



World Bank Administrative Tribunal

2025

Decision No. 722

**ID,
Applicant**

v.

**International Bank for Reconstruction and Development,
Respondent**

**World Bank Administrative Tribunal
Office of the Executive Secretary**

**ID,
Applicant**

v.

**International Bank for Reconstruction and Development,
Respondent**

1. This judgment is rendered by the Tribunal in plenary session, with the participation of Judges Janice Bellace (President), Seward Cooper (Vice-President), Lynne Charbonneau (Vice-President), Martha Halfeld Furtado de Mendonça Schmidt, Thomas Laker, Raul C. Pangalangan, and Joëlle Adda.
2. The Application was received on 1 May 2025. The Applicant was represented by Ryan E. Griffin and Sejal Singh of James & Hoffman, P.C. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 4 November 2025.
3. The Applicant challenges the non-confirmation of his term appointment.

FACTUAL BACKGROUND

4. The Applicant first joined the Bank in 2017 as a Short-Term Consultant (STC). From 2017 to 2022, the Applicant was engaged as an STC in the Trade and Competitiveness Department and later in the Trade and Investment Division within the Trade and Regional Integration Unit.
5. On 3 October 2022, the Applicant commenced a three-year term appointment as Country Economist for Togo, Grade Level GF. The position was based in Lomé, Togo, and was subject to a one-year probationary period that could be extended by up to one year.
6. The Applicant's responsibilities included "monitoring macro-fiscal developments" and "providing technical assistance and policy advice on macroeconomic issues, including fiscal policy, debt management, and structural issues." The Applicant's Fiscal Year 2023 (FY23)

individual business objectives included coordinating and contributing to the preparation of the Country Policy and Institutional Assessment (CPIA); working closely with the Country Management Unit (CMU) and serving as the focal point between the Togo Macroeconomics, Trade and Investment (MTI) team and the CMU; coordinating the Bank's relations with other technical and financial partners in Togo; and leading the preparation and dissemination of the first Economic Update for Togo.

7. The Applicant's manager was the Practice Manager, based in Dakar, Senegal, who in turn reported to the Regional Director, based in Washington, D.C. The Applicant worked closely with the Lead Economist and the Senior Economist, both of whom were based in Paris, France. According to the Bank, the Applicant was also paired with the Country Economist for Côte d'Ivoire for peer support.

The Applicant's early performance

8. In early 2023, the Applicant worked toward his objective to lead the preparation and dissemination of the Economic Update for Togo. According to the Bank, the Applicant's task was specifically to work on the first and second chapters of the report, the latter in conjunction with an External Consultant. In January 2023, the Applicant emailed the External Consultant a draft of the second chapter of the Economic Update for his comments. The External Consultant replied with his comments and suggestions, noting that the draft analysis seemed "very comprehensive and reads well."

9. On 10 March 2023, the Applicant emailed the Senior Economist a "preliminary draft" of the first chapter of the Economic Update, requesting any guidance from the Senior Economist. The Senior Economist replied with his comments on 13 March 2023, giving feedback such as "you should draw more heavily from the CPIA text," "[w]e should also add a couple of paragraphs on financial stability and monetary policy," "you should use/update the material presented in section 1.2.3. of the CEM (constraints to economic growth) [...] (the text you currently have is too generic)," "[t]he outlook section has to be populated with various elements, including specific

paragraphs on growth, inflation, the current account and fiscal up to 2025 (not only 2023),” and “[l]abor market discussion can be added from the Jobs Diagnostics.”

10. In response to a request for feedback on the Applicant’s performance from the Practice Manager, on 5 September 2023 the Senior Economist emailed a copy of the Applicant’s 22 March 2023 draft for chapter one of the Economic Update, explaining that there had been “several rounds of discussions on the outline and guidance from [the Senior Economist]” and that the draft lacked a “clear sequence/narrative,” in addition to other critiques. The Senior Economist added that it was ultimately agreed that he would take over the preparation of the chapter, which he had to redraft.

11. The Senior Economist also emailed the Practice Manager on 5 September 2023 regarding the Applicant’s work on the second chapter of the Economic Update, writing that it “was much closer to his area of expertise but still disjointed, without a clear narrative and with several internal inconsistencies” and that the Applicant’s “section was at end summarized in 4 pages, with most of the Chapter consisting of [the External Consultant’s] input.”

