EXPLANATORY MEMORANDUM TO

THE AFRICAN DEVELOPMENT BANK (TWELFTH REPLENISHMENT OF THE AFRICAN DEVELOPMENT FUND) ORDER 2011

2011 No.

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

2. Purpose of instrument

2.1 The proposed Order permits the Secretary of State to make a further contribution of £567,000,000 to the African Development Fund ("the Fund")of the African Development Bank ("the Bank"). This further contribution will be made pursuant to arrangements that have been made between the Bank and Her Majesty's Government in accordance with Resolution No.F/BG/2011/01 of the Fund's Board of Governors dated 20th January 2011.

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 (the UK has contributed to the previous eleven replenishments) to the Fund of the Bank. The purpose of this further contribution, together with contributions pledged by other donors, is to provide the Fund with commitment capacity for its continued lending on highly concessional terms and to provide grants to the poorest countries in Africa over the three-year period, 2011-2013.

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.

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 Bank (Twelfth Replenishment of the Fund) Order 2011 are compatible with the Convention rights.

7. Policy background

7.1 The Bank is a regional development bank established in 1964. Its purpose is to foster economic growth and co-operation in Africa and to contribute to the acceleration of the 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 United Kingdom is a relatively small shareholder, with a shareholding of 1.679 percent.

7.2 The Bank is structured along similar lines to the World Bank, with two main lending windows: the Bank which lends at market rates of interest; and the Fund which lends on highly concessional terms 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 usually every three years. Negotiations on the twelfth replenishment of the Fund (ADF-XII) commenced in October 2009 and were concluded in January 2011.

7.3 Since the creation of the Fund, there have been eleven replenishments. The United Kingdom has contributed to these replenishments as follows:

1st Replenishment (1976-1978): £10,000,000

2nd Replenishment (1979-1981): £18,499,554

3rd Replenishment (1982-1984): £24,170,300

4th Replenishment (1985-1987): £30,934,961

5th Replenishment (1988-1990): £57,833,971

6th Replenishment (1991-1993): £71,915,912

7th Replenishment (1996-1998): £70,225,661

8th Replenishment (1999-2001): £98,639,079

9th Replenishment (2002-2004): £121,333,000

10th Replenishment (2005-2007): £206,191,098

11th Replenishment (2008-2010): £417,000,000

7.4 As stated above, the purpose of the proposed draft Order is to enable the Government to make a contribution to the twelfth replenishment of the Fund of a sum of £567,000,000. The United Kingdom's contribution will represent around 14 per cent of total donor contributions, which amount to £3.749 billion. This amount was decided on

following negotiations with the Bank's management and donors, and represents a 36% Sterling increase in DFID's commitment over the previous replenishment in 2007.

7.5 The Fund is a major source of development finance in Africa and is crucial in meeting the Millennium Development Goals. In recent years the Bank has made significant reforms to become more effective. The level of contribution demonstrates the United Kingdom's commitment to help build African institutions, confidence in the reform process being undertaken by the Bank and belief that the Fund can effectively support development in Africa's poorest countries. The additional money will help the Fund work over the next three years with 38 Low Income African countries to build better infrastructure – including improved water and sanitation and transport projects. It will also mean that the Fund can help to strengthen economic and regional links between African nations, strengthening good governance and support fragile states.

7.6 The Fund adopted the Twelfth Replenishment Resolution (Resolution No. F/BG/2011/01) on 20th January 2011 A copy of Resolution No. F/BG/2011/01has been laid in the House of Commons library together with the ADF XII Donors Report. In accordance with Resolution No. F/BG/2011/01 the United Kingdom's contribution will be made in the form of non-negotiable, non-interest bearing promissory notes expressed in pounds sterling and encashable on demand. In addition, the Resolution requests adjustments to the UK Instrument of Commitment for payments to the Fund under the Multilateral Debt Relief Initiative. Authorisation for the payments to be made under these adjustments will be sought using a separate draft Order, under section 11 of the 2002 Act,the African Development Fund (Multilateral Debt Relief Order) (Amendment) Order 2011 that draft order will be laid at or around the same time as this Order.

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 as it has no impact on business, charities or voluntary bodies.

11. Regulating Small Businesses

11.1 This legislation does not apply to small businesses in the United Kingdom

12. Monitoring and review

12.1 In order to focus on strategic priorities and to monitor and measure progress, donors agreed a set of targets and milestones for AfDF 12. An independently moderated Mid-Term Review of AfDF 12 will be undertaken by the Bank with participation from donors and recipient countries. The Bank also produces annual reports on development effectiveness as well as financial and operational statements.

12.2 DFID also monitors the Fund's performance as part of its continuous engagement with the Bank, and have produced a Logical Framework to monitor progress against a set of performance indicators will be available on DFID's public website.

13. Contact

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

Department for International Development

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