

## EXPLANATORY MEMORANDUM ON THE ARTICLES OF AGREEMENT OF THE ASIAN INFRASTRUCTURE INVESTMENT BANK

### Treaty title

ARTICLES OF AGREEMENT OF THE ASIAN INFRASTRUCTURE INVESTMENT BANK

Command paper number: 9126.....

### Subject matter

This Explanatory Memorandum refers to the proposed ratification by the United Kingdom of the Articles of Agreement of the Asian Infrastructure Investment Bank (the "AoA").

The Asian Infrastructure Investment Bank ("AIIB") is a new multilateral investment bank, which will invest in large-scale infrastructure projects across Asia to improve economic development and growth potential in the region. The aim of the AIIB is to help fill the massive infrastructure deficit in Asia by helping to fund large projects.

The AIIB has 57 prospective founding members (37 from within Asia and 20 non-regional members) who engaged in formulating the AoA. Negotiations ensured the AIIB will adhere to high standards in governance and accountability while being lean and efficient. The AoA were signed on behalf of the UK by Lord O'Neill of Gatley at a signing ceremony on 29<sup>th</sup> June 2015.

The AIIB will begin operations with \$100bn total authorised capital. It will be financed by members' contributions proportionate to their economic size. The UK will make a capital contribution of \$3.054 billion (around £2 billion) to the AIIB. 20% of this contribution will be paid in capital, made in five equal annual instalments of \$122 million (around £80 million), with the first due in the financial year 2015 to 2016; the remaining 80% of the contribution will be in the form of callable capital. The paid in capital contribution will increase debt but not the deficit as it is a financial transaction and therefore is an asset of the UK. Callable capital is recorded as a contingent liability in the public finances and would only be subject to call as and when required by the Bank to meet its liabilities. It is very rare that callable capital would be called upon in an international financial institution.

### Ministerial responsibility

The Chancellor of the Exchequer has overall responsibility for the AIIB in the UK. The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for the conclusion and implementation of treaty obligations and responsibility for their application in Overseas Territories. The Secretary of State for International Development also has a policy interest.

## **Policy considerations**

### **i) General**

The AIIB is being established to address the shortage of infrastructure investment in Asia. The AIIB has the potential to become an important part of the international financial architecture, working with existing Multilateral Development Banks (MDBs) to strengthen growth in the region and benefit the global economy.

The UK first announced that it would become a prospective founding member of the AIIB in March 2015. In doing so, the UK was the first major Western economy and first member of the G7 to apply to join the AIIB.

The UK has actively promoted closer political and economic engagement with the Asia-Pacific region and is forging links between the UK and fast growing Asian economies. Joining the AIIB is a further step in the Government's plan to build a closer political and economic relationship with the Asia region, in order to maximise opportunities for British businesses.

The AIIB will become fully operational when at least ten members, representing not less than 50% of total capital have ratified and we expect this to be by the end of 2015. It is therefore important that the UK ratifies early to become a full member and contribute fully to early discussions.

Chapter IX of the AoA requires members to confer legal capacity on the AIIB and grant certain privileges and immunities to the AIIB and its officers and employees. Article 44(2) of the AoA provides that each Member shall promptly take such action as is necessary to make effective in its own territory the provisions set forth in Chapter IX and shall inform the AIIB of the action which it has taken.

### **ii) Financial**

The UK will make a capital contribution of \$3.054 billion (around £2 billion) to the AIIB. 20% of this contribution will be paid in capital, made in five equal annual instalments of \$122 million (around £80 million), with the first due in the financial year 2015 to 2016; the remaining 80% of the contribution will be in the form of callable capital. The paid in capital contribution will increase debt but not the deficit as it is a financial transaction and therefore is an asset of the UK. Callable capital is recorded as a contingent liability in the public finances and would only be subject to call as and when required by the Bank

to meet its liabilities. It is very rare that callable capital would be called upon in an international financial institution.

The Government will seek approval from Parliament for this contribution under Section 11 of the International Development Act 2002.

### **iii) Implementation**

The UK's capital contribution must be agreed by Parliament by an Order made under Section 11 of the International Development Act 2002.

The UK will implement the provisions of Chapter IX of the AoA, conferring legal capacity on the AIIB and granting the specified privileges and immunities, by way of an affirmative Order in Council under sections 1 and 10 of the International Organisations Act 1968. The Scottish Government will also make an affirmative Order in Council in relation to those privileges and immunities which involve devolved matters.

To ratify the AoA the UK must deposit an instrument of ratification with the Chinese Government which is the depository for the AoA. In accordance with Article 59, the AoA will come into force and the AIIB will become fully operational when instruments of ratification, acceptance or approval have been deposited by at least 10 members whose capital contributions account for not less than 50% of the total capital.

The One-in Two-out Rule has been considered as part of the process of concluding the AoA, but is not applicable.

### **iv) Reservations and declarations**

If the draft privileges and immunities Orders have been affirmatively approved by Parliament and the Scottish Parliament, but not yet been made by Privy Council at the time that the AoA is about to enter into force, the UK will ratify the AoA subject to a declaration under Article 44(2) notifying the AIIB of the action it has taken to make the provisions of Chapter IX effective in the UK.

If the draft privileges and immunities Orders have not been affirmatively approved by either Parliament or the Scottish Parliament at the time that the AoA is about to enter into force, the UK will ratify the AoA subject to a reservation in relation to the provisions of Chapter IX of the AoA. This reservation could then be withdrawn following the making of the privileges and immunities orders.

## **v) Consultations**

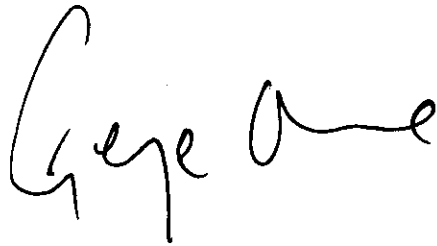
The Chancellor of the Exchequer made a written ministerial statement to Parliament when he announced that the UK would become a prospective founding member of the AIIB in March 2015.

Other Government departments including Cabinet Office, Foreign and Commonwealth Office and the Department for International Development have been consulted on the UK joining the AIIB and ratification.

Overseas Territories and Crown Dependencies have been consulted on the UK joining the AIIB and ratification.

Devolved Administrations have been consulted on the UK joining the AIIB and ratification.

The Scottish Government has been consulted on privileges and immunities. The Scottish Government will also make an affirmative Order in Council in relation to those privileges and immunities which involve devolved matters.

A handwritten signature in black ink, appearing to read 'George Osborne', written in a cursive style.

**George Osborne**

**First Secretary of State and Chancellor of the Exchequer**