



THE AFRICAN CAPACITY
BUILDING FOUNDATION

**CONSTITUTION OF
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ARTICLE I

ESTABLISHMENT

There is hereby established the African capacity Building Foundation (hereinafter called ACBF) which shall operate in accordance with the provisions of this Constitution.

ARTICLE II

STATUS

ACBF shall operate as an autonomous non-profit agency.

ARTICLE III

PURPOSE AND ACTIVITIES

1. The purposes of ACBF are to:
 - (a) create a consultative forum in which Africans may participate as full partners in the

establishment of priorities and the development of policies and programs to promote capacity building in policy analysis and development management;

- (b) establish processes for coordinating capacity building efforts in policy analysis and development management that would lead to greater efficiency and effectiveness of ongoing donor efforts;
- (c) provide funding and resources to enhance new and ongoing capacity building and capacity utilization activities in policy analysis and development management in Africa;
- (d) provide funding and resources to support institutions carrying out activities designed to reverse the brain drain and to utilize, to the maximum extent, available African talent;
- (e) establish systematic links between economic research and training institutions, and governments, to foster greater understanding and communications between such entities; and
- (f) mobilize financial and technical resources for increased investment in human capital and manpower institutions (research and training) in Africa on a consistent, sustainable and long-term basis.

2. In order to accomplish the foregoing purposes, ACBF may engage in the following types of activities:
 - (a) assist through the provision of funds, or otherwise, in the rehabilitation and upgrading of existing policy analysis and development management research and training institutions;
 - (b) assist through the provision of funds, or otherwise, in the establishment of new institutions;
 - (c) identify, design and promote national and regional networks of researchers, analysts, managers and professional associations in Africa;
 - (d) sponsor technical seminars and consultative fora;
 - (e) support and fund fellowship programs for the training of suitably qualified African staff;
 - (f) publish and disseminate information related to capacity building and capacity utilization in Africa;
 - (g) collaborate with national, bilateral or multilateral institutions carrying out specific capacity building and capacity utilization activities in Africa; and
 - (h) carry out such other activities which may advance the purposes of ACBF.

3. ACBF shall not be influenced by political considerations in its activities, management or staffing.

ARTICLE IV

OPERATIONS

1. The resources of ACBF shall be used to achieve the purposes and activities specified in Article III.
2. Financing by ACBF shall be provided to individuals and development management, research and training institutions and entities in Africa for activities consistent with the purposes specified in Article III.
3. ACBF shall make arrangements to ensure that the proceeds of any financing it provides are used only for the purposes for which the financing was provided, with due attention to considerations of economy, efficiency and technical viability.
4. In allocating its resources, ACBF shall be guided by priorities established by the Executive Board.
5. Subject to the provisions of this Constitution, financing by ACBF shall be governed by broad policies, criteria and regulations laid down from time to time by the Executive Board.
6. Financing by ACBF shall take such forms and shall be provided on such terms and conditions as ACBF deems appropriate, having regard to the nature and requirements of the activity concerned.
7. The Executive Secretary shall submit projects and programs to the Executive Board for consideration and approval.

8. Decisions with regard to projects and programs shall be made on the basis of the broad policies, criteria and regulations established from time to time by the Executive Board.
9. An appropriate agreement shall be concluded in each case between ACBF and the recipient which shall be responsible for the carrying out of the project or program.

ARTICLE V

POWERS

1. ACBF shall possess full juridical personality. ACBF shall have the capacity to do and perform all acts and things which are necessary for or incidental to the furtherance of its purposes and activities and, in particular, the capacity to:
 - (a) receive, acquire or otherwise obtain from any governmental or international entity, or from any natural or corporate person, foundation or other entity, such rights, charters, licenses, concessions and assistance, financial or otherwise, as are conducive to the attainment of its purposes;
 - (b) receive, acquire or otherwise obtain from any governmental or international entity, or from any natural or corporate person, foundation or other entity, by donation, grant, bequest or any other means, such properties, real or personal or

mixed, including funds, valuable things or interests therein, as may be useful or necessary to carry out its purposes and activities, and to hold, own, operate, administer, use, sell, convey or dispose of said properties or valuable things or interests;

- (c) enter into contracts and other types of activities;
- (d) employ persons; and
- (e) institute, and defend in, legal proceedings.

ARTICLE VI

ORGANIZATION

The organization of ACBF shall consist of a Board of Governors, an Executive Board, an Executive Secretary and such staff as shall be necessary for ACBF to carry out its activities.

