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No. 641

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du 1^{er} octobre 1968 au 14 octobre 1968

N° 641

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**UNITED NATIONS DEVELOPMENT PROGRAMME
(SPECIAL FUND)
and
AFRICAN DEVELOPMENT BANK**

**Agreement concerning the execution of projects of the Special
Fund sector of the United Nations Development Pro-
gramme. Signed at New York, on 9 October 1968**

Official text: English.

Filed and recorded by the Secretariat on 9 October 1968.

**PROGRAMME DES NATIONS UNIES
POUR LE DÉVELOPPEMENT (FONDS SPÉCIAL)
et
BANQUE AFRICAINE DE DÉVELOPPEMENT**

**Accord relatif à l'exécution de projets du Fonds spécial du
Programme des Nations Unies pour le développement.
Signé à New York, le 9 octobre 1968**

Texte officiel anglais.

Classé et inscrit au répertoire par le Secrétariat le 9 octobre 1968.

No. 641. AGREEMENT¹ BETWEEN THE UNITED NATIONS DEVELOPMENT PROGRAMME AND THE AFRICAN DEVELOPMENT BANK CONCERNING THE EXECUTION OF PROJECTS OF THE SPECIAL FUND SECTOR OF THE UNITED NATIONS DEVELOPMENT PROGRAMME. SIGNED AT NEW YORK, ON 9 OCTOBER 1968

WHEREAS the United Nations Development Programme (hereinafter referred to as the UNDP), on the basis of Resolutions 1240 (XIII)² and 2029 (XX)³ of the General Assembly, has agreed to provide certain Governments with assistance out of its Special Fund Sector in carrying out projects for the purpose of promoting social progress and better standards of life and advancing the economic, social and technical development of peoples;

WHEREAS the Administrator of the UNDP desires to obtain the services of the African Development Bank (hereinafter referred to as the Executing Agency) to execute certain projects;

WHEREAS the Governing Body of the Executing Agency has agreed to cooperate with the UNDP on this basis;

NOW THEREFORE the Administrator of the UNDP (hereinafter referred to as the Administrator) and the Executive Head of the Executing Agency have agreed as follows:

Article I

PERFORMANCE OF WORK BY EXECUTING AGENCY

1. The Executing Agency agrees to carry out each project assisted by the Special Fund Sector of the UNDP in accordance with a Plan of Operation which shall be agreed to by the UNDP, the Government and the Executing Agency. The terms of this Agreement shall apply to each Plan of Operation.

2. The Executing Agency shall commence execution of each project upon receipt of written authorization to do so from the Administrator. If the Adminis-

¹ Came into force on 9 October 1968, by signature, in accordance with article XII (1).

² United Nations, *Official Records of the General Assembly, Thirteenth Session, Supplement No. 18* (A/4090), p. 11.

³ United Nations, *Official Records of the General Assembly, Twentieth Session, Supplement No. 14* (A/6014), p. 20.

trator, after consultation with the Executing Agency, considers it to be necessary to suspend the execution of the project, he shall so notify the Executing Agency which shall thereupon suspend forthwith all further operations, after which discussion will be entered into as to future action.

Article II

CONCLUSION OF AGREEMENT WITH GOVERNMENTS

1. The UNDP will enter into an agreement with each Government at whose request a project is undertaken by the Executing Agency in terms substantially similar to those set forth in the Appendix¹ to this Agreement. Any substantial variation of these terms directly affecting the Executing Agency will be applicable to it only with its concurrency.

2. The Executing Agency may enter into an agreement with a Government consistent with the terms hereof concerning the execution of a project. Any such agreement shall be subject to provisions of the Agreement referred to in the preceding paragraph and shall require the prior concurrence of the Administrator.

Article III

EXECUTING AGENCY'S STATUS IN CARRYING OUT PROJECTS

The Executing Agency shall have the status vis-à-vis the UNDP of an independent contractor, and its personnel shall not be considered as staff members or agents of the UNDP. Without restricting the generality of the preceding sentence, the UNDP shall not be liable for the acts or omissions of the Executing Agency or of persons performing services on behalf of the Executing Agency. The Executing Agency shall not be liable for the acts or omissions of the UNDP or of persons performing services on behalf of the UNDP.

Article IV

INFORMATION REGARDING PROJECTS

1. The Administrator and the Government shall have the right to observe at any time the progress of any operation carried out by the Executing Agency under this Agreement, and the Executing Agency shall afford full facilities to the Administrator and the Government for this purpose.

2. The Administrator shall have the right to be furnished with such written information on any project as he may require, including supporting documentation of the kind mentioned in Article VII below.

¹ Not published herein; for an Agreement drawn up in terms identical to the model text set forth in this appendix, see United Nations, *Treaty Series*, Vol. 563, p. 71.

3. The Administrator shall supply to the Executing Agency all appropriate information becoming available to him in connexion with any operations carried out by the Executing Agency under this Agreement.

Article V

COSTS OF PROJECTS

1. The Executing Agency agrees to perform without charge to the UNDP, such part of each project as it may be in a position to undertake without any clearly identifiable additional expense to itself.

2. Each Plan of Operation shall include:

- (a) a project budget in which operations shall be shown chronologically in stages, with estimates of anticipated obligations and cash disbursements shown separately for each stage;
- (b) if required, a budget of other expenses necessarily and reasonably estimated to be incurred by the Executing Agency in the execution of projects in an amount to be mutually agreed by the UNDP and the Executing Agency after taking account of such facilities as the Executing Agency may be in a position to provide without charge.