12. The External Consultant later testified before Peer Review Services (PRS) regarding the Applicant’s work on the Economic Update. The Peer Review Panel summarized the External Consultant’s testimony as follows:

[The External Consultant], who worked with [the Applicant] on Chapter 2 of Togo’s Economic Update, testified that he felt that [the Applicant] was not putting his best foot forward and was missing the local knowledge, which he was expected to bring as a Country Economist. [The External Consultant] testified that he found [the Applicant’s] work on Chapter 2 to be mechanical as he failed to include a good set of policy recommendations but included parts from another publication, which did not fit well into the draft. [The External Consultant] also testified that he and [the Senior Economist] had to revise the draft Chapter 2, which [the Applicant] had prepared.

13. According to the Applicant, on 15 March 2023, he had a mid-year performance review discussion with the Practice Manager, which was positive. The Applicant claims he was told by the Practice Manager that he was performing well compared to others and that it took time for new hires to adapt to their roles.

14. On 17 March 2023, an incident occurred between the Applicant and the Country Manager for Togo. In an email to the Practice Manager on 21 March 2023, the Country Manager described the incident as follows:

Friday morning I asked [the Applicant] to represent me at a meeting with the [...] embassy to discuss the [...]. He indicated that he was not available because he was busy with the CPIA. When I insisted, he started screaming in the office for about 30 min. Despite [other staff members'] interventions, he continued for a while. I was about to call in security or ask for medical intervention when he left the office after speaking with you.

While we may have disagreements, we need to be able to express them in a respectful manner. His behavior was unacceptable and I don't recall seeing a WB [World Bank] staff having this attitude. I understand that you will be in Lomé next week and look forward to discussing with you and HR [Human Resources] the next steps to ensure that this doesn't [happen] again and corrective actions are taken.

15. In his Application, the Applicant describes the incident as follows:

On March 17, 2023, [the Country Manager] asked [the Applicant] to represent the office at a meeting with government representatives that same morning. [The Applicant] questioned why he was not given adequate notice, asked what the meeting was about, and pointed out that he lacked sufficient information to prepare for the meeting. [The Country Manager] grew upset and loudly reprimanded [the Applicant] for objecting to the late notice, saying that [the Applicant] was just an economist with no right to question [the Country Manager's] orders. [The Applicant] responded, saying that [the Country Manager] had no right to speak to him like a servant rather than a colleague. After this exchange, [the Applicant] temporarily began working from home in order to limit his interactions with [the Country Manager].

16. Following the incident, the Senior Economist and the Practice Manager traveled to Lomé in the following weeks to discuss the incident. In a statement prepared as part of the present Tribunal proceedings, the Senior Economist wrote:

I traveled to Lomé the following week to provide on-site support. During that trip, I held several one-on-one meetings with [the Applicant] to provide support and guidance. [The Applicant] subsequently thanked me for that support [...]. [The Practice Manager] travelled the subsequent week to help resolve the situation, which led to [the Applicant] resuming his work in the Lomé office.

17. The Practice Manager met with the Applicant on 5 April 2023 to discuss the incident. The Practice Manager summarized this meeting in the ePerformance system on 19 June 2023, writing:

I travelled to Lomé to meet with [the Applicant] and the CMU to discuss an incident that occurred on March 17th 2023, when [the Applicant] clashed with the Country manager [...]. [W]hile [the Applicant has] settled well into [his] assignment with the Bank since October 2022, [w]e discussed [the Applicant's] transition to the new role of Country Economist, from an STC in the trade team, which inevitably requires a period of adjustment and learning. We agreed that a country economist needs to be much more engaged with both the country team, country management and global practices, as well as establishing a network of relationships with government counterparts. These internal and external networks help a country economist to play the role of integrator across the country team. As we discussed, it is therefore essential to continue to work on strengthening those relationships. We agreed [on] a work plan with the Senior [Economist], [...] and Lead [Economist], which included ensuring the delivery of the next Economic Update in June, the DPO [Development Policy Operation] with ROC [Regional Operations Committee] in June, as well as working with the Government on the CPIA dissemination with [...] the country economist from CIV [Côte d'Ivoire]. This work program will enable [the Applicant] to establish himself as the [Country Economist] in Tog[o], working closely with the CMU, other GPs [Global Practices] and the Government, while being closely supported by MTI colleagues.

