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ECONOMIC COMMISSION FOR AFRICA
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Preparatory Work for the
African Development Bank
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MODEL LETTERS OF APPOINTMENT OF THE
AFRICAN DEVELOPMENT BANK

Preliminary Drafts Prepared by
the Executive Secretary

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MODEL LETTERS OF APPOINTMENT OF THE

AFRICAN DEVELOPMENT BANK

Introductory Note

by the

Executive Secretary

1. Resolution 3 of the Conference of Finance Ministers,^{1/} which entrusted the Committee of Nine to carry out the work preparatory to the establishment of the ADB, requested that Committee, inter alia, to draft for the Bank legal instruments which may promote or advance the effective commencement of its activities. In pursuance of this mandate the Committee requested the Executive Secretary of the United Nations Economic Commission for Africa to prepare preliminary drafts of Letters of Appointment which the first President of the Bank may use for recruitment of the staff of the Bank.

2. The Draft Staff Regulations of the ADB provide for fixed term, indefinite and short-term appointments (ADB Staff Reg.5.6(a)). However, the Draft Staff Rules of the ADB apply to all staff members except those appointed on short-term service for which a separate set of staff rules is envisaged (ADB Staff Rule 1.1). Thus, the Committee is at present concerned with staff which will serve on fixed-term or indefinite appointments only. Such staff will be appointed by Letters of Appointment (ADB Staff Reg.5.5(a)). The latter must contain "expressly or by reference" all the terms and conditions of employment and, in particular, the details set out in ADB Staff Reg.5.5 (b) (cf. ADB Staff Rule 5.5).

3. Accordingly, the Executive Secretary submits herewith, in Part I of this document, a preliminary draft of a Letter of Appointment for fixed-term staff members; in Part II thereof, a preliminary draft of a Letter of Appointment for staff members serving for an indefinite term;

^{1/} Resolution 3, para.1(c), on the Preparatory Work for the Establishment of the African Development Bank adopted by the Conference of Finance Ministers at its final Plenary Session on 4 August 1963 at Khartoum.

and in Part III a number of Notes which explain certain points in the preliminary drafts. Unless these Notes expressly state otherwise, they apply to the clauses of both types of Letters of Appointment.

4. The Committee will observe that but for the beginning of the Introductory Clause and Clause 3, concerned with Tenure of Appointment, the text of both types of Letter of Appointment is identical. On the other hand, within each text Clause 2 relating to Salary and Allowances differs according to whether the candidate is appointed in

the Administrative or General Service Category ("First Alternative");
or in
the Manual Workers' Category ("Second Alternative").

When the Letters of Appointment come to be finalized for recruitment, the President of the Bank may therefore choose to have four, not two, forms of Letter printed in order to make each form more intelligible for the candidate.

5. After consideration of this document by the Committee, the Executive Secretary proposes to submit it, as amended in the light of its comments, to the Committee for adoption in form of an Annex to the Committee's Report on the Staff Rules and Regulations of the ADB.

I. FIXED-TERM APPOINTMENTS

AFRICAN DEVELOPMENT BANK

LETTER OF APPOINTMENT

No. .../FTA

Note 1(i) and (ii) Mr/Mrs/Miss ... (Full Name)
of ... ((Permanent Address) (hereinafter
called the "Staff Member")
Note 2 is hereby appointed for a FIXED TERM a member of the
staff of the African Development Bank (hereinafter
Note 1(iii) called the "Bank") subject to the terms and condi-
tions specified in this Letter of Appointment and
to the provisions of the Staff Regulations and Staff
Rules of the Bank, including any changes that may be
made in such Staff Regulations and such Staff Rules
from time to time. This appointment is made on the
Note 3 basis, inter alia, of the certification by the Staff
Member of the accuracy of the information supplied
in the Personal Record Form of the Staff Member.
Note 4 A copy of the Staff Regulations and Staff Rules is
transmitted herewith.
1. Initial Assignment
The Staff Member shall serve
as ... (function) ... in ... (department) ...
Notes 1(iv) and 5 in ... (Category) ... Grade: ... Step: ...
Note 6 at the Principal Office/ of the Bank.
Notes 1(vi) and 7 Effective Date of Appointment: ...

First Alternative:
Categories AD and G

2. Salary and Allowances

Notes 1(iv)
and 8

(a) The annual salary of the Staff Member shall be equivalent to ... units of account^{1/} representing at present (in "local currency")...

