EXPLANATORY MEMORANDUM TO

THE AFRICAN DEVELOPMENT FUND (MULTILATERAL DEBT RELIEF INITIATIVE) (AMENDMENT) ORDER 2020

2020 No. 1428

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 further payments to the African Development Fund (the 'Fund') of the African Development Bank (the 'Bank') from £329.03 million to an amount not exceeding £395.45 million for the purposes of the Multilateral Debt Relief Initiative (MDRI). This increase is pursuant to arrangements that have been made between the Fund and the Government in accordance with Resolution No. F/BG/2006/12 of the Board of Governors of the Fund on 18 May 2006.

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 The territorial application of this instrument is the United Kingdom.

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 James Duddridge, Parliamentary Under Secretary of State, Foreign, Commonwealth and Development Office, has made the following statement regarding Human Rights:

"In my view the provisions of the African Development Fund (Multilateral Debt Relief Initiative) (Amendment) Order 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 The Order is being made to enable the Government of the United Kingdom to make further contributions to the Fund for the purposes of the MDRI. The amount of the United Kingdom's commitment to the Fund for this purpose was increased previously in 2008[1], 2011[2], 2014[3] and in 2017[4]. The purpose of this further increase in contributions, together with contributions pledged by other donors, is to provide the Fund with additional resources to preserve, after further debt stock cancellation for Heavily Indebted Poor Countries (HIPC), its commitment capacity for lending on highly concessional terms to the poorest countries in Africa over the period 2007-2032.

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. In order to make such a payment the Secretary of State for Foreign, Commonwealth and Development Affairs (the 'Secretary of State'), or a Minister acting on their behalf, must make an Order, which has HM Treasury approval and been approved in draft by the House of Commons.

7. Policy background

What is being done and why?

7.1 The Bank is a regional development bank established in 1964. Its purpose is to foster economic growth and reduce poverty in Africa. The major regional shareholders are Nigeria, Egypt and South Africa. The major non-regional shareholders are the USA, Japan and Germany. The United Kingdom shareholding in the African Development Bank is 1.721 percent.[5]

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, commenced operations in 1975, and is primarily donor funded. It is usually replenished every three years. Negotiations on the 15th replenishment of the Fund ('AfDF-15') were concluded in December 2019.

7.3 The HIPC initiative was launched in 1996 by the IMF and World Bank, with the aim of ensuring that no poor country faced a debt burden it could not manage. It is funded from resources provided by multilateral, bilateral and commercial creditors.

7.4 Under the MDRI, countries receive additional debt relief above that provided under the HIPC initiative. The MDRI was agreed by G8[6] Finance Ministers meeting in London in June 2005. They proposed that 100% of the remaining debts owed by qualifying countries to the International Monetary Fund, the Inter-American Development Bank, the International Development Association (the 'Association') and the Fund would be cancelled. The cost of debt relief to creditors under the HIPC Initiative is currently estimated at US$76.2 billion, while the cost to the four

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[1] The African Development Fund (Multilateral Debt Relief Initiative) Order 2006 (S.I.2321/2006) permitted the Secretary of State to contribute to the MDRI but was amended by the African Development Fund (Multilateral Debt Relief Initiative) (Amendment) Order 2008 (2008 No. 2089) to reflect the UK's increased contribution.

[2] The African Development Fund (Multilateral Debt Relief Initiative) (Amendment) Order 2011 (2011 No.1511) Article 2.

[3] The African Development Fund (Multilateral Debt Relief Initiative) (Amendment) Order 2014 (2014 No. 2457).

[4] The African Development Fund (Multilateral Debt Relief Initiative) (Amendment) Order 2017 (2017 No. 1192).

[5] The UK shareholding may change with Ireland joining the Bank as the new GCI comes into effect in 2020/21. To maintain the overall 40% non-regional shareholding, all other non-regional countries will see their share reduced too.

[6] G8 refers to the Group of Eight countries, which comprised France, Germany, Italy, Japan, United Kingdom, United States, Canada and Russia.

multilaterals providing debt relief under the MDRI is estimated at US$43.3 billion (both in end-2017 present value terms).[7]

7.5 To ensure that the financing capacity of the Association and the Fund is not reduced as a result of the additional MDRI debt relief, the United Kingdom and other contributing members have committed to cover the costs of debt cancellation for the duration of the loans. The contributors reimburse the Fund on an ongoing basis, compensating it for loan repayments at the time that they would have been due. This compensation is additional to the resources the United Kingdom contributes to these institutions as part of the replenishments of their core funds. In 2006, G8 Finance Ministers agreed that in future replenishment rounds, the costs of the debt relief initiative would be reported separately to core replenishments, to ensure that they are clearly distinguishable.