ARTICLE VII

BOARD OF GOVERNORS

1. Each government which contributes to the African Capacity Building Fund (hereinafter called ACB Fund) established pursuant to the provisions of the Memorandum of Understanding relating to the ACB

Fund dated as of December 7, 1990 and which meets the following minimum contribution requirements paid in freely convertible currencies:

- (a) the equivalent of two hundred and fifty thousand United States Dollars (US\$250,000) for African donors; and
 - (b) the equivalent of one million United States Dollars (US\$1,000,000) for all other donors, may appoint one representative to serve as a Governor on the Board of Governors and may also appoint an alternate.
2. The African Development Bank, the International Bank for Reconstruction and Development and the United Nations Development Programme (hereinafter collectively called the Sponsoring Agencies), which are co-sponsors of the African Capacity Building Initiative, may each appoint a Governor and an alternate.
 3. Each Governor shall have one vote and an alternate may vote only in the absence of his principal.
 4. The Board of Governors shall hold an annual meeting each year and such other meetings as it may decide, or as are called upon the initiative of at least one fourth of the members of the Board of Governors. The Board of Governors shall adopt its own rules of procedure.
 5. The Board of Governors shall be primarily concerned with decisions concerning ACBF's broad policies and shall more specifically:

- (a) appoint the members of the Executive Board (excluding the Executive Secretary and the members designated by the Sponsoring Agencies);
 - (b) appoint the Chairman of the Executive Board;
 - (c) terminate for cause the appointment of members of the Executive Board (excluding members designated by the Sponsoring Agencies) by a two-thirds majority of all members of the Board of Governors;
 - (d) approve the statement of policy of ACBF presented to it for consideration by the Executive Board;
 - (e) review, from time to time, the activities of ACBF in the context of the annual report of ACBF's activities presented to it by the Executive Directors and, in particular, measures to ensure continuity of its operations and the mobilization of resources for ACBF; and
 - (f) terminate the operations of ACBF and distribute its assets.
6. The Board of Governors may by regulation establish a procedure whereby the Executive Board may obtain a vote of the Board of Governors on a specific question without calling a meeting of the Board of Governors.
7. Members of the Board of Governors shall serve as such without compensation from ACBF.

ARTICLE VIII

EXECUTIVE BOARD

1. ACBF shall operate under the direction of an Executive Board which shall consist of no more than eleven (11) voting members, and the Executive Secretary, who shall be an *ex officio* non-voting member of the Executive Board. Each Sponsoring Agency shall designate one voting member of the Executive Board. The other eight voting members of the Executive Board, four of whom shall be citizens of four different African countries, and all of whom shall have professional accomplishments in the field of policy analysis and development management, shall be appointed by the Board of Governors.
2. The original members of the Executive Board shall be the persons whose names are set forth in the Schedule to this Constitution.
3. The terms of the original members of the Executive Board, except for the Executive Secretary and the members designated by the Sponsoring Agencies, shall be as set forth in the Schedule to this Constitution. Thereafter, each member shall be appointed to serve for three years and members shall be eligible for reappointment only once. Except for the Executive Secretary and the members designated by the Sponsoring Agencies, the Board of Governors shall appoint new members whenever vacancies occur, on the basis of the principles set forth in Article VIII.1 of this Constitution.

4. Appointed members of the Executive Board shall serve in their personal capacity and not as representatives of governments or organizations.
5. The Executive Board shall be responsible for the conduct of the general operations of ACBF, and for this purpose shall have the powers given to it under this Constitution or delegated to it by the Board of Governors including, *inter alia*, the power to:
 - (a) approve such rules and regulations as may be necessary for the proper conduct of the affairs of ACBF;
 - (b) cause a statement of policy of ACBF to be prepared for approval by the Board of Governors;
 - (c) determine the priorities of work for ACBF;
 - (d) approve ACBF's programs and operational plans;
 - (e) approve ACBF's annual budget estimates;
 - (f) appoint external auditors and approve audited financial statements;
 - (g) appoint the Executive Secretary and determine the terms and conditions of service for such position;
 - (h) approve the annual report on ACBF's activities;

- (i) approve the terms of any proposed agreements that the Executive Board may by regulation require to be submitted to it for approval; and
 - (j) do or perform all other acts necessary to carry out the powers given to it in this Constitution.
6. The Executive Board shall adopt its own rules of procedure. The Executive Board shall elect a Vice Chairman from among its voting members to serve until the expiry of his term on the Executive Board or for such lesser periods as the Executive Board may determine. The Chairman, and in his absence the Vice Chairman, shall preside over meetings of the Executive Board. A majority of the voting members shall constitute the quorum for any meeting of the Executive Board. Each voting member of the Executive Board shall have one vote and decisions of the Executive Board shall be made by a majority of votes cast.
7. The Executive Board shall meet at least three times every year and shall hold additional special meetings as may be required for the effective carrying out of its business. The Executive Board may establish a procedure whereby its Chairman may obtain a vote of members of the Executive Board on specific questions between meetings of the Executive Board.
8. The Executive Board may establish such committees as it may consider appropriate to assist in its work. Members of such committees need not necessarily be members of the Executive Board.

