EXPLANATORY MEMORANDUM TO

THE AFRICAN DEVELOPMENT BANK (SIXTEENTH REPLENISHMENT OF THE AFRICAN DEVELOPMENT FUND) ORDER 2023

2023 No. 1284

1. Introduction

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

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The African Development Bank (Sixteenth Replenishment of the African Development Fund) Order 2023 (the 'Order') permits His Majesty's Government (the 'Government') to make further payments of an amount not exceeding £450 million to the African Development Fund (the 'Fund') of the African Development Bank (the 'Bank'). The payments will be pursuant to arrangements that have been made between the Fund and the Government in accordance with Resolution F/BG/2023/01 entitled 'The Sixteenth General Replenishment of the Resources of the African Development Fund' adopted by the Board of Governors of the Fund on 2nd April 2023.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 The attention of the Committee is drawn to the legislative context summarised in paragraph 6.2. The draft Order will not be made until the Government is bound to make the payment by the deposit of the Instrument of Subscription with the Fund.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

5.1 Andrew Mitchell, Minister of State (Minister for Development and Africa), Foreign Commonwealth and Development Office, has made the following statement regarding Human Rights:

"In my view the provisions of the African Development Bank (Sixteenth Replenishment of the African Development Fund) Order 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 The Order is being made to enable the United Kingdom to make a further contribution to the Fund. The purpose of this further contribution, together with contributions pledged by other donors, is to provide the Fund with commitment capacity to provide grants and highly concessional lending to Africa's 37 poorest and most vulnerable countries between January 2023 and December 2025 as part of the sixteenth replenishment of the Fund ('ADF-16').

6.2 The Order is made under section 11 of the International Development Act 2002 ('IDA'), which empowers the Government to make relevant payments to multilateral development banks where it is bound to do so. No obligation arises until the Government deposits an Instrument of Subscription ('Instrument') with the Fund which binds the United Kingdom to make the payment foreseen by article 3 of the Order. This raises a technical issue about the Order making power in section 11 of the IDA. The power requires the Order to be approved in draft by the House of Commons, but the Secretary of State, with the approval of the Treasury, may make the Order only when the Government is bound to make the payment by the deposit of the Instrument. The draft Order was approved by the House on 3rd July 2023 and the Instrument deposited on 17th November 2023, enabling the Order to be made in the form of the draft.

7. Policy background

What is being done and why?

7.1 The Fund is part of the Bank. The Bank is the largest development finance institution that is focused solely on Africa, and an important partner for the United Kingdom. The Bank promotes green and inclusive growth through programming in 5 focus areas: light up and power Africa; integrate Africa; industrialise Africa; feed Africa; and improve the quality of life for the people of Africa.

7.2 The Bank is 60% owned by African countries and 80% staffed by African nationals. This allows the Bank to address politically sensitive issues and deliver regional solutions. The largest regional shareholders are Nigeria, Egypt, and South Africa. The largest non-regional shareholders are the USA, Japan and Germany. The United Kingdom is a relatively small shareholder. The United Kingdom's shareholding is currently 1.7%, but we are purchasing additional shares to increase this to 1.8%.

7.3 The Bank is structured along similar lines to the World Bank, with two main lending windows: the Bank, which lends to creditworthy countries on non-concessional terms; and the Fund, which lends on highly concessional terms and provides grants to the less developed members of the Bank. The Fund was established by the Bank in 1972, commencing operations in 1975, and is primarily donor funded. It is replenished every three years.

7.4 Negotiations on ADF-16, which will be operational from beginning January 2023 to end December 2025, concluded in December 2022. The Fund's Governors adopted the Sixteenth Replenishment Resolution (Resolution F/BG/2023/01) on 2nd April 2023. A copy of Resolution F/BG/2023/01 alongside the Report on the Sixteenth General Replenishment of the Resources of the African Development Fund (ADF-16) has been laid in the House of Commons library.

