EXPLANATORY MEMORANDUM TO

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

2020 No. [XXXX]

1. Introduction

1.1 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 the instrument

2.1 This proposed Order permits the Secretary of State for International Development, in his role as United Kingdom Governor at the African Development Bank ("the Bank"), to make a payment of up to £110 million Pounds Sterling towards the increased capital stock of the Bank. This payment will be made pursuant to arrangements that have been made between the Bank and Her Majesty's 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 This entire instrument applies to England, Wales and Northern Ireland only and is a financial instrument for the purposes of Standing Order No. 83T of the Standing Orders of the House of Commons relating to Public Business.

3.3 In the view of the Department, for the purposes of House of Commons Standing Order No. 83P of the Standing Orders of the House of Commons relating to Public Business, the subject-matter of this instrument would not be within the devolved legislative competence of any of the Northern Ireland Assembly as a transferred matter, the Scottish Parliament or the National Assembly for Wales if equivalent provision in relation to the relevant territory were included in an Act of the relevant devolved legislature.

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 The Rt Hon Anne-Marie Trevelyan MP, the Secretary of State for International Development, has made the following statement regarding Human Rights:

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

6. Legislative Context

6.1 The proposed 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 pledged by other donors, 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 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.

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, 6% must be paid for at a cost of £94,569,682. This is known as the 'Paid in Capital' and it is this amount that is covered by this Order. The remainder £1,481,660,974, will be 'callable' (i.e. a contingent liability). It is possible that later in GCI period the Bank will re-issue additional shares that other Bank members, have either forfeited or have not taken up their full allocation of shares offered. 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 £15,430,318 million, up to a total of £110 million of paid in capital and £1,739,087,079 contingent liability. Parliamentary approval to incur contingent liability is obtained by a separate process explained below. A decision on whether to purchase additional shares with these resources would be subject to resource availability and approval of the International Development Secretary at the time.

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 has approved the proposal to undertake this contingent liability in principle and the Minute giving particulars of it has been laid in Parliament, together with this Draft Order. If, during the period of fourteen parliamentary sitting days, beginning on the date the Minute was laid, a Member signifies an objection by giving notice of a Parliamentary Question or by otherwise raising the matter in Parliament, final approval to proceed with incurring the liability will be withheld pending an examination of the objection.

7. Policy background

What is being done and why?

7.1 The Bank is a regional development bank established in 1964. Its major role is to contribute to the economic and social progress of its regional member countries and to contribute to the acceleration of the process of economic development of its regional members, both collectively and individually. Its lending is mainly focused on closing the large infrastructure gap across the continent, especially transport, energy and ICT. 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 DFID recognises that the Bank makes a significant contribution to tackling poverty in Africa, particularly helping countries to accelerate growth. Growth in Sub-Saharan Africa remains below population growth and below 3% since 2015. The slower-than-expected overall growth reflects ongoing global uncertainty, but increasingly comes from domestic macroeconomic instability including poorly managed debt, inflation, and deficits; political and regulatory uncertainty; and fragility that all have visible negative impacts on some African economies. It also belies stronger performance in several smaller economies that continue to grow steadily.

7.3 DFID 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 jobs market. DFID also supports the AfDB's objectives to: light up and power Africa; integrate Africa; industrialise Africa; feed Africa; and improve the quality of life for people of Africa. The beneficiaries being the populations in the borrowing countries.

7.4 DFID has also supported the Bank's internal reform programme aimed at improving staffing capacity and Bank effectiveness and efficiency; focusing on decentralisation; reconfiguring the HQ to support the regions; strengthening the performance culture; streamlining business processes; and financial performance improvements.

7.5 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 it'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, less stable countries in the region.

7.6 The Bank funds its lending from its capital and reserves, repayments of past loans, and investment income. Based on current capital levels, the Bank can only sustain annual lending of around £1.23 billion; the GCI could increase this to £3.489 billion.

7.7 The Bank's proposal of a 125% GCI with 6% paid between 2020 and 2027 was approved by 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 £76.5 billion in shares which will allow the Bank to increase its sustainable annual lending limit to £5.5 billion from 2020 to over £13billion by 2030, averaging £7.7 billion per year over the next decade.

7.8 The risk associated with the GCI is that the UK will be asked to pay for the callable shares. The new £1,481,660,974 liability resulting from this GCI will be added to our existing callable shares liability of £1.057 billion, giving a total 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 a AAA credit rating, it is very unlikely to occur in practice.

7.9 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. If this draft Order is approved then 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 no significant, impact on business, charities or voluntary bodies.

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

12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

13.1 The legislation does not apply to small businesses in the United Kingdom.

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 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 Fund's outputs as part of its wider Annual Development

Effectiveness Review that is published every May and report to the Board of Governor's at the Annual Meeting on progress against its institutional reform commitments and their impact.

14.3 Regular and effective monitoring, reviewing and lesson learning are critical to how DFID will measure the results and demonstrate its value for money. DFID's monitoring will be undertaken through its own Annual Reviews and a final Project Completion Review in 2028 Evidence to inform the DFID reviews will be drawn from various sources, including the Bank reporting, consultation with the UK Executive Director at the Bank's Headquarters, and feedback from DFID 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 at the Department for International Development, h-yaxley@dfid.gov.uk can be contacted with any queries regarding the instrument.

15.2 Phil Stevens Deputy Director for International Financial Institutions at the Department for International Development can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rt Hon Ann-Marie Trevelyan MP, Secretary of State for International Development, at the Department for International Development can confirm that this Explanatory Memorandum meets the required standard.