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**East African Mediation**

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| http://siteresources.worldbank.org/EXTARCHIVES/Images/eastafrica1.jpgThe primary focus of the Bank today is poverty alleviation. Yet the Bank also has performed many other functions in the course of its work. One of the lesser-known is that of mediation. In this excerpt from a 1987 oral history interview, Victor Umbricht tells the story of his role in the mediation of the dissolution of the East African Community.  Umbricht joined the staff of the Bank in 1953 as Deputy Director of Operations for Europe, African and Australia. He was on leave from the Swiss government at that time. He returned to Switzerland in 1957 to spend three years as Director of the Swiss Treasury. He took leave again in 1960-1961 to serve as Financial Advisor and President of the Monetary Council of the United Nations Mission to assist newly-independent and very turbulent Zaire (now Democratic Republic of Congo). Thereafter, he spent four years as President of CIBA's New York subsidiary and then became a member of the Board of the CIBA corporation in Switzerland, with which he remained until 1985.  Victor Umbricht  From 1966 onward Dr. Umbricht spent much time on the developing countries: relief, war prisoner and refugee resettlement, peace negotiations and other negotiations in Vietnam, Laos, Thailand, Israel, Bangladesh, Pakistan, India, Iran, Nicaragua, Guatemala and elsewhere, either for the United Nations or for the International Committee of the Red Cross, whose Vice Chairman he ultimately became. In late 1977, upon the nomination of the Bank, he was accepted by Kenya, Tanzania and Uganda as their Mediator in arriving at a permanent and equitable division of the assets and liabilities of the East African Community and to make recommendations for the future of the East African Development Bank. His terms of reference assumed the job would be done in about 15 months; in the event, it took more than nine years.  The following are excerpts from an interview with Dr. Umbricht in 1987.  This Mediation started in November 1977, as a consequence of the breakdown of the East African Community, which was a very integrated organization of three states, Kenya, Tanzania and Uganda. They originally decided in 1967 to work together in a very close manner. [There had been considerable integration in pre-independence days, under British administration.] They were much more integrated than the European Community, for instance, which has only joint discussions, joint subsidy policies, joint agricultural policies, but does not have joint assets. Whereas in East Africa you had a joint parliament, joint judiciary, courts, you had a joint secretariat, you had a ministerial council for Community affairs, in addition to ministerial councils for national affairs. There was the East African Railways Corporation-not the Tanzanian Railway or Ugandan Railway-East African Airways, East African Harbours, East African research institutions, East African taxes, customs, and so on. It was a very integrated community of states, and what was left to the states was mainly foreign policy, agriculture industry, security, police, education and so on. But plenty of their sovereign rights were turned over to the Community.  http://siteresources.worldbank.org/EXTARCHIVES/Images/eastafrica3.jpgIt was a wonderful idea, very forward-looking; there was a great vision behind it. But it did not work. It collapsed after 10 years, with a number of difficulties in between. It collapsed because the three countries were not-how should I say-mature enough to have such an integrated system. Moreover, their policies diverged so much. For instance, Kenya had a market-oriented policy; Tanzania had a centralized economy, more socialist-oriented; Uganda under Idi Amin had no policy at all-it was chaos. So the decision-making process in the three countries differed so much that the progress which the Community should have brought did not come about since they could not agree amongst themselves.  Railway and Harbours Project, East African Community  Now that collapse had, of course, very serious consequences. It was not only a collapse in form, it was one of substance. The borders were closed. You could not cross the border any more from Kenya to Tanzania. There were no inter-country railways, no trade, no airways. We had no post and telecommunications services any more, no joint navigation. We even had a war in 1978-79 between Tanzania and Uganda when Idi Amin was thrown out, so everything was in a shambles. It was chaotic.  And of course they did not pay their common debts. They not only had assets like railway wagons, they also had common liabilities, say to the World Bank and to many governments, which they had to re-pay as a Community. But the Community having collapsed, nobody re-paid anything, so they were all in default. There was no way to see to it that liabilities would be honored. The three countries lived so much apart from each other that they were unable to talk to each other anymore.  So in September 1977, three months after the breakdown, there was the Annual Meeting of the Bank and Fund. Those governments came here, as they always did because they were members of the Bank, and said to the Bank and Fund that they are in trouble and the Bank should help them with funds, with money to keep them afloat. The Bank said no, you have to make order first in your own house and you have to re-pay existing liabilities before we can come in. However, the governments informed the Bank that they were no longer on speaking terms, and how can you settle a problem between us if you are unable to meet and to talk. Therefore the Bank and the Fund suggested that if they could not talk directly to each other, they should talk to somebody in between, a Mediator.  That is how the Mediation system came up. The proposal was made and the three countries accepted to have Mediation and asked the Bank to propose a Mediator. And the Bank proposed four or five names. Amongst those names was mine. So, I moved over to east Africa and I stayed there for nine years and three months.  My team and I had not only divide the assets of the Community, we also had to restore the economic sovereign rights of the countries, and we had to see that liabilities were paid. We had to divide the liabilities. That meant we had to make an apportionment agreement with each creditor, each one-in fact, three apportionment agreements.  We also had to deal with plenty of additional questions, such as pensions. There were 100,000 Community employees, and they all had made their contributions to the pension fund, so they were entitled to a pension. Who were those entitled? Were they still alive? Did they have one wife or four wives? In that part of the world the rules are a bit different from our part. And did they have orphans? Who was entitled to what, and what were their addresses? And that in Africa is not so easy. And who or what was to pay those entitled? Also not easy to decide. So it was a very arduous, complex exercise. But the main gist of it was to divide all assets, say railway wagons or ships or buildings or airplanes-the joint assets-and http://siteresources.worldbank.org/EXTARCHIVES/Images/eastafrica4.jpgto divide the liabilities, and to prepare for future cooperation.  My job there was a battle every day, and improvisation and creativity every day. That was the basis for our work. We finished our Mediation with 28 agreements. One is the basic Mediation Agreement amongst the three countries, and then we have three agreements, where we had one before, between every country in East Africa and their creditor countries, or creditors in general. The World Bank was the biggest creditor against the Community.  A successful mediation requires a number of pre-conditions. It only succeeds if the top authority in the country has the will to support it. And the Presidents did.  Signing of the Amendments to the Loan Guarantee Agreements to finance the mediation services for the East African Community.  The second one was the fact that the governments, their cabinets, the ministers, were on relatively good terms and speaking terms with each other, despite the tremendous antagonism and friction and tension there was, because most of them in three independent states had studied at the one and only East African university, Makerere. And so they're colleagues, buddies from Makerere days. Or they had worked together in the Community headquarters.  And the third point was that the administrative machinery, the high officials, were more efficient than was expected. In that respect I think we Western people underestimate the administration in developing countries. It is one of our major mistakes.  And the fourth element, if I may mention the Mediator, he must have plenty of perseverance, patience and fantasy. And I was never prepared to throw in my contract, and the governments knew it. They knew that this man would not leave them in peace until he succeeded.  Total discretion by the Mediator is a basic condition. You have to use the press, but in a very general way, and only at the request of the government, never on your own volition. So discretion is a top condition. You have to be firm and friendly to them [i.e., the governments involved in the mediation], you have to help them. They must feel that you are a friend, a firm, strict friend and a friend of integrity, of total integrity.  A copy of Dr. Umbricht's book reflecting on his experiences as Mediator for the East African Community can be found in both the Joint Bank-Fund Library and the Law Library. |
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