18. The Applicant was also responsible for contributing to weekly economic briefings as part of his core responsibilities. According to the Applicant, he would generally prepare a first draft of the weekly economic briefing, send the draft to a coordinator who would circulate it to the Practice Manager, and then make edits as needed. In June 2023, one of these weekly economic briefings had to be recalled after circulation due to an error which the Bank attributes to the Applicant. According to the Bank, the Applicant “confused Eurobonds with West African Economic and Monetary Union [WAEMU] regional bond markets in a draft weekly briefing, which he then sent out for circulation without first sharing the draft with [the Senior Economist] or the Lead Economist for review.” The Bank states that the Applicant’s version “had to be recalled and a revised and updated weekly report on Togo circulated.” The Lead Economist reflected on the incident in a 5 September 2023 email to the Practice Manager, writing that the “grave errors” came at a time of “high visibility” and that the Applicant had not checked with him or the Senior Economist before the circulation.

19. The Applicant disputes his responsibility for the error, claiming instead that another colleague, the Young Professional responsible for coordinating comments on the briefing, inserted the error into the draft without informing the Applicant and circulated the draft within the Bank before the Senior Economist reviewed the draft.

20. On 27 June 2023, the Applicant received anonymous feedback from five colleagues in response to a feedback request he made through the ePerformance system. Colleagues wrote:

- I have joined the bank and the team in FY23 on the Togo PER [Public Expenditure Review], DPO and CCDR [Country Climate and Development Report] projects with [the Applicant] as a team member. It is a great experience working with him. My collaboration with [the Applicant] helped me understand many concepts and operations in the MTI GP. [The Applicant] is a person with good interpersonal communication skills. He is a colleague with a lot of experience I can always refer to for advice.

- I have been pleased with my interactions with [the Applicant]. He has consistently been friendly and professional, and he always seems keen to learn and improve.

- [The Applicant] has been an excellent team member during this FY. As a peer from the [...] unit, I had the pleasure to interact with him on several aspects of his work on Togo (CPIA, MPO [Macro Poverty Outlook], Economic Updates). Communication style: [the Applicant] is pro-active and easy to work with. He's quick to explain what he's doing and makes it seamless to collaborate with. Technical skills: [the Applicant] has shown a great understanding of the different WB products and diverse aspects of the economy – real, fiscal, and debt portfolio in particular. Overall, it's been a pleasure to work with [the Applicant], and I look forward to further collaborations.

- [The Applicant] is a great colleague to work with. He is very generous with his time in assisting others. Specifically, he has been very responsive to my requests for data inputs in a timely manner for the poverty projections for the MPOs. [The Applicant] is also very considerate of other people's time by providing early heads-up about incoming input requests and respectfully follows up with colleagues to [ensure] a timely delivery of their contribution. Importantly, I have been very impressed by his organizational and leadership skills during the CPIA consultations with the Government Counterparts to help us get access to the administrative data we needed for the Commitment to Equity study. Additionally, I very much appreciated his proactive approach in promptly reaching out to the Government counterparts to facilitate our access to the administrative data required for the Commitment to Equity study. Despite a tight schedule, [the Applicant] has managed to make significant contributions to the mission regarding the proposal on

the distributional impacts of subsidies in Togo. [The Applicant] is a person with a strong essence of respect and shows warmth in his interactions with others. I'm grateful to have him as a colleague and I look forward to continuing working with him.

- [The Applicant] had a challenging first year as he faced some difficulties in adjusting to the various aspects of his new position of country economist in Togo. This led him to focus primarily on core activities, including economic monitoring (Weekly reports and preparation of the Economic Update), the coordination of the CPIA, and support for the preparation and evaluation of SD[FP] PPAs [Sustainable Development Finance Policy Performance and Policy Actions]. While he performed well as a CPIA coordinator, other tasks required an unusual amount of supervision and guidance, and his engagement with national authorities has been limited so far. [The Applicant] would need to strengthen his attention to details, cross-check evidence being used in his analysis, ensure more policy-sensitive drafting and improve interpersonal skills. He could benefit from training in writing, communication, and analytical skills, familiarize himself better with WB engagement and operations, and try to be more proactive with clients and colleagues. Otherwise, [the Applicant] is pleasant to work with and showed commitment to his job.