Notes 9 and
10

(b) This salary shall be payable, at the rate determined by the President of the Bank, in ... ("local currency") subject to any entitlement the Staff Member may have to the transfer and payment of a part of his salary in another currency within the limits and in accordance with the conditions determined by the Staff Regulations and Staff Rules of the Bank.

Note 11

(c) The Staff Member shall be affiliated to the Staff Provident Fund of the Bank.

Note 12

(d) The salary specified in paragraph (a) of this Clause does not include any allowances to which the Staff Member may be entitled by virtue of the rules and regulations of the Bank.

Second Alternative:

Category M

2. Salary and Allowances

Notes 1(iv)
and 13

(a) The salary of the Staff Member shall be at the rate of ... ("local currency") ... a year/month/week/hour. It shall be payable in ... ("local currency")...

Note 11

(b) The Staff Member shall be affiliated to the Staff Provident Fund of the Bank.

^{1/} A unit of account, defined in terms of fine gold in Article 5(1)(b) of the Agreement Establishing the African Development Bank, is at present equivalent to one US dollar.

Note 12 (c) The salary specified in paragraph (a) of this Clause does not include any allowances to which the Staff Member may be entitled by virtue of the rules and regulations of the Bank.

Note 1(v) 3. Tenure of Appointment

Note 14 (a) This appointment is for a fixed term of from the effective date of appointment specified in Clause 1 of this Letter of Appointment. It will therefore expire on

Note 15 (b) This appointment is subject to a probationary period of ...

Note 16 (c) This appointment may be terminated before its expiration date in accordance with the relevant provisions of the Staff Regulations and Staff Rules of the Bank (and, in particular, on the grounds indicated in Regulation 5.8(a)(i) to (vi) of the Staff Regulations). Except in the case of summary dismissal on disciplinary grounds, the Staff Member shall be given, in the event of such termination, written notice of not less than

(one month, if he is in Category AD or G)

(fifteen days, if he is in Category M)

In appropriate cases a substantially longer period of notice is provided in the Staff Rules of the Bank.

Note 17 (d) The Staff Member may resign this appointment before its expiration date upon giving the President of the Bank written notice of at least three months unless the President agrees to a shorter period of notice.

Notes 1(vii) and 20 4. Special Conditions

Note 2 5. Acceptance

The Staff Member shall make forthwith a written Declaration accepting this appointment subject to the conditions specified in the present Letter of Appointment and to those laid down in the Staff Regulations and Staff Rules of the Bank, and confirming that the Staff Member has received a copy of such Staff Regulations and such Staff Rules.

Date

Note 21

The President/
The Secretary-General/
The Head of Personnel
on behalf of the President

To the
President/Secretary-General/Head of Personnel of
the African Development Bank

Declaration

I hereby declare that I accept the appointment as a member of the staff of the African Development Bank described in the Letter of Appointment No....., subject to the conditions therein specified and to those laid down in the Staff Regulations and Staff Rules of that Bank. I confirm that I have received a copy of those Staff Regulations and Staff Rules.

Date

Signature of the Appointee

II. INDEFINITE APPOINTMENTS

AFRICAN DEVELOPMENT BANK

LETTER OF APPOINTMENT

No. .../1A

Note (i) Mr/Mrs/Miss ... (Full Name)
and (ii) of ... (permanent Address) (hereinafter
called the "Staff Member")

Note 2 is hereby appointed for an INDEFINITE TERM a member
of the staff of the African Development Bank (herein-
after called the "Bank") subject to ...

(The remainder of the text of the Letter of
Appointment, with the exception of Clause 3,
and the text of the Declaration of Acceptance
are identical with the corresponding Letter and
Declaration for Fixed-Term Appointments. Clause
3 should read as follows:)

3. Tenure of Appointment

Note 18 (a) This appointment is for an indefinite term which,
however, shall not exceed two years in duration.

Note 19 (b) This appointment may be brought to an end by the
President of the Bank or the Staff Member subject
to notice in writing of

(Specify the periods of notice in accordance
with ADB Staff Rule 5.23(c))

Note 16 (c) Furthermore, this appointment may be terminated
in accordance with the relevant provisions of the
Staff Regulations and Staff Rules of the Bank
(and, in particular, on the grounds indicated in
Regulation 5.8(a)(i) to (vi) of the Staff Regula-
tions). Except in the case of summary dismissal

on disciplinary grounds, the Staff Member shall be given, in the event of such termination, written notice of not less than

(one month, if he is in Category AD or G)

(fifteen days, if he is in Category M)

In appropriate cases a substantially longer period of notice is provided in the Staff Rules of the Bank.

