EXPLANATORY MEMORANDUM TO

THE ASIAN DEVELOPMENT BANK (THIRTEENTH REPLENISHMENT OF THE ASIAN DEVELOPMENT FUND) ORDER 2024

2024 No. [XXXX]

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. Declaration

2.1 The Rt Honourable Anneliese Dodds MP, Minister of State for Development at the Foreign, Commonwealth and Development Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Chris Bold, Deputy Director for the International Financial Institutions Department at the Foreign, Commonwealth and Development Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Mahek Mehta at the Foreign, Commonwealth and Development Office (mahek.mehta@fcdo.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Asian Development Bank (Thirteenth Replenishment of the Asian Development Fund) Order 2024 (the 'Order') permits His Majesty's Government (the 'Government') to make further payments of an amount up to and not exceeding £120 million towards the replenishment of the Asian Development Fund ('the Fund'). The payments will be pursuant to arrangements that have been made between the Bank and the Government in accordance with resolution No.427 — "Thirteenth Replenishment of the Asian Development Fund and Eighth Regularized Replenishment of the Technical Assistance Special Fund." adopted by the Board of Governors of the Bank on 1st October 2024.

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

5.1 The Asian Development Bank (the 'Bank') is the one of the largest sources of development finance in Asia and the Pacific, committing US$23.6 billion in 2023. The Bank is a key partner for the Government's global and regional objectives for tackling poverty and promoting sustainable development. The Bank has helped country members who face the growing challenge of climate change and the impacts of conflicts, food insecurity, and increased debt burdens. The Bank has a US$100 billion climate finance target to be achieved over the next decade and is currently reviewing its Strategy 2030 (the Bank's main strategic framework). Strategy 2030 will help to refine the Bank's efforts to address critical issues such as climate change mitigation, sustainable infrastructure development, and deepening regional cooperation. By aligning its goals with the Sustainable Development Goals, the Bank seeks to enhance its impact on the region's economic and social development.

5.2 The Fund is a part of the Bank and is a tool which the Bank partly funds through its net income. In addition to contributing to the Fund, the Bank is able to finance concessional loans from its own resources instead of seeking donor support which is a cost-effective model. Following pressure from the UK, the Bank's Management Team have agreed to contribute 38% of the total replenishment target from the Bank's own net income for the thirteenth replenishment of the Fund (known as 'ADF 14').

5.3 This Order authorises the FCDO on behalf of the Government to make a payment of up to £120 million to ADF 14. This will enable the UK to maintain its position as the fourth largest contributor.

5.4 ADF 14 will be an integral component of the Bank's response to the Group of Twenty's ('G20s') (including the UK) calls to reform the Global Financial System and to increase the volume of financing for developing countries, with a new record of US$5 billion in funding being provided in this replenishment. ADF 14 will continue to focus on the poorest and most vulnerable clients, while further emphasising the need to take bold climate action, deepen regional cooperation, and address regional public goods.

5.5 The UK has a 2% shareholding (14th largest) in the Bank and 4.77% burden share (4th largest) within ADF 14. The merger of the Bank's and the Fund's loan portfolios in January 2017 enabled the Bank to self-finance concessional lending (US$13.2 billion for 2017-2020) for the first time. This meant that only grant financing will be provided by the Bank from the Fund, as of the Fund's previous Thirteenth Replenishment ('ADF 13') onwards, and not concessional lending as was previously the case. It also meant that donors would only be required to contribute towards grant resources for and future replenishments of the Bank.

5.6 In line with the FCDO's objectives to mobilise increased public and private finance for development, and to support economic growth and fund enhanced basic services, the Fund prioritises support for the poorest and most vulnerable countries in Asia and the Pacific, including fragile and conflict-affected situations and small island developing states. The Fund's approach to support poverty reduction will include a strong focus on social protection, generating green quality jobs, reducing inequalities of opportunity, and addressing climate-related drivers of inequality. US$197 million will be specifically dedicated to gender transformative projects. The Fund's priorities are well aligned with our long-term commitment to the Indo-Pacific.