Extension of probation

21. On 25 July 2023, the Applicant met with the Practice Manager for his Annual Review meeting during which the Practice Manager informed the Applicant that his probation would be extended. The same day, the Applicant received a memorandum from the Practice Manager with written notification that the Applicant's probation would be extended by six months, until 31 March 2024. In addition to notifying the Applicant of the extension of his probation, the extension memorandum provided:

The probationary period has been extended to provide further opportunity to assess your overall suitability for employment with the World Bank Group. [...] To that end and recognizing the challenges of on-boarding in the country office, we agreed that you are expected to proactively provide technical inputs to the CMU, including through the CMU weekly team meetings, as well as presenting and developing MTI-led technical outputs within the CMU, to government and development partners, including the CPIA, MPO, SDFP, Economic Update, CCDR, weekly reporting, etc. Your technical contributions to the aforementioned products will be actively carried out both via informal discussions with the task teams and in written form, reporting initially to [the Senior Economist] and [the Lead Economist] and in consultation with the Country Manager and myself. Each of these tasks will be defined in greater detail in your FY24 "objectives", where you will need to

demonstrate a high level and wide range of technical macroeconomic skills, covering areas of analysis that include on fiscal policy, debt sustainability (the DSA), macroeconomic modeling using the Bank's MFMOD [Macro-Fiscal Model] (MPOs/EU [Economic Update]), drafting the Economic Update, the new Sustainable Development Financing Policy notes, as well as the expanded list of core diagnostics and on operations like the new Development Policy Financing operation. The above is in addition to expanding your proactive, regular follow-up with the client and development partners on MTI's routine engagement processes. You have also been advised to seek some training in engagement and presentation skills (including brief and report writing) as well as joining the Bank's mentor program, in addition to ensuring you remain up to date on core MTI competencies through regular training.

The extension memorandum further provided:

If during, or at the end of your extended probationary period, it is determined that you are not suitable for confirmation based on an assessment of your achievement of the work program, technical qualifications and professional behaviors, your employment may be terminated by non-confirmation following at least sixty calendar days' notice, in accordance with Staff Rules 4.02 and 7.01.

22. On 26 July 2023, the Applicant emailed the Regional Director regarding the extension of his probation. The Applicant wrote in his email that he would not sign the extension memorandum and that he found the Practice Manager's decision to be "unfair and arbitrary." The Applicant included the peer feedback he had received and contested the assessment of his performance by the Practice Manager.

23. The Regional Director met virtually with the Applicant shortly thereafter to discuss the Applicant's concerns. In his Manager's Response to the Applicant's Request for Review to PRS, the Regional Director described the meeting as follows:

In that meeting, [the Applicant] expressed his concern about how his performance was being assessed and blamed everyone else ([the Practice Manager, the Lead Economist, and the Senior Economist]) for the situation he was in. He lacked any self-reflection. He underlined to me that he was not going to sign off on the probation extension nor meet with [the Practice Manager] (his manager) to discuss the reasons for the extension. I advised him in writing that (a) the probation extension didn't require his sign-off and will proceed as a management decision; (ii) during the extended period, he must meet with [the Practice Manager], his Manager, to discuss the performance expectations and work on those shortcomings to improve his chances of confirmation. My strong impressions from that meeting

were that, behaviorally, [the Applicant] came across as quite agitated and angry; and unable to focus on the performance expectations he needed to meet within the following six months.

24. According to the Applicant, during this meeting with the Regional Director, he alleged that he had been subjected to discriminatory treatment by the Senior Economist. Specifically, the Applicant claims that he alleged that, in or around June 2023, the Senior Economist instructed him not to send an email inviting the World Bank's Chief Economist for Africa to a meeting because "the invitation would carry more weight coming from 'a white person.'" The Applicant further claims that he alleged that, in or around July 2023, the Senior Economist told the Applicant that he would present a report without the Applicant because the report "would be better received if it was presented by a white person." Finally, the Applicant claims that he expressed concerns with the Senior Economist's communication style, noting a June 2023 instance when the Senior Economist canceled a mission to Lomé without informing the Applicant in advance.