Note 17

- (d) The Staff Member may always resign this appointment upon giving the President of the Bank written notice of at least three months unless the President agrees to a shorter period of notice.

III. NOTES

TO THE MODEL LETTERS OF APPOINTMENT

1. According to ADB Staff Reg. 5.5(b) the Letter of Appointment must indicate:

- (i) the name of the staff member;
- (ii) the type of appointment (cf. ADB Staff Reg. 5.6(a); ADB Staff Rule 5.13(a));
- (iii) that the appointment is subject to the provisions of the Staff Regulations and Staff Rules of the Bank, including any changes that may be subsequently made therein;
- (iv) the category, grade and step to which the staff member is appointed as well as his commencing rate of salary;
- (v) the period of appointment, the notice required to terminate the appointment, and the probationary period, if any;
- (vi) the date on which the staff member is required to take up his duties (called "the effective date of appointment": cf. ADB Staff Rule 5.6); and
- (vii) any special terms or conditions that may apply.

The Letter of Appointment contains, expressly or by reference, all the terms and conditions of employment of the staff member: cf. ADB Staff Rule 5.5.

2. Under ADB Staff Reg. 5.5(a) a staff member is appointed as such by the Letter of Appointment. The appointment is, however, subject to a Declaration of Acceptance by the staff member (see Clause 5). (In the United Nations, a staff member receives a Letter of Appointment upon his appointment. The Letter of Appointment is, however, couched in form of an offer. The appointee accepts "The appointment" etc. etc.)

3. The President may terminate the appointment if facts anterior thereto and relevant to the employment of the staff member come subsequently to light which, had they been known at the appointment, should have precluded it (ADB Staff Reg. 5.8(a)(i); concerning the staff member's duty to supply information on appointment, see ADB Staff Rule 5.7). The President of the Bank will decide whether the form which the candidate will complete before appointment should be called "Personal Record Form", "Application Form", "Personal History Form", etc.
4. A copy of the Staff Regulations and Staff Rules must be transmitted to each staff member together with his Letter of Appointment: ADB Staff Reg. 5.5(c).
5. ADB Staff Rule 5.14 lays down at what step a staff member may be appointed.
6. The model Letters of Appointment are drafted on the assumption that an, albeit small, number of staff members will be serving the Bank elsewhere than at its Principal Office. However, unless assigned by the President to serve elsewhere, a staff member shall serve at the Principal Office as his duty station: ADB Staff Rule 5.18.
7. See Note 1(vi) above. Under ADB Staff Rule 5.6, the appointment of a locally recruited staff member takes effect from the date on which he takes up his duties; that of an internationally recruited staff member, as a rule, from the date on which he enters into official travel status. (As to local and international recruitment, cf. ADB Staff Rules 5.9 to 5.10.)
8. First Alternative: Pursuant to ADB Staff Reg. 4.1(b) the salary scales of Categories AD and G are expressed in units of account (cf. ADB Staff Rules 4.1/1 and 4.1/2). Hence the "commencing rate of salary" must be also stated in such units of account. In order to make the text of Clause 2(a) more intelligible to the staff member it is proposed:

- (i) to explain in a footnote the unit of account in terms of the US dollar; and
- (ii) to give the current equivalents of the salary in the currency of the State in which the Principal Office of the Bank is located or of any other country in which the staff member concerned is to serve (in either case the currency is called "local currency"; see Note 6 above and Note 9 below).

Salaries for Categories AD and G will be fixed on an annual basis.

9. First Alternative:

Under ADB Staff Reg. 4.3(b), the salary of a staff member, subject to any transfer rights, is payable "in the currency of the State in which he serves the Bank" (cf. Note 6 above). As for Categories AD and G it is expressed in units of account (ADB Staff Reg. 4.1(b)), it is - in order to avoid any disputes - essential that the Letter of Appointment should specify that the President, and he alone, will determine the "rate" at which the units of account will be translated into "local currency". (Technically, this is not the determination of a "rate of exchange" but of a "parity" of the "unit of account" in terms of "local currency").