3. The estimates to be included in the budgets referred to in the preceding paragraph shall cover all the cash expenditures to be made by the Executing Agency.

Article VI

MANNER OF PAYMENT

1. The Administrator shall notify the Executing Agency of earmarkings within the budgetary authorizations included in the Plan of Operation. Such earmarkings shall constitute the financial authority for an Executing Agency to incur obligations and expenditure in respect of a project in accordance with the Plan of Operation and the budgetary provisions contained therein.

2. In making the earmarkings, the Administrator shall take account of the operational stages specified in the Plan of Operation and the extent to which the Plan of Operation requires the incurring of obligations going beyond any particular operational stage.

3. The earmarkings made by the Administrator shall, so far as the Executing Agency is concerned, not be related to any particular category of income received by the UNDP.

4. The Administrator shall arrange for cash remittances to the Executing

Agency as required by the Executing Agency for the purpose of covering cash disbursements arising out of obligations incurred within the limit of earmarkings notified by the Administrator.

5. The accounts of a project shall be closed as soon as practicable, but normally within twelve months after the completion of the programme of work set out in the Plan of Operation, and earmarkings not utilized shall then lapse. In agreement with the Administrator, provision shall be made for unliquidated obligations valid at the closing of the accounts.

Article VII

RECORDS, ACCOUNTS, VOUCHERS

1. The Executing Agency shall maintain accounts, records and supporting documentation relating to operations under this Agreement in accordance with its financial regulations and rules in so far as applicable.

2. The Executing Agency shall furnish to the UNDP periodical reports on the financial situation of the operations at such times and in such form as may be agreed by the Administrator and the Executive Head.

3. The External Auditor of the Executing Agency shall examine and report upon the Executing Agency's accounts and records relating to operations under this Agreement, and the Executing Agency shall authorize its External Auditor to make such information available to the UNDP.

4. Without restricting the generality of paragraph 3 above, the Executing Agency shall submit to the Administrator audited statements of accounts as soon as possible after the close of each financial period and as soon as practical after completion of a project, together with the External Auditor's reports thereon.

Article VIII

EXPENSES OF PREPARATION OF PROJECTS

1. The Administrator will defray to the Executing Agency clearly identifiable additional expenses incurred by the Executing Agency with the prior consent of the Administrator during the examination of requests from Governments and the preparation of projects.

2. The Administrator may authorize the incurring of commitments in respect of a project approved by the Governing Council but for which a Plan of Operation has not yet been agreed.

Article IX

CURRENCY AND RATES OF EXCHANGE

1. The Administrator and the Executing Agency shall consult each other regarding the use of currencies available to them, with a view to the effective utilization of such currencies.

2. The Administrator may establish operational rates of exchange for transactions between the UNDP and the Executing Agency under this Agreement. Such rates of exchange may be revised by the Administrator in accordance with the Financial Regulations of the UNDP.

Article X

REVISION OF FINANCIAL ARRANGEMENTS

Without prejudice to obligations already incurred by the Executing Agency, the Administrator may, in agreement with the Government and the Executing Agency adjust the main categories of expenditure within a project budget (viz. experts, fellowships, equipment) within the total approved therefor by the Governing Council of the UNDP and may otherwise revise the financial arrangements for a project. Within the total budget approved for each project by the Governing Council, the Executing Agency may, in accordance with operational necessity, adjust any main category of expenditure by not more than 5 per cent thereof. Subject to the foregoing limitation, the Executing Agency may make any necessary detailed adjustments.

Article XI

IMMUNITIES OF SUBCONTRACTOR

In the event that the Executing Agency retains the services of any firm or organization to assist it in the execution of any project, the privileges and immunities to which such firm or organization and its personnel may be entitled under any agreement between the UNDP and a Government may be waived by the Executive Head of the Executing Agency where in his opinion the immunity would impede the course of justice and can be waived without prejudice to the successful completion of the project concerned or to the interests of the UNDP or the Executing Agency; the Executive Head of the Executing Agency will waive such immunity in any case in which the Administrator so requests.

Article XII

GENERAL PROVISIONS

1. This Agreement shall enter into force upon signature, and shall continue in force until terminated under paragraph 3 below.

2. This Agreement may be modified by written agreement between the Parties hereto. Any relevant matter for which no provision is made in this Agreement shall be settled by the Parties in keeping with the relevant resolutions and decisions of the appropriate organs of the United Nations. Each Party shall give full and sympathetic consideration to any proposal advanced by the other Party under this paragraph.

3. This Agreement may be terminated by either Party by written notice to the other and shall terminate sixty days after receipt of such notice.

4. The provisions of Articles IV through VII, inclusive, of this Agreement shall survive its expiration or termination to the extent necessary to permit an orderly settlement of accounts between the Parties and, if appropriate, with the Government.

IN WITNESS WHEREOF the undersigned, duly appointed representatives of the UNDP and of the Executing Agency, respectively, have on behalf of the Parties signed the present Agreement at New York this ninth day of October 1968.

For the United Nations
Development Programme:

Roberto M. HEURTEMATTE
Associate Administrator

For the Executing Agency:

Mamoun BEHEIRY
President
African Development Bank