7.5 Since the creation of the Fund, there have been fifteen replenishments. The United Kingdom's contributions to recent replenishments have been as listed below along with the year Parliamentary approval was gained in order to do so:

8th Replenishment (2000):	£98,639,079
9th Replenishment (2003):	£121,333,000
10th Replenishment (2006):	£206,191,098
11th Replenishment (2008):	£417,000,000
12th Replenishment (2011):	£567,000,000
13th Replenishment (2014):	£603,585,673
14th Replenishment (2017):	£460,100,000
15th Replenishment (2020):	£633,090,000

7.6 The United Kingdom's contribution of £450 million for the ADF-16 (2023-2025) will focus on two pillars: sustainable, climate-resilient and quality infrastructure; and governance, capacity building and sustainable debt management. Following successful United Kingdom-led engagement, the ADF-16 incorporates policy commitments that are well-aligned to the United Kingdom's development priorities on climate change and nature; clean and green infrastructure; women and girls; financing volumes; and organisational effectiveness. In particular, ADF-16 will support:

- new or improved electricity connections for 19.5 million people;
- agriculture improvements for 24.3 million people;
- new or improved access to water and sanitation for 32.2 million people;
- improved access to transport for 14.8 million people;
- 2.4 million new jobs.

7.7 In addition to the core funding for ADF-16, the United Kingdom has committed £200 million to the Bank's new Climate Action Window (the 'CAW'). Africa is one of the most vulnerable regions in the world to the effects of climate change, which is having a disproportionate impact on the poorest countries in the continent. The United Kingdom worked with the Fund to establish the CAW as a new route for channelling climate finance to the poorest African countries. It will aim to target 75% for climate adaptation, 15% for climate mitigation projects and 10% for technical assistance for climate projects. The United Kingdom's contribution will be used for adaptation. This will be a stand-alone fund, but able to leverage the Fund's established delivery systems, pipeline of investible projects and strong track record of implementing climate projects.

7.8 The United Kingdom's £450 million contribution to ADF-16 is the fourth largest donor contribution, accounting for 11% of donor contributions, behind Germany, France, and the United States. The United Kingdom's total contribution of £650 million, including £200 million for the CAW, is an increase compared to the £633 million contributed to the fifteenth replenishment. The CAW contribution will be treated separately from the rest of the Bank's capital stock, is voluntary and will be

paid under a separate Instrument of Commitment. Accordingly, it does not fall within the payments for which an order is required under section 11 of the IDA.

7.9 ADF-16 also requires adjustments to the United Kingdom's Instrument of Commitment for payments to the Fund under the Multilateral Debt Relief Initiative. Authorisation for those payments is covered by a separate order 'the African Development Fund (Multilateral Debt Relief Initiative) (Amendment) Order 2023' also made under section 11 of the IDA.

8. European Union Withdrawal and Future Relationship

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 no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because no significant direct impact on businesses in the United Kingdom is foreseen.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this instrument is to assess the Fund's performance against the latest Bank-wide results measurement system. The Bank agreed a Bank-wide Results Measurement Framework following consultation with shareholders and the Fund donors, including the United Kingdom, that sets targets for the efficiency and effectiveness of the Fund's operations and the impact on poor people. The Bank's management will review the Fund's outputs as part of its wider Annual Development Effectiveness Review and report to the Board of Governors at the Annual Meeting on progress against its institutional reform commitments and their impact. The Bank will also host a Mid-Term Review of ADF-16 with donors in 2024 to assess progress.

14.2 Regular and effective monitoring, reviewing and lesson learning are critical to how the FCDO will measure the results of ADF-16 and demonstrate its value for money. FCDO monitoring will be undertaken through its own Annual Reviews and a final Project Completion Review of ADF-16 in 2026. Evidence to inform the FCDO reviews will be drawn from a number of sources, including Bank reporting, the ADF-16 Mid Term Review, consultation with the United Kingdom's Advisor to the

Executive Director at the Bank's Headquarters, and feedback from FCDO's offices overseas.

14.3 Other sources of information include internal and independent evaluations and reports by organisations, such as the Multilateral Organisation Performance Network and the Independent Commission on Aid Impact, whose report in July 2020 on the Bank assessed it to be "highly cost effective relative to other comparable multilateral banks" and fully aligned with the United Kingdom's priorities.

14.4 The United Kingdom is represented on the Board of Governors by the Minister of State (Minister for Development and Africa). The United Kingdom is represented on the Board of Executive Directors by a constituency seat that also represents Italy and the Netherlands, which contributes to the oversight of the Fund's resources.

14.5 The Order does not include a statutory review clause because it has no regulatory effect on business.

15. Contact

15.1 Chris Athayde at FCDO (chris.athayde@fcdo.gov.uk) can be contacted with any queries regarding the Order.

15.2 Chris Bold, Deputy Director for International Financial Institutions, at FCDO can confirm that this Explanatory Memorandum meets the required standard.

15.3 Andrew Mitchell, Minister of State (Minister for Development and Africa), Foreign Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.