25. On 1 August 2023, the Practice Manager emailed the Applicant, writing that he hoped the meeting with the Regional Director went well and offering to have a follow-up meeting. The Practice Manager also told the Applicant to ensure he included the Lead Economist as a feedback provider.

26. The Applicant was on annual leave from 1 August to 18 August 2023.

27. Meanwhile, on 8 August 2023, the Lead Economist emailed the Practice Manager with his observations on the performance of several team members, including the Applicant. With respect to the Applicant, the Lead Economist wrote, "Performance: Sub-par performance; rather flat learning curve. I have not seen quality independent inputs myself; Weekly when unsupervised featured key mistakes. Growth areas: behavioral, well below the bar for CE [Country Economist] duties." The Lead Economist later formalized and expanded on this feedback on the Applicant to the Practice Manager in the ePerformance system on 6 October 2023. This written feedback was not shared with the Applicant.

28. In late August 2023, the Applicant met with the Practice Manager to discuss the probation extension. In a 29 August 2023 email to the Practice Manager following the meeting, the Applicant wrote:

Many thanks for the meeting [w]e just had. Since I didn't get any responses/explanations underlying the extension of my probation and the reasons of what you said that I performed poorly regarding the CPIA consultations while all the feedbacks I got are positive about that, as I told you during the meeting, I will escalate the issue. I just informed [the Regional Director] about that and our today's discussion. I cannot continue to work in the same condition this fiscal year and be subjected to the same treatment. Before continuing to work actively during this fiscal year, I must resolve the issue with the extension of the probation.

I also have a concern. [The Senior Economist] worked closely with me but he didn't ask me feedbacks for the FY23. Why this double standard? I don't think that it is necessary to have a one to one meeting with you again until we solve the issue of the extension of probation.

29. The Applicant claims before the Tribunal that, during this meeting, the Practice Manager "interrogated him" about his conversation with the Regional Director and asked him "if he had raised a discrimination claim" with the Regional Director or the Country Director for Togo. The Applicant further claims that the Practice Manager "warned [the Applicant] not to raise any further discrimination complaints with [the Regional Director] and threatened that if he did, [the Practice Manager] would terminate his contract."

30. On 31 August 2023, the Lead Economist emailed the Applicant, writing:

I hope this email finds you well. I understand that you have been back from leave for a while now but we haven't hear[d] from you recently. I believe it would be important to touch base as soon as possible and discuss your current work program as CE for Togo. Please let me know your status and I will set a time for a teams meeting.

31. The Applicant replied the same day, writing:

Thank you for getting in touch with me. Yes, I have returned from leave last week, and I had a meeting with [the Practice Manager] last Tuesday. I am in contact with HR to resolve some issues. It is not possible for me to continue working on the same basis as last fiscal year. As a result, I informed HR that I am not able to

continue to work in the same conditions and be treated similarly this fiscal year. Thus, it is necessary for me to resolve some issues before continuing to work actively during this fiscal year. However, I am available and would be pleased to discuss the work program at your convenience next week.

32. The Lead Economist replied on 4 September 2023, noting that he would propose a meeting and that the Applicant had not been attending team meetings.

33. Also on 4 September 2023, following an email discussion about the unit work program, the Practice Manager emailed the Senior Economist and the Lead Economist, writing:

For now, and for setting his annual objectives, we have to assume that [the Applicant] will be able to fulfil his responsibilities as country economist for Togo. I will therefore keep him at TTL [Task Team Leader] for the Economic Update, but you should manage the EU to ensure it get[s] done, with [another colleague].

[...] Please carefully document your interaction with [the Applicant]. I would like to see some of the work that he submitted, including the first drafts of the EU if you have them, and your comments back to him.

The Practice Manager also noted that the Senior Economist should request feedback from the Applicant, as the Applicant “demanded reciprocity.”

