EXPLANATORY MEMORANDUM TO

THE ASIAN DEVELOPMENT BANK (FURTHER PAYMENTS TO CAPITAL STOCKS) ORDER 2010

2010 No. 285

1. This explanatory memorandum has been prepared by 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 Instrument permits the Secretary of State for International Development, in his role as United Kingdom Governor at the Asian Development Bank ("the Bank"), to make a payment of 69,739,093.50 United States Dollars towards the increased capital stock of the Asian Development Bank.

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

3.1 None

4. Legislative Context

4.1 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 AsDB through the process known as a General Capital Increase (GCI). This will enable the Bank to increase its capability to make loans to countries and private sector organisations and make equity investments to support projects aimed at reducing poverty in Asia and the Pacific.

4.2 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.

4.3 The AsDB is issuing additional shares to support its forward lending strategy. The UK currently holds 2.038% of the shares in the Bank and the government wishes to increase its shareholding in the Bank proportionately. The UK has been allocated 144,524 shares (2.038% of the shares being issued in this GCI) for purchase at a cost of $1.74billion. Under the terms of this share issue, of the allocated shares, 4% must be paid for at a cost of 69,739,093.50 United States Dollars. This is known as the 'Paid in Capital' and it this amount that is covered by this Order. The remainder, 1,673,726,180.50 United States Dollars, will be 'callable' (i.e. a contingent liability). Parliamentary approval to incur this liability is obtained by a separate process explained below.

4.4 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.

4.5 The Treasury has approved the proposal in principle and the Minute 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.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Douglas Alexander, 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 (Further Payments to Capital Stock) Order 2010 are compatible with the Convention on Human Rights.

7. Policy background

7.1 The Department for International Development (DFID) 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 by the 2000 White Paper "Eliminating World Poverty: Making Globalisation Work for the Poor" and the 2006 White Paper "Eliminating World Poverty: Making Governance Work for the Poor". The latest White Paper of 2009, "Eliminating World Poverty: Building our Common Future" reiterates DFID's objectives and sets out the forward agenda for the Department. The Department delivers its international development funds through a variety of channels, including contributions to international financial institutions such as the Bank.

7.2 The 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 2.038 percent.

7.3 DFID recognises that the Bank makes a significant contribution to tackling poverty in Asia and the Pacific, particularly helping countries to accelerate growth.

Despite recent economic growth, the region is still home to two thirds of the world's poor, with 1.8 billion people living on less than $2 a day. In 1999, AsDB adopted poverty reduction as its overarching goal and has centred its work around the Millennium Development Goals. The Bank's Strategy 2020 launched in 2008 recognises the major gains from the economic growth of the last few years and refocuses efforts on development challenges and poverty reduction.

7.4 DFID has worked with other shareholders to help the Bank improve its focus on the key sectors where it has particular strengths, especially infrastructure and regional integration, and has supported internal reforms to improve staff skills and performance and the effectiveness of evaluation systems. In 2009, the Bank updated its energy policy to reflect climate change issues, and its safeguards policy covering environmental standards and the rights of indigenous people. The UK and a number of other shareholders have also asked the Bank to focus increasingly on the poorest countries in Asia and the Pacific, and to ensure that its private sector investments will lead to poverty reduction.

7.5 The Bank has two main lending windows to channel its development assistance: Ordinary capital resources (OCR) and the Asian Development Fund (AsDF). The GCI will increase the Bank's OCR operations. OCR is used to lend around $8 billion per annum at near market rates, mainly to Asia's middle-income countries. It also funds private sector operations in poor countries.

7.6 The Bank requires a stronger capital base in order to respond effectively to the economic crisis and to implement Strategy 2020. The Bank funds its lending from its capital and reserves, repayments of past loans, and profits and investment income. Based only on these, the Bank could sustain annual lending of around $4 billion. In late 2008, G20 leaders recognised that a significant response to the financial crisis would deplete the resources of the Bank and severely reduce its ability to finance long term infrastructure projects. The Bank needed to expand its capital base in order to ensure the level of lending required for future development in Asia and the Pacific.

7.7 The Bank proposed a 200% GCI with 4% paid up in February 2009 and the GCI was supported by G20 leaders at the London Summit in April 2009. The GCI of 200% increases the Bank's authorised capital stock by 7,092,622 shares and authorises increases in individual member's subscriptions. This is equivalent to an increase of $110 billion in shares and a trebling in the size of its capital base. The increase will allow the Bank to lend an additional $15 billion during 2009 to 2011 and sustain lending thereafter at $11 billion per annum.

7.8 The risk associated with the GCI is that the UK will be asked to pay for the callable shares of $1.67bn. Although the AsDB has the right to call for payment for these 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 Fifth General Capital Increase Resolution No. 336 on 29 April 2009. (A copy of Resolution No. 336 has been laid in the House of Commons library together with the GCI policy paper). If this Order is approved, in accordance with Resolution No. 336, the United Kingdom's paid-in contribution will be made in five annual instalments from 2010 to 2015, each in the form of a non-negotiable, non-interest bearing promissory note expressed in United States dollars and encashable on demand according to an agreed encashment schedule.

8. Consultation Outcome

8.1 Not relevant in the context of this instrument.

9. Guidance

9.1 Not relevant in the context of this instrument.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument because there is no impact on business, charities or voluntary bodies in the United Kingdom.

11. Regulating small business

11.1 The legislation does not apply to small business in the United Kingdom.

12. Monitoring and review

12.1 The Bank has an established results framework and uses this to focus efforts on those MDGs which are off track. The progress and benefits of the GCI will be monitored until 2015 in line with the MDG timetable. The Bank also produces annual reports on development effectiveness as well as regular financial and operational statements.

12.2 DFID also monitors the Bank's performance as part of its continuous engagement with the Bank. This focuses on the results framework and a joint strategy with our partners at the Board of Directors with whom the UK shares a constituency (Austria, Germany, Luxembourg, and Turkey). The GCI investment will be monitored through these same processes and additionally through a GCI Logical Framework document. This document has been produced to monitor progress against a set of performance indicators and is available on DFID's public website.

13. Contact

13.1 Further information concerning the proposed instrument can be obtained from Keith Thompson at the Department for International Development via email (k-thompson@dfid.gov.uk) or telephone (020 7023 0724).