

## ADF MANUAL TRANSMITTAL MEMORANDUM

**DATE:** July 27, 1998 TM No. 010

**TO:** ADF Manual Holders

**FROM:** Paul Magid, General Counsel



**SUBJECT:** Manual Section 201, The African Development Foundation Act  
Manual Section 203, Country Accords

### BACKGROUND:

Copies of this section will be sent out to the CLOs as soon as enough manual sections are approved to justify a mailing. If the subject matter is considered of sufficient importance to require immediate distribution, OPFO Regional Directors may fax a copy to their CLOs immediately.

### Manual Maintenance

<u>Remove Pages/Section</u>	<u>Dated</u>	<u>Insert Attached Pages/Section</u>	<u>Dated</u>
MS 201	6/4/85	Section 201	7/27/98
MS 203	7/5/88	Section 203	7/27/98

**Remarks:** For those of you who do not have copies of the current ADF Manual, insert this section under the appropriate chapter (200 series-Management) in the binder provided to you for that purpose.



# ADF MANUAL

**SUBJECT:**

THE AFRICAN DEVELOPMENT  
FOUNDATION ACT

**DATE:** 7/27/98**SECTION:** 201**RESPONSIBLE OFFICE:**

Office of the President

**SUPERCEDES:**

6/4/85

**THE AFRICAN DEVELOPMENT FOUNDATION ACT**  
Title V of the  
**International Security and Development Cooperation Act of 1980**  
Public Law 96-533 (22 U.S.C. §290h)

### SHORT TITLE

Sec. 501. This title may be cited as the “African Development Foundation Act”.

### CONGRESSIONAL FINDINGS

Sec. 502. (§290h.)

The Congress finds that—

- (1) social and economic development ultimately depends on the active participation of individuals within a society and on the enhancement of opportunities for those individuals;
- (2) the development of individuals and institutions in African countries can benefit by the provision of support for community-based self-help activities;
- (3) by enacting title IX of chapter 2 of part I of the Foreign Assistance Act of 1961 [22 USCS § 2218] and recent amendments to that Act, the Congress has sought to enable the poor to participate in the process of development;

- (4) the Inter-American Foundation, established by Congress in the Foreign Assistance Act of 1969 [22 USCS § 290f] to support the efforts of the people of Latin America and the Caribbean to solve their development problems, has demonstrated a successful approach to development; and
- (5) an African Development Foundation similar in structure to the Inter-American Foundation, but adapted to the specific needs of Africa, can complement current United States development programs in Africa. (Dec. 16 1980, P.L. 96-533, Title V, V 502, 94 Stat. 3151.)

## **ESTABLISHMENT**

### **Sec. 503. (§ 290h-1.)**

- (a) There is established a body corporate to be known as the "African Development Foundation" (hereafter in this title [22 USCS §§ 290h et seq.] referred to as the "Foundation").
- (b) The Foundation shall establish a principal office in the United States and may establish such branch offices in Africa as may be necessary to carry out its functions.

## **PURPOSES**

### **Sec. 504. (§ 290h-2.)**

- (a) In order to enable the people of African countries to develop their potential, fulfill their aspirations, and enjoy better, more productive lives, the purposes of the Foundation shall be:
  - (1) to strengthen the bonds of friendship and understanding between the people of Africa and the United States;
  - (2) to support self-help activities at the local level designed to enlarge opportunities for community development;
  - (3) to stimulate and assist effective and expanding participation of Africans in their development process; and
  - (4) to encourage the establishment and growth of development institutions which are indigenous to particular countries in Africa and which can respond to the requirements of the poor in those countries.
- (b) The Foundation shall carry out the purposes specified in subsection (a) in cooperation with, and in response to, organizations indigenous to Africa which are representative of the needs and aspirations of the poor in Africa and, in carrying out such purposes, the Foundation shall, to the extent possible, coordinate its development assistance activities with the activities of the United States Government and private, regional, and international organizations.

## FUNCTIONS

### Sec. 505. (§ 290h-3.)

(a)(1) In order to carry out the purposes set forth in section 504 [22 USCS § 290h-2], the Foundation may make grants, loans, and loan guarantees to any African private or public group (including public international organizations), association, or other entity engaged in peaceful activities for-

- A) the fostering of local development institutions and the support of development efforts initiated by communities themselves;
- B) the development of self-evaluation techniques by participants in projects supported under this section, for the purpose of transferring experience gained in such projects to similar development activities;
- C) development research by Africans and the transfer of development resources, expertise, and knowledge within Africa;
- D) the procurement of such technical or other assistance as is deemed appropriate by the recipient of such grant, loan, or guarantee, to carry out the purposes of this title [22 USCS 44 290h et seq.]; and
- E) other projects that would carry out the purposes set forth in section 504 [22 USCS § 290h-2].

