds Sterling towards the increased capital stock of the African Development Bank (the 'Bank'). These payments will be made pursuant to arrangements that have been made between the Bank and the Government in accordance with Resolution No.B/BG/EXTRA/2019/03 of the Bank's Board of Governors dated 31st October 2019.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument is the United Kingdom.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

5.1 James Duddridge, Parliamentary Under Secretary of State, Foreign, Commonwealth and Development Office, has made the following statement regarding Human Rights:

"In my view the provisions of the African Development Bank (Further Payments to Capital Stock) Order 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 The 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 from other shareholders, 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 non-concessional loans to middle income

countries and making loans to, and equity investments in, private sector organisations across the continent, including in low income countries.

6.2 The Order is made under section 11 of the International Development Act 2002, which empowers the Government to make relevant payments to multilateral development banks where it is bound to do so. In order to make such a payment the Secretary of State for Foreign, Commonwealth and Development Affairs (the 'Secretary of State'), or a Minister acting on their behalf, must make an Order, which has HM Treasury approval and has been approved in draft by the House of Commons.

6.3 The Bank is issuing additional shares to support its forward lending strategy. The UK currently holds 1.721% of the shares in the Bank and the Government wishes to increase its shareholding in the Bank proportionately. The UK has been allocated 144,073 shares (1.721% of the shares being issued in this GCI) for purchase at a cost of £1,576,230,656. Under the terms of this share issue, of the allocated shares, almost 6% must be paid for at a cost of £94,573,839. This is known as the 'Paid-in capital' and it is this amount that is covered by this Order. The remaining £1,481,656,817 will be 'callable' (i.e. a contingent liability). It is possible that later in the GCI period the Bank will re-issue additional shares that other Bank members have either forfeited or have not taken up. In the last few years, the UK has sought to increase its shareholding at the Bank to increase its voice and vote share. Opportunities are limited, so to position the UK to be able to take up any offer of additional shares in this GCI period, should it consider it appropriate at the time, the Order makes provision for the UK to purchase shares to the value of a further £15,426,161, up to a total of £110 million of paid-in capital and £1,739,082,922 contingent liability. Parliamentary approval to incur contingent liability was obtained by a separate process explained below. A decision on whether to purchase additional shares with these resources would be subject to resource availability.

6.4 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.

6.5 The Treasury approved the proposal to undertake this contingent liability in principle and the Minute giving particulars of it was laid in Parliament, together with a draft of the Order.

7. Policy background

What is being done and why?

7.1 The Bank is a regional development bank established in 1964. Its main role is to contribute to the acceleration of the process of economic development and social progress of its regional member countries, both collectively and individually. Its lending is mainly focused on closing the large infrastructure gap across the continent, especially in transport, energy and information and communication technology. 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 1.721 percent.

7.2 The Foreign, Commonwealth and Development Office (FCDO) recognises that the Bank makes a significant contribution to tackling poverty in Africa, particularly helping countries to accelerate growth. FCDO has worked with other shareholders to help the Bank improve its focus on areas such as job creation across manufacturing, infrastructure and commercial agriculture to provide strong foundations for inclusive growth. This links well the UK's objectives emphasising inclusion in financial services, connection to markets and amenities, and the labour market. FCDO also supports the Bank's objectives, to: light up and power Africa; integrate Africa; industrialise Africa; feed Africa; and improve the quality of life for the people of Africa.

7.3 FCDO has also supported the Bank's internal reform programme aimed at improving staffing capacity and Bank effectiveness and efficiency, focusing on: decentralisation; reconfiguring the Bank's headquarter operations to support the regions; strengthening the performance culture; streamlining business processes; and financial performance improvements.

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, but the Bank's Credit Policy allows it to lend to more creditworthy low-income countries as part of a transition as they graduate from ADF eligibility. It also funds private sector operations in both low and middle-income African countries. An annual transfer to the ADF is also made from internally generated resources, thereby supporting the poorer countries in the region. The Bank funds its lending from its capital and reserves, repayments of past loans, and investment income.

7.5 The Bank's proposal of a 125% GCI with 6% paid between 2020 and 2027 was approved by the Bank's Board of Governors when it met in Abidjan, Ivory Coast on 31 October 2019. The GCI of 125% increases the Bank's authorised capital stock by 8,371,881 new shares and authorises increases in individual member's subscriptions. This is equivalent to an increase of £91.5 billion in the total value of shares which will allow the Bank to increase its sustainable annual lending limit from £5.5 billion in 2020 to over £13 billion by 2030, averaging £7.7 billion per year over the next decade.

7.6 The risk associated with the GCI is that the UK will be asked to pay for the callable shares. The new £1,481,616,817 liability resulting from this GCI will be added to our existing callable shares liability of £1.057 billion, giving a total UK liability to the Bank of approximately £2.5 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 preferred credit status, it is unlikely to occur in practice.

7.7 The Bank adopted the Seventh General Capital Increase Resolution B/BG/ EXTRA/2019/03 on 31st October 2019, a copy of which has been laid in the House of Commons library together with the GCI policy paper. In accordance with Resolution No.B/BG/EXTRA/2019/03, the United Kingdom's paid-in contribution will be made in eight annual cash instalments paid from 2020 to 2027, in Pounds Sterling and to an agreed payment schedule.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

9.1 Not relevant in the context of this instrument.

10. Consultation outcome

10.1 Not relevant in the context of this instrument.

11. Guidance

11.1 Not relevant in the context of this instrument.

12. Impact

12.1 There is expected to be no significant impact on business, charities or voluntary bodies.

12.2 There is expected to be no significant impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because no significant impact on businesses in the UK is foreseen.

13. Regulating small business

13.1 The legislation does not apply as there are no activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The Bank agreed a Bank-wide Results Measurement Framework following consultation with shareholders, including the UK, that sets targets for the efficiency and effectiveness of the Bank's operations and the impact on poor people. The Bank's management will review the Bank's outputs as part of its wider Annual Development Effectiveness Review that is published every May and report to the Board of Governors at the Annual Meeting on progress against its institutional reform commitments and their impact.

14.2 Regular and effective monitoring, reviewing and lesson learning are critical to how FCDO will measure the results and demonstrate value for money. FCDO's monitoring will be undertaken through its own Annual Reviews and a final Project Completion Review in 2028. Evidence to inform the FCDO reviews will be drawn from various sources, including the Bank's reporting, consultation with the UK Executive Director at the Bank's Headquarters, and feedback from FCDO country offices. Other sources of information include internal and independent evaluations and reports by organisations such as Independent Commission for Aid Impact (ICAI).

15. Contact

15.1 Helen Yaxley, Policy Adviser at the Foreign, Commonwealth and Development Office, helen.yaxley@fcdo.gov.uk can be contacted with any queries regarding the instrument.

15.2 Phil Stevens, Deputy Director for International Financial Institutions at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 James Duddridge, Parliamentary Under Secretary of State at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.