ARTICLE IX

EXECUTIVE SECRETARY AND STAFF

1. ACBF shall be administered by an Executive Secretary who shall be appointed by the Executive Board. The Executive Secretary shall be appointed for a term of four years and shall be eligible for reappointment for only one further term or for a shorter period. The appointment of the Executive Secretary may be terminated by the Executive Board by a two-thirds majority of all voting members of the Executive Board.
2. The Executive Secretary, under the control and direction of the Executive board, shall be responsible for conducting the business of ACBF and for assuring that its policies and programs are properly developed and carried out. The Executive Secretary shall be ACBF's legal representative and shall, within limits established by the Executive Board, be empowered to take such actions as shall be necessary for the attainment of the purposes of ACBF.
3. The Executive Secretary shall appoint such staff as may be required to carry out the purposes of ACBF in accordance with policies and regulations approved by the Executive Board. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, technical competence and integrity. Due regard shall be paid to the importance of recruiting staff on as wide a geographic basis as possible.

4. The Executive Secretary and the staff, in the discharge of their functions, owe their duty exclusively to ACBF and shall neither seek nor receive instructions in regard to the discharge thereof from any authority external to ACBF. The Executive Secretary and the staff shall not interfere in the political affairs of any country in which ACBF carries out its programs and activities. Only development policy considerations shall be relevant to their decisions and these considerations shall be weighed impartially in order to achieve the purposes of ACBF.
5. Within the limits established by the Executive Board, the Executive Secretary may : (a) appoint a senior member of the staff of ACBF to act in its absence or incapacity to act; and (b) delegate to certain senior staff members of ACBF the authority to sign contracts and other instruments on behalf of ACBF.

ARTICLE X

HEADQUARTERS

1. The Board of Governors shall determine the headquarters of ACBF.
2. ACBF may establish such other offices in other locations as required to support its programs as may be determined by the Board of Governors.

ARTICLE XI

FINANCE

1. The resources of ACBF shall consist of:
 - (a) funds contributed by donors to the ACB Fund;
 - (b) additional or special contributions; and
 - (c) income accruing from such contributions and other income.
2. In the initial phase of its operations, ACBF's financial resources shall be obtained from the contributions of donors to the ACB Fund and donations from any other governmental or international entity or any natural or corporate persons.
3. In order to ensure continuity in the operations of ACBF, the Executive Board shall periodically, at such intervals as it deems appropriate, review the adequacy of the resources available to ACBF; the first such review shall take place not later than three years after ACBF commences operations. If the Executive Board, as a result of such a review and on the basis of proposed programs and budgets of ACBF, deems it necessary or desirable, it shall inform the Board of Governors of its intention to mobilize more resources

for ACBF and, upon approval by the Board of Governors, may invite the donors to the ACB Fund to make additional contributions to such Fund or other donors to make contributions to the resources of ACBF on such terms as shall be agreed with such donors.

4. ACBF shall be authorized to receive contributions from other sources for the furtherance to its purposes and activities.
5. ACBF's financial operations shall be conducted in accordance with regulations approved by the Executive Board.

ARTICLE XII

EXTERNAL AUDITOR

A full financial audit of the operations of ACBF shall be conducted on an annual basis, by an independent international accounting firm selected by the Executive Board, not later than four months after the end of ACBF's financial year. The results of such audit shall be made available to the Executive Board for transmission promptly to the Board of Governors, but in any case not later than one year after the end of ACBF's financial year.

ARTICLE XIII

**RELATIONSHIPS WITH GOVERNMENTS,
OTHER ORGANIZATIONS, INSTITUTIONS
AND AGENCIES; SIGNIFICANT CONTRACTS**

1. ACBF shall enter into a headquarters agreement with the government of the host country.
2. ACBF may enter into appropriate agreements with governments (other than that of the host country) to facilitate its operations in such countries.
3. ACBF shall cooperate closely with intergovernmental organizations, international financial institutions, non-governmental organizations, governmental agencies and other entities as may be conducive to the implementation of ACBF's programs and objectives. To this end, ACBF may enter into agreements or establish working arrangements with such bodies, as may be decided by the Executive Board.
4. Neither the Sponsoring Agencies, individually or collectively, nor any other donor to the ACB Fund shall be liable for acts or obligations of ACBF. In all the agreements referred to in this Article and all other

significant contracts entered into by ACBF, provisions shall be included stating that ACBF possesses independent legal personality and neither the Sponsoring Agencies, individually or collectively, nor the other donors to the ACB Fund, shall be liable for any acts or obligations of ACBF.