(2) The total amount of grants, loans, and loan guarantees that may be made under this section for a project may not exceed \$250,000.

(3) The Foundation may disseminate to the American public and to United States and multilateral development institutions insights gained from African development projects assisted under this title [22 USCS §§ 290h et seq.].

(b) In making grants, loans, and loan guarantees under subsection (a), the Foundation shall give priority to projects which community groups undertake to foster their own development and in the initiation, design, implementation, and evaluation of which there is the maximum feasible participation of the poor. Where appropriate and in keeping with the purposes of this title [22 USCS §§ 290h et seq.], the Foundation may make such grants, loans, and loan guarantees to African entities which are representative and knowledgeable of, and sensitive to, the needs and aspirations of the poor and which would disburse funds acquired under such grants, loans, and loan guarantees to other African entities to carry out the purposes of this title.

## POWERS

### Sec. 506. (§ 290h-4.)

(a) The Foundation, as a corporation—

- (1) shall have perpetual succession unless dissolved by an Act of Congress;
- (2) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction;
- (3) may adopt, alter, and use a seal, which shall be judicially noticed;
- (4) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Foundation;
- (5) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Foundation;
- (6) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation not exceeding \$10,000 in any fiscal year;
- (7) may, as necessary for carrying out the functions of the Foundation employ and fix the compensation of not to exceed the following number of persons at any one time: 25 during the fiscal year 1981, 50 during the fiscal year 1982, and 75 thereafter;
- (8) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Foundation;
- (9) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this title [22 USCS §§ 290h et seq.];
- (10) may use the United States mails in the same manner and on the same conditions as the executive departments of the Government;
- (11) may, with the consent of any agency of the United States, use the information, services, facilities, and personnel of that agency in carrying out the purposes of this title [22 USCS §§ 290h et seq.]; and
- (12) shall have such other powers as may be necessary and incident to carrying out this title [22 USCS §§ 290h et seq.].

- (b) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this title. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.
- (c) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.
- (d) Upon termination of the corporate life of the Foundation its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

## MANAGEMENT

### Sec. 507. (§ 290h-5.)

(a)(1) The management of the Foundation shall be vested in a board of directors (hereafter in this title referred to as the "Board") composed of seven members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member of the Board to serve as Chairperson of the Board and one member to serve as Vice Chairperson of the Board. Five members of the Board shall be appointed from private life. Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with African affairs. All members of the Board shall be appointed on the basis of their understanding of and sensitivity to community level development processes. Members of the Board shall be appointed so that no more than four members of the Board are members of any one political party.

(2) Members of the Board shall be appointed for terms of six years, except that of the members first appointed, as designated by the President at the time of their appointment, two shall be appointed for terms of two years and two shall be appointed for terms of four years. A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of his or her term a member shall continue to serve until a successor is appointed and shall have qualified.

(b) Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding \$100 per day, and for transportation expenses, while engaged in their duties on behalf of the Foundation.

(c) A majority of the Board shall constitute a quorum.

(d)(1) The Board of Directors shall appoint a president of the Foundation on such terms as the Board may determine. The president of the Foundation shall receive compensation at a rate not to exceed that provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code [5 USCS § 5315].

(2) Experts and consultants may be employed by the Board as authorized by section 3109 of title 5, United States Code [5 USCS § 3109].

(e)(1) The Board shall establish an advisory council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable about development activities in Africa. The advisory council may include African recipients of grants, loans, or loan guarantees under this title.

(2) The Board shall, at least once each year, consult the advisory council concerning the objectives and activities of the Foundation.

(3) Members of the advisory council shall receive no compensation for their services but may be allowed travel and other expenses in accordance with section 5703 of title 5, United States Code [5 USCS § 5703], which are incurred by them in the performance of their functions under this subsection.

## **GOVERNMENT CORPORATION CONTROL ACT**

### **Sec. 508. (§ 290h-6.)**

The Foundation shall be subject to title I of the Government Corporation Control Act [31 USCS §§ 846 et seq.].

## **LIMITATION ON SPENDING AUTHORITY**

### **Sec. 509. (§ 290h-7.)**

Any authority provided by this title involving the expenditure of funds (other than the funds made available pursuant to section 510 shall be effective for a fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

## **USE OF CERTAIN FUNDS**

### **Sec. 510. (§ 290h-8.) [obsolete]**

There are authorized to be appropriated to carry out this title, in addition to amounts otherwise available for that purpose, \$3,872,000, for fiscal year 1986 and \$3,872,000 for fiscal year 1987. Funds appropriated under this section are authorized to remain available until expended.