EXPLANATORY MEMORANDUM TO

THE ASIAN DEVELOPMENT BANK (TWELFTH REPLENISHMENT OF THE ASIAN DEVELOPMENT FUND) ORDER 2021

2021 No. 733

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 Her Majesty.

2. Purpose of the instrument

2.1 The Order permits Her Majesty's Government (the "Government") to make payments not exceeding £117.64 million towards the twelfth replenishment of the Asian Development Fund (the "Fund"). The Fund is the concessional arm of the Asian Development Bank (the "Bank"), providing grants to the poorest and most vulnerable countries in Asia. These payments are pursuant to arrangements that have been made between the Bank and the Government in accordance with the Resolution titled "Twelfth Replenishment of the Asian Development Fund and Seventh Regularized Replenishment of the Technical Assistance Special Fund," adopted by contributors to the Fund on the 27th November 2020. This resolution concluded the replenishment negotiations for the twelfth replenishment of the Fund and sets out contributions pledged by donors, including the United Kingdom.

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 Instrument of Contribution has been deposited with the Bank, so the Government is now bound the make the payment.

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

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

5. European Convention on Human Rights

5.1 The Rt. Hon. Nigel Adams, Minister for Asia, Foreign, Commonwealth and Development Office has made the following statement regarding Human Rights:

"In my view the provisions of The Asian Development Bank (Twelfth Replenishment of the Asian Development Fund) Order 2021 are compatible with the Convention rights."

6. Legislative Context

6.1 The Order is being made to enable the Government to contribute to the twelfth replenishment of the Fund. The purpose of this contribution, together with contributions pledged by other donors, is to provide the Fund with commitment capacity for its continued provision of grants and concessional lending to the poorest countries in Asia over the four-year period, 2021-2024.

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. No obligation arises until the Government deposits an Instrument of Contribution (the "Instrument") with the Bank 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 by the deposit of the Instrument. The draft Order was approved by the House on 19th May 2021 and the Instrument deposited on 8th June 2021, enabling the Order to be made in the form of the draft.

7. Policy background

What is being done and why?

7.1 The Bank is a regional development bank established in 1966. Its purpose is to foster economic growth and co-operation in Asia and to reduce poverty while contributing to the acceleration of the economic development of its regional members, both collectively and individually. The major non-borrowing shareholders are Japan, the United States of America and Australia. The major borrowing shareholders are China, India and Indonesia. The United Kingdom is a relatively small shareholder, with a shareholding of 2.0%.

7.2 The Bank is structured along similar lines to the World Bank, with two main lending windows: the Bank which lends at near market rates of interest, including to China, India, and Indonesia; and the Fund which provides grants to the poorest and most vulnerable members of the Bank, including Afghanistan and nine Pacific Island States. The Fund was established by the Bank in 1973 and is replenished every four years. It is primarily donor-funded with a substantial contribution from the Bank's own resources. Negotiations on the twelfth replenishment of the Fund commenced in October 2019 and were concluded in September 2020.

7.3 Since the creation of the Fund, there have been eleven replenishments. The United Kingdom contributed to its establishment and has also contributed to each replenishment of the Fund.

7.4 The United Kingdom participated in the pledging conference for the twelfth replenishment on 16th September 2020 and committed to retaining our current burden share in the Fund of 5.4%. This secured our place as second largest non-regional and 4th largest contributor overall and will reinforce our influence in the Bank.

7.5 The United Kingdom's negotiating objectives for the twelfth replenishment were all successfully achieved: improved poverty focus, including greater and better targeted allocations for small island developing states; support for a green, inclusive and resilient recovery to COVID-19; more resources for gender equality including girls'

education; a new private sector development fund; and improved practice in fragile and conflict affected situations. The virtual pledging conference on 16th September 2020 raised US$2.34 billion for the period 2021-24, meeting the Bank's donor funding target.

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 This Order does not amend any other instruments, so consolidation is not relevant.

10. Consultation outcome

10.1 The United Kingdom contributed to the establishment and all subsequent replenishments of the Fund. Contributing to this multilateral Fund is in line with the Government's strategic priorities for Overseas Development Assistance so no consultation was conducted.

11. Guidance

11.1 This Order authorises the FCDO (on behalf of the Government) to make payments to the Fund, so guidance is not needed.

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 An Impact Assessment has not been prepared for this instrument because no impact on business 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 Order does not include a statutory review clause because it has no regulatory effect on business.

14.2 The Bank agreed a Bank-wide Corporate Results Framework in 2019 following consultation with shareholders and the Fund donors, including the United Kingdom. This 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 Fund's outputs as part of its wider Annual Development Effectiveness Review that is published every April and will report to the Board of Governors at the Bank's Annual Meeting on progress against its institutional reform commitments and their impact. The Bank will also conduct a Mid-Term Review of the twelfth replenishment with donors in 2023 to assess progress.

14.3 Regular and effective monitoring, reviewing and lesson learning are critical to how FCDO will measure the results and demonstrate its value for money. FCDO's monitoring will be undertaken through its own Annual Reviews in 2022-2024 and a

final Project Completion Review of the twelfth replenishment in 2025. Evidence to inform the FCDO reviews will be drawn from several sources, including Bank reporting, the Bank's Mid-Term Review, consultation with the United Kingdom's representative on the Bank's Board of Directors, and feedback from FCDO project teams overseas. Other sources of information include internal independent evaluations and reports by organisations such as the Multilateral Organisation Performance Assessment Network.

15. Contact

15.1 Chris Hindley at the Foreign, Commonwealth and Development Office can be contacted with any queries regarding the instrument. Telephone: +44 7721236101 or email: chris.hindley@fcdo.gov.uk.

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

15.3 Nigel Adams, Minister for Asia at the Foreign, Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.