EXPLANATORY MEMORANDUM TO

THE AFRICAN DEVELOPMENT FUND (MULTILATERAL DEBT RELIEF INITIATIVE) (AMENDMENT) ORDER 2023

2023 No. 1291

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. Purpose of the instrument

2.1 The African Development Fund (Multilateral Debt Relief Initiative) (Amendment) Order 2023 (the 'Order') permits His Majesty's Government (the 'Government') to increase its payments to the African Development Fund (the 'Fund') of the African Development Bank (the 'Bank') from £395.45 million to an amount not exceeding £451.87 million for the purposes of the Multilateral Debt Relief Initiative (the '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 18th May 2006.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 The attention of the Committee is drawn to the legislative context summarised in paragraph 6.2. The draft Order will not be made until the Government is bound to make the payment by the deposit of the Instrument of Commitment with the Fund.

4. Extent and Territorial Application

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

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

5. European Convention on Human Rights

5.1 Andrew Mitchell, Minister of State (Minister for Development and Africa), 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 2023 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 previously increased in 2008, 2011, 2014, 2017, and in 2020[1]. The purpose of this further increase is to provide the Fund with additional resources to preserve its capacity for lending, after further debt stock cancellation for Heavily Indebted Poor Countries (HIPCs). This will allow the Fund to continue lending on highly concessional terms to the poorest countries in Africa over the period 2007- 2035.

6.2 The Order is made under section 11 of the International Development Act 2002 ('IDA'), which empowers 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 Commitment (the 'Instrument') with the Fund which binds the United Kingdom to make the payment foreseen by the African Development (Multilateral Debt Relief Initiative) Order 2006[2]. This raises a technical issue about the Order making power in section 11 of the IDA. 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 by the deposit of the Instrument. The draft Order was approved by the House on 3rd July 2023 and the Instrument deposited on 17th November 2023, enabling the Order to be made in the form of the draft.

7. Policy background

What is being done and why?

7.1 The Fund is part of the Bank. The Bank is a regional development bank established in 1964. Its purpose is to foster economic growth and reduce poverty in Africa. The largest regional shareholders are Nigeria, Egypt and South Africa. The largest non-regional shareholders are the USA, Japan and Germany. The United Kingdom is a relatively small shareholder. The United Kingdom's shareholding is currently 1.7%, but we are purchasing additional shares to increase this to 1.8%.

7.2 The Bank is structured along similar lines to the World Bank, with two main lending windows: the Bank, which lends to creditworthy countries on non-concessional terms; and the Fund which provides grants and loans 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.

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 what is provided under the HIPC initiative. The MDRI was agreed in June 2005 by G8[3] Finance Ministers at a meeting in London. They proposed that 100% of the remaining debts

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[1] The African Development Fund (Multilateral Debt Relief Initiative) Order 2006 (S.I. 2006/2321) was amended by S.I. 2008/2089, S.I. 2011/1511, S.I. 2014/2457, S.I. 2017/1192, and S.I. 2020/1428.

[2] S.I. 2006/2321.

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

owed by qualifying countries to the Fund, the International Development Association, the International Monetary Fund, and the Inter-American Development Bank would be cancelled. The cost of debt relief to creditors under the HIPC Initiative is estimated at US$76.2 billion, while the cost to the four multilaterals providing debt relief under the MDRI is estimated at US$43.3 billion (both in end-2017 present value terms)[4].

7.5 To ensure that the financing capacity of 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 the Fund through each replenishment. 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 18th 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. 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 at the time of replenishments of the Fund. The last update was in 2020 when the United Kingdom's contribution increased from £329.03 million to £395.45 million covering the period up to 2032.

7.7 Negotiations on the 16th replenishment of the Fund ('ADF-16') were concluded in December 2022. The Fund's Governors adopted the Sixteenth Replenishment Resolution (Resolution F/BG/2023/01) on 2nd April 2023. A copy of Resolution F/BG/2023/01 alongside the Report on the Sixteenth General Replenishment of the Resources of the African Development Fund (ADF-16) has been laid in the House of Commons library.