10. First Alternative:

A Staff member in Category AD or G may be entitled to have a part of his salary transferred and paid in the currency of the State of which he is a national or in which he normally resided at his appointment (cf. ADB Staff Reg. 4.3(b); ADB Staff Rule 4.10). Under the proposed Clause 2(b) the entitlement is wholly governed by the Staff Regulations and Staff Rules which, of course, may change from time to time. If desired, a specific reference to ADB Staff Rule 4.10 could be included. However, it would then become

arguable whether the President may change that the Rule with effect as regards the staff member concerned or whether the latter will thereby actually "acquire" a right to the transfer as stipulated in ADB Staff Rule 4.10 at the time of his appointment.

If, on the other hand, the President desires in a given case, to warrant to a staff member his entitlement to transfer, he may specify the percentage of the salary provided in ADB Staff Rule 4.10 and the currency concerned under Clause 4 ("Special Conditions") of the Letter of Appointment. If he does this, no change to the disadvantage of that staff member may be made during the operation of the Letter of Allotment as the staff member will have actually acquired a right to the transfer (see ADB Staff Reg. 12.1).

11. See ADB Staff Reg. 7.1 under which the Bank and the Staff shall contribute to the Staff Provident Fund. The contributions of the staff member may be deducted from his salary: ADB Staff Rule 4.13(i).
12. Clause 2(d) is inspired by the corresponding clause in the United Nations Letter of Appointment. The phrase "rules and regulations of the Bank" was chosen in case an allowance is provided in an instrument other than the Staff Regulations or the Staff Rules of the Bank.
13. Second Alternative:
Pursuant to ADB Staff Reg. 4.1(c) the salary scale (including wage rates) for Category M is expressed in the currency of the country in which - as the case may be - the Principal Office, the branch or agency of the Bank is situated. (Cf. ADB Staff Rule 4.1/3). The salary will be payable in the currency of the country in which the staff member serves the Bank ("local currency"; ADB Staff Reg. 4.3(a)). This is the currency in which the salary should be specified in his Letter of Appointment. It is at present

unknown whether salaries and wage rates for Category M will be fixed on an annual, monthly, weekly or hourly basis or differ according to the particular function of staff members working in that Category.

14. Fixed-Term Appointments: The term, as specified, must be for a period of not less than one year and not exceeding (five) years (ADB Staff Reg. 5.6(b)).
15. Fixed-Term Appointments are subject to a probationary period the length of which is determined in ADB Staff Rule 5.13(b) and which ends in accordance with the provisions of ADB Staff Reg. 5.8(b).
16. The text of Clause 3(c) is inspired by the United Nations Letter of Appointment. It is, however, suggested to add the phrase at present in brackets so as to make the text more intelligible to the staff member concerned. Furthermore, the text specifies the shortest maximum period of notice provided in ADB Staff Rule 5.23(a). However, a sentence has been included to indicate that a substantially longer period may apply under the Staff Rules. No mention is specifically made to ADB Staff Rule 5.23, as its provisions may be changed by the President from time to time.

The United Nations Letter of Appointment refers to the possibility of the payment of an indemnity in the event of termination.

17. A staff member may always resign his appointment by virtue of ADB Staff Reg. 5.10(a) and ADB Staff Rule 5.23(d).
18. Indefinite Appointments may not exceed two years in duration: ADB Staff Reg. 5.6(c). If it is desired, in a given case, to make an indefinite appointment subject to a probationary period, this should be specified in Clause 4 (Special Conditions).
19. Indefinite Appointments: Clause 3(b) should expressly specify the periods of notice which apply either by virtue of ADB Staff Rule

5.23(c) or of a special agreement with the staff member providing for shorter periods of notice.

20. Instances of Special Conditions were given in Notes 10 (in fine) and 18 above. Such Special Conditions must be in conformity with the Staff Regulations and Staff Rules in force at the time of the appointment (see, however, ADB Staff Rule 12.1(b)). They may actually confer "acquired" rights of the staff member which will not be affected to his disadvantage by any subsequent amendments to the Staff Regulations or Staff Rules (cf. ADB Staff Reg. 12.1).

21. It is suggested that the Letters of Appointment of Directors should be signed by the President; the Letters of Appointment of other staff members in Category AD, by the Secretary-General; and the Letters of Appointment of staff members in the Categories G and M by the Head of Personnel of the Bank.