7.6 The Board of Governors of the Fund adopted Resolution F/BG/2006/12 concerning the MDRI on 18 May 2006. A copy of this Resolution has been laid in the House of Commons library. Under the terms of that Resolution the United Kingdom undertook to pay £79.19 million which was subsequently approved under the African Development Fund (Multilateral Debt Relief Initiative) Order 2006[8]. This was to be paid in regular instalments from 2007-2016. The Resolution also provided that the Fund would reflect changes in actual and estimated costs of MDRI debt forgiveness by making adjustments to donor contributions to the MDRI every three years in line with replenishments to the Fund. The last update prior to 2020 was in 2017 when the United Kingdom's contribution increased from £262.2 million to £2329.03 million covering the period up to 2029[9].

7.7 The 15th Replenishment Resolution (Resolution F/BG/2020/01) was adopted on 14th May 2020. The total replenishment was £6.05 billion and the United Kingdom's contribution over the next three years is £633,090,000, which is 12.46% of the total donor contribution. Authorisation for that payment to the Fund is covered by a separate Order approved in draft by the House of Commons, the 'African Development Bank (15th Replenishment of the African Development Fund) Order 2020'. Those funds are separate to the funds provided for the purposes of the MDRI though both will contribute to support for AfDF eligible countries.

7.8 As part of the AfDF-15 Resolution that was adopted by the Governors in 2020, it was agreed that donors should provide unqualified MDRI commitments for the Fifteenth Replenishment disbursement period in order to maximise both the Bank's internal resources as well as the donor resources from the Fifteenth Replenishment. This means it has been necessary to update the cost estimates for debt cancellation by the ADF under the MDRI, which has resulted in changes to the compensation amounts payable by donors to the replenishment to fund the MDRI.

7.9 This Order will allow the United Kingdom to commit up to an additional £66.42 million to MDRI and will extend the payment period to 2032, coinciding with the end of the AfDF-15 disbursement period. The final cost of MDRI donor compensation will depend on the exchange rates used and the date when the debt relief process is completed for each country.

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[7] IMF, July 2019 'Heavily Indebted Poor Countries (HIPC) Initiative and Multilateral Debt Relief Initiative (MDRI) — statistical update'.

[8] The African Development Fund (Multilateral Debt Relief Initiative) Order 2006 (2006 No. 2321) permitted the Secretary of State to contribute to the MDRI.

[9] The African Development Fund (Multilateral Debt Relief Initiative) (Amendment) Order 2017 (2017 No. 1192).

7.10 As stated above, the purpose of the present Order is therefore to enable the Government of the United Kingdom to increase its MDRI contributions. The United Kingdom's contribution will be made in annual instalments, in accordance with a schedule agreed with the Fund.

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 No significant impact on business, charities or voluntary bodies is expected.

12.2 No significant impact on the public sector is expected.

12.3 An Impact Assessment has not been prepared for this instrument because no direct impact on UK businesses 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 approach to monitoring of this legislation is to assess performance against a set of targets and milestones for AfDF-15 agreed by donors. An independently moderated Mid-Term Review of AfDF-15 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.

14.2 The United Kingdom is represented on the Board of Governors by the Secretary of State. The United Kingdom Executive Director to the Africa Development Bank represents the United Kingdom and contributes to oversight of the use of its resources as a member of the Africa Development Bank Board of Directors.

14.3 The FCDO also monitors the Fund's performance as part of its continuous engagement with the Bank and has produced a Logical Framework to monitor progress against a set of performance indicators that is available on FCDO's public website. This is covered separately in the Explanatory Memorandum to the African Development Bank (15th Replenishment of the African Development Fund) Order 2020. An annual review will be available on FCDO's public website.

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

15. Contact

15.1 Deborah McGurk at the Foreign Commonwealth and Development Office (deborah.mcgurk@fcdo.gov.uk) can be contacted with any queries regarding the instrument.

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

15.3 James Duddridge, Parliamentary Under Secretary of State, at the Foreign Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.