

**EXPLANATORY MEMORANDUM TO THE
ASIAN DEVELOPMENT BANK (EIGHTH REPLENISHMENT OF THE
ASIAN DEVELOPMENT FUND) ORDER 2006**

2006 No. [2324]

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.

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

2. **Description**

- 2.1 The proposed Order permits the Secretary of State to make a further contribution of £114,135,370 to the Asian Development Fund of the Asian Development Bank pursuant to arrangements that have been made between the Asian Development Bank and Her Majesty's Government in accordance with Resolution No. 300 dated 25 August 2004 of the Bank's Board of Governors.
- 2.2 Additionally, the Order permits the Secretary of State to make payment of sums required to redeem any non-interest bearing and non-negotiable notes or other obligations that may be issued or created by him as a result of the arrangements that are to be made by the Government of the United Kingdom and the Bank regarding the payment of the £114,135,370.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

- 3.1 The draft Order is to be made pursuant to section 11 of the International Development Act 2002. Section 11 applies when the Government becomes bound to make a relevant payment to a multilateral development bank. The section goes on to provide that the Secretary of State can only make the relevant payment to the bank once the payment has been approved by an order made by him with Treasury approval. But the Secretary of State cannot make such an order until a draft of it has been laid before and approved by the House of Commons.
- 3.2 The purpose of an Order made under section 11 is to allow the Secretary of State to make the relevant payment when the Government is bound to do so. However, the Government will not become bound to make the relevant payment until it has deposited with the Asian Development Bank an Instrument of Contribution. As section 11 only applies when the Government is bound to make the relevant payment and, at present, it is not so bound, this raises the technical issue of whether the Secretary of State may properly present the draft Order to the House when the Government is not yet bound to make the payment the Order deals with and thus, as yet, has no power to make the Order.

- 3.3 The seeking of Parliamentary approval for the draft Order before the Government is bound is the usual practice in these cases. The Committee has considered this issue previously (for example in respect of the draft International Fund for Agricultural Development (Sixth Replenishment) Order 2003 in its Fourth report (HC 126-iv 2002-03) and has concluded that there is no technical reason for the House not to approve the draft Order but that it should merely be aware that it is acting, as on occasions in the past, on a Ministerial undertaking that the Order will not be made until the Government is bound. Accordingly the Secretary of State gives his undertaking that no Order will be made in terms of the draft until, on deposit of the Instrument of Contribution, the Government is bound to make the payment. The purpose of the Secretary of State laying the draft Order before the House is to secure the approval of the House before the deposit of the Instrument of Contribution.
- 3.4 The Department respectfully submits that the contents of the draft Order do not require any departure from the Committee's established approach to the exercise of the powers under section 11.

4. Legislative Background

- 4.1 The proposed Order is being made to enable the Secretary of State to contribute further (the UK has contributed funds on eight previous occasions) to the Asian Development Fund of the Asian Development 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 to the poorest countries in the Asia and Pacific Region over the four-year period, 2005-2008. As stated above, section 11 of the International Development Act 2002 permits the Secretary of State to make relevant payments to multilateral development banks where the Government of the United Kingdom is bound to make such a payment, but that in order to make a payment he must make an order, which has Treasury approval and a draft of which has been approved by the House of Commons.

5. Extent

- 5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

- 6.1 Hilary Benn, the Secretary of State for International Development has made the following statement regarding Human Rights:

In my view the provisions of the Asian Development Bank (Eighth Replenishment of the Asian Development Fund) Order 2005 are compatible with the Convention rights.

7. Policy Background

- 7.1 The Department for International Development is responsible for leading the United Kingdom's contribution to promoting development and reducing

poverty. The Department's overall objective is the elimination of world poverty. This objective was set out in the 1997 White Paper "Eliminating World Poverty: A Challenge for the 21st Century", and reaffirmed in the 2000 White Paper "Eliminating World Poverty: Making Globalisation Work for the Poor". The Department seeks to further this objective in part through a combination of bilateral programmes and contributions to various international financial institutions such as the Asian Development Bank.

- 7.2 The Asian Development Bank is a regional development bank established in 1966. Its purpose is to foster economic growth and co-operation in the region of Asia and the Pacific and to contribute to the acceleration of the process of economic development of its regional members, both collectively and individually. The major regional shareholders are Japan, the People's Republic of China, India, Australia, Indonesia and the Republic of Korea. The major non-regional shareholders are the USA, Canada, Germany and France. The UK was a founding member of the Bank and is a relatively small shareholder, with a shareholding of 1.97 percent.
- 7.3 The Asian Development Bank is structured along similar lines to the World Bank, with two main lending windows: the Asian Development Bank which lends at market rates of interest; and the Asian Development Fund which lends on highly concessional terms to the less developed members of the Bank. The Asian Development Fund was established by the Asian Development Bank in April 1973 and is primarily donor funded. It is replenished usually every four years. Negotiations on the eighth replenishment of the Asian Development Fund (ADF-IX) commenced in October 2003 and were concluded in May 2004.
- 7.4 Since the creation of the Asian Development Fund, there have been seven replenishments. The United Kingdom has contributed to these replenishments as follows:

Initial funding (1973)	£11.4 million
First replenishment (1976)	£18.9 million
Second replenishment (1979)	£59.3 million
Third replenishment (1983)	£71.9 million
Fourth replenishment (1987)	£95.1 million
Fifth replenishment (1993)	£86.3 million
Sixth replenishment (1997)	£67.0 million
Seventh replenishment (2001)	£84.7 million

- 7.5 As stated above, the purpose of the present Order is to enable the Government to make a contribution to the eighth replenishment of the Asian Development

Fund of a sum of £114,135,370. This amount was reached through negotiations with the Asian Development Bank's Board of Governors. The Bank adopted the Eighth Replenishment Resolution (Resolution No. 300) on 25 August 2004. (A copy of Resolution No. 300 has been laid in the House of Commons library together with the ADF-IX Donors Report). The United Kingdom's contribution will represent around 6.0 per cent of the total donor pledges to the Eighth Replenishment of some SDR 2.25 billion (approximately £1.87 billion). Resolution No. 300 came into effect on 29 April 2005 when Instruments of Contribution reached 50 per cent of the total pledges deposited with the Fund. Although the amount of the United Kingdom's contribution is set out at Table A of the Resolution, the United Kingdom is not formally bound to make this contribution until the Government has deposited with the Asian Development Bank an Instrument of Contribution and Resolution 300 has come into effect. In accordance with Resolution No. 300 the United Kingdom's contribution will be made in four annual instalments, each in the form of a non-negotiable, non-interest bearing promissory note expressed in pounds sterling and encashable on demand.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

- 9.1 Further information concerning the proposed instrument can be obtained from David Smith at the Department for International Development via email (d-smith@dfid.gov.uk) or telephone (020 7023 0146).

Department for International Development
March 2006