7.8 The total replenishment was $8.9 billion[5] and the United Kingdom's contribution over the next three years is an amount not exceeding £450 million, which is 11% of the total donor contributions. In addition to the core contribution, the United Kingdom has committed £200 million to the Fund's new Climate Action Window. In total, this £650 million contribution is an increase on the £633 million contributed for the 15th Replenishment.

7.9 Authorisation for the core replenishment of the Fund is covered under a separate draft Order, the 'African Development Bank (Sixteenth Replenishment of the African Development Fund) Order 2023'. Those funds are separate to the funds provided for the purposes of the MDRI though both will contribute to support for ADF eligible countries.

7.10 As part of the ADF-16 Resolution, it was agreed that donors should provide unqualified MDRI commitments for the ADF-16 disbursement period. This Order will allow the Secretary of State to meet the United Kingdom's existing MDRI

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

[5] 'African Development Fund mobilizes $8.9 billion for Africa's low-income countries, the highest in its 50-year history' - African Development Fund (afdb.org).

commitment by extending the payment period up to and including 2035, coinciding with the end of the ADF-16 disbursement period. This will add £56.42 million to the total MDRI payment ceiling. The final cost of MDRI donor compensation will depend on market exchange rates, the timing of when beneficiary countries complete the HIPC initiative, and any changes in foreign exchange reference rates used by the Fund.

7.11 The United Kingdom's contribution will be made in annual instalments, in accordance with a schedule agreed with the Fund.

8. European Union Withdrawal and Future Relationship

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, or no significant, impact on business, charities or voluntary bodies.

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

12.3 A full Impact Assessment has not been prepared for this instrument because no significant direct impact on businesses in the United Kingdom 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 instrument is to assess the Fund's performance against the latest Bank-wide results measurement system. The Bank agreed a Bank-wide Results Measurement Framework following consultation with shareholders and the Fund donors, including the United Kingdom, that sets targets for the efficiency and effectiveness of the Fund'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 and report to the Board of Governor's at the Annual Meeting on progress against its institutional reform commitments and their impact. The Bank will also host a Mid-Term Review of ADF-16 with donors in 2024 to assess progress.

14.2 Regular and effective monitoring, reviewing and lesson learning are critical to how the FCDO will measure the results of ADF-16 and demonstrate its value for money. FCDO monitoring will be undertaken through its own Annual Reviews and a final Project Completion Review of ADF-16 in 2026. Evidence to inform the FCDO reviews will be drawn from a number of sources, including Bank reporting, the ADF-

16 Mid Term Review, consultation with the United Kingdom's Advisor to the Executive Director at the Bank's Headquarters, and feedback from FCDO's offices overseas.

14.3 Other sources of information include internal and independent evaluations and reports by organisations, such as the Multilateral Organisation Performance Network and the Independent Commission on Aid Impact, whose report in July 2020 on the Bank assessed it to be "highly cost effective relative to other comparable multilateral banks" and fully aligned with the United Kingdom's priorities.

14.4 The United Kingdom is represented on the Board of Governors by the Minister of State (Minister for Development and Africa). The United Kingdom is represented on the Board of Executive Directors by a constituency seat that also represents Italy and the Netherlands, which contributes to the oversight of the Fund's resources.

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

15. Contact

15.1 Sam Fell at FCDO (sam.fell1@fcdo.gov.uk) can be contacted with any queries regarding the Order.

15.2 Chris Bold, Deputy Director for International Financial Institutions, at FCDO can confirm that this Explanatory Memorandum meets the required standard.

15.3 Andrew Mitchell, Minister of State (Minister for Development and Africa), Foreign Commonwealth and Development Office can confirm that this Explanatory Memorandum meets the required standard.