5.7 At the last Annual Meeting, on 2 May 2024, the Bank's Governors including the UK unanimously agreed to a US$4,985 million replenishment to support ADB's grant and technical assistance operations in its poorest and most vulnerable member countries from 2025 to 2028. The replenishment will be financed from different sources, including new donor contributions amounting to approximately US$2,554 million. Net income transfers from the Bank's Ordinary Capital Resources will increase to US$1,574 million (representing a record 38% of the total replenishment target). Transfers from the Fund's earlier cycles and income from liquidity investments make up the balance of US$857 million.

What was the previous policy, how is this different?

5.8 It has been longstanding policy to work through the multilateral system to deliver on the UK's development objectives. Multilateral development banks sit at the heart of this system as one of the largest sources of development finance. They form part of the core response to end extreme poverty and to tackle climate change and biodiversity loss. They work to help borrowers secure sustainable economic growth and achieve self-reliance to make progress across all SDGs. Contributing to ADF14 is consistent with these aims.

6. Legislative and Legal Context

How has the law changed?

6.1 The effect of the Order is to authorise the Government to contribute £120 million to the ADF 14. This will maintain the UK's current position as the fourth largest donor.

Why was this approach taken to change the law?

6.2 Contributing to ADF 14 is a 'relevant payment' within the meaning of section 11(2) of the International Development Act 2002 ('IDA') and, in accordance with s.11(5), an Order approved by the House of Commons is required for the payment to be made.

7. Consultation

Summary of consultation outcome and methodology

7.1 Not relevant in the context of this instrument.

8. Applicable Guidance

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

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

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

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities, or voluntary bodies.

9.3 The legislation does not impact micro businesses.

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

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The ADB publishes its annual reports and accounts in April, including on ADF. The reports are based on the ADB's own evaluation of its performance but in addition, the ADB's activities are independently evaluated by the Independent Evaluation Department ('IED'). The Bank have utilised reporting from the IED to learn from previous Fund programming, and the IED provided recommendations in September 2023 for the Bank to take on Board. The September 2023 IED report resulted in changes including: revising the allocation mechanism for the economic vulnerability premium, increasing allocation of thematic resources toward key Fund priorities, preparing a paper on policy based lending in 2024, and enhancing the monitoring, evaluation, and reporting of the Fund's operations.

10.2 We will use this framework for our own Fund annual reviews and overall monitoring of the Bank. There is a strong case for using the Bank's expected targets as it enhances ownership, gives clarity of responsibilities and limits additional burdens on Bank staff. The Bank also includes updates on actions in the annual Development Effectiveness Review in areas where they are lagging behind and produces an Independent Evaluation every four years.

10.3 The Bank's financial data is audited by an external and independent auditor. The Bank also publishes an annual Development Effectiveness Review which reports progress against specific performance indicators and separates the Bank's and the Fund's operations. The performance indicators are drawn from the Bank's Results Management Framework that sets out what both the Bank and the Fund are expected to deliver, both in terms of development impact and improvements in operational performance. Donors and the Bank's Management Team will also continue to review the Fund's implementation each year during the Bank's Annual Meetings, held in May. A Bank managed Mid-Term Review of ADF 14 is planned to take place in 2026.

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

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Section 11 of IDA provides powers for 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 UK to make the payment foreseen by article 3 of the Order. This raises a technical issue about the Order making power in section 11. 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 is being laid at this time to secure the approval of the House, but it will not be made until the Instrument is deposited.

12. European Convention on Human Rights

12.1 The Rt Hon Anneliese Dodds MP, Minister of State for Development has made the following statement regarding Human Rights:

"In my view the provisions of the Asian Development Bank (Thirteenth Replenishment of the Asian Development Fund) Order 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ('relevant European Union Acts'). It does not trigger the statement requirements under the relevant European Union Acts.