ARTICLE XIV

RIGHTS, PRIVILEGES AND IMMUNITIES

1. ACBF, members of its Board of Governors and of its Executive Board, the Executive Secretary and staff shall enjoy in the territory of the host country, such rights, privileges and immunities as shall be stipulated in the headquarters agreement to be concluded between the host country and ACBF pursuant to Article XIII.1.
2. ACBF may enter into agreements with other countries in which it operates for the purpose of granting ACBF, its officials and staff comparable rights, privileges and immunities in support of ACBF's activities in such countries.

ARTICLE XV

AMENDMENTS

Any provision of this Constitution may be amended at any meeting of the Board of Governors by a two-thirds majority vote of all members provided that members voting in the affirmative for any amendment represent donors whose aggregate paid-in contributions to ACBF at the time of such vote, equals at least two-thirds of the aggregate paid-in contributions of all donors represented on the Board of Governors. Any amendments of Articles VIII.1 and XIII.4 shall, in addition, require the approval of each of the Sponsoring Agencies.

ARTICLE XVI

DISSOLUTION

1. ACBF may be dissolved at any meeting of the Board of Governors if it is determined by two-thirds majority vote of all members that ACBF is no longer required, or ACBF will no longer be able to function effectively, and provided that, members voting in the affirmative represent donors whose paid-in contributions to ACBF at the time of such vote, equals at least two-thirds of the aggregate paid-in contributions of all donors represented on the Board of Governors.
2. In case of dissolution, any assets of ACBF which remain after payment of its legal obligations shall be distributed as decided by the Executive Board and approved by the Board of Governors.

SCHEDULE

ORIGINAL MEMBERS OF THE EXECUTIVE BOARD

Name	Expiry of Term
1. Prof. Ojetunji Aboyade	2 years
2. Prof. Elliot Berg	3 years
3. Mr. Manuel R. Bridier	2 years
4. Dr. Jacques Diouf	3 years
5. Prof. Mulumba Lukoji	2 years
6. Mr. Harris Mutio Mule	3 years
7. Sir Douglas Wass	3 years
8. Mr. Lennart Wohlgemuth	2 years
9. Representative of the African Development Bank	
10. Representative of the International Bank for Reconstruction and Development	
11. Representative of the United Nations Development Programme	
12. Executive Secretary, ex-officio member	

AMENDMENTS TO THE CONSTITUTION

AMENDMENT NO. 1 Effective 14 May 1994

Amend Article VIII.7 by substituting for the words “shall meet at least three times every year” the words “shall meet at least two times every year”.

AMENDMENT NO. 2 Effective 26 June 2003

Amend Article VII as follows. The provisions highlighted in bold represent the relevant amendments:

ARTICLE VII

BOARD OF GOVERNORS

1. Each government or organization which contributes to the **Trust Funds established specifically for the joint financing of ACBF**, and which meets the following minimum contribution requirements paid in freely convertible currencies:
 - the equivalent of two hundred and fifty thousand United States Dollars (US\$250,000) for African donors; and
 - the equivalent of one million United States Dollars (US\$1,000,000) for all other donors,

shall become a Full Member of ACBF and may appoint one representative to serve as a Governor on the Board of Governors and may appoint an alternate.
2. **Any government or organization not belonging to the categories stipulated in Article VII.1 above may, by Resolution of the Board of Governors, become an Honorary Member of ACBF with such privileges and for such duration as may be specified in the mentioned Resolution. Honorary Members of ACBF shall not have voting power.**

3. **Any government or organization not belonging to the categories stipulated in Article VII.1 and Article VII.2 above may, by invitation of the Chair of the Board of Governors, and on behalf of the Board of Governors, attend an Annual or Special Meeting of the Board of Governors as an Observer. Observer status granted by the Chair of the Board of Governors shall be restricted to the meeting(s) specified in the letter of invitation. Observers shall not have voting power.**
4. **Any Honorary Member or Observer that eventually contributes financial or other resources to ACBF that make it eligible for full membership may become a Full Member of ACBF or opt to retain its current status.**
5. The African Development Bank, the International Bank for Reconstruction and Development and the United Nations Development Programme (hereinafter collectively called the Sponsoring Agencies), which **were** co-sponsors of the African Capacity Building Initiative, may each appoints a Governor and an alternate.

The subsequent provisions remain unchanged, except for the numbering as follows:

- *Article VII.3 becomes Article VII.6*
- *Article VII.4 becomes Article VII.7*
- *Article VII.5 becomes Article VII.8*
- *Article VII.6 becomes Article VII.9*
- *Article VII.7 becomes Article VII.10*