34. The Lead Economist replied the same day, writing, “Just to underline how skewed all this is: I had asked [the Applicant] to provide feedback for me (already mid-year) in the system. He has not reciprocated and as of today has not requested my feedback on his performance.” The Senior Economist also replied the same day, writing, “I will share the input [the Applicant] provided for the EU. Not sure how this thing will work in coming months as he is refusing to work on the MPO or any other part of the work program and does not respond to emails or phone calls.”

35. The Practice Manager responded to the Senior Economist and the Lead Economist the same day, writing:

Many thanks for the feedback. I have alerted [HR] about this and I believe that he is determined to escalate the situation as he does not accept the extension of his probation. We will therefore need to continue work around this situation until it can

be resolved. In the meantime, please can you start to document what [the Applicant] has, and is, producing and your comments.

36. Thereafter, on 5 September 2023, the Senior Economist and the Lead Economist sent several emails to the Practice Manager with their feedback on the Applicant's work thus far. Included in these emails were the Senior Economist's observations on the Applicant's work on the Togo Economic Update, discussed in paragraphs 10 and 11 above. In addition to his observation on the June 2023 error in the weekly economic briefing, discussed in paragraph 18 above, the Lead Economist wrote to the Practice Manager, "I would say that there is not much to judge quality on as I have not really seen much standalone inputs over the year."

37. The Senior Economist replied to this email of the Lead Economist, noting the Applicant's success with the CPIA and offering critiques on the Applicant's other responsibilities. The Senior Economist wrote, "In summary, [the Applicant] mostly worked on Chapter 2 of the EU, data updates (macro sections, tables, charts, PPTs), coordination of the CPIA, processing of the SDFP PPAs and preparation of Weekly updates (which required a lot of supervision and redrafting)."

38. The Senior Economist followed up this email with examples of the weekly updates, writing, "[H]ere are two examples of inputs for the Weekly Update (one in the early days [...] and one from June 2023) illustrating disjointed drafting, digressions from the main topic and misguided conclusions."

39. Also on 5 September 2023, the Practice Manager responded to the Applicant's email of 29 August, writing:

During our conversation last week, you raised the issue of your work on the CPIA consultations, not me. I would like to clarify further that the extension of your probation is to allow you additional time in order to develop as a World Bank Country Economist. This last year has presented some challenges in terms of your developing relationships within the office and also more generally in terms of managing to demonstrate the high level and wide range of technical macroeconomic skills demanded of a country economist [...]. As highlighted in our discussions and previous correspondence, I wish to support your development and therefore advised you to seek some training in engagement and presentation skills (including brief and report writing) as well as joining the Bank's mentor program,

in addition to ensuring you remain up to date on core MTI competencies through regular training. As for all our new country economists, you have been paired with more experienced members of the unit for specific tasks [...]. The above is in addition to expanding your proactive, regular follow-up with the client and development partners on MTI's routine engagement processes.

I would like to clarify exactly what you mean by not continuing to “work actively during this fiscal year”? [...] I understand that you are not currently working on these, nor are you responding to [the Senior Economist] or [the Lead Economist's] emails or phone calls? Please can you kindly confirm this?

40. The Applicant replied the same day, writing, “The fact that you are changing the narrative on a daily basis is disappointing to me. I requested that you provide more justifications regarding the extension of my probation at our meeting last Tuesday.”

41. The Applicant added that the Practice Manager had instructed him to request additional feedback from the Country Director for Togo, the Country Manager, the Lead Economist, the Senior Economist, and the Country Economist for Côte d'Ivoire and asserted that the Practice Manager was attempting “to have a second end-of-year review.”

42. The Practice Manager replied the same day, writing, in part:

I am not seeking a second end of year review after the one we had in July, after which I immediately issued the notice for the extension of probation. Please do not conflate the issues of feedback and the end of year review. As you know from [HR] guidance, you can obtain feedback from colleagues at anytime of the year, and as we discussed it is good to obtain that from colleagues that you work closest with. I therefor suggested that it would be a good idea to obtain additional feedback from [the Country Director for Togo], [the Country Manager] and [the Lead Economist], as well as [the Senior Economist] (and [the Senior Economist] should obtain feedback from you as well). You should see feedback as an ongoing process throughout the year, rather than at fixed points.

43. The Practice Manager also completed the Applicant's FY23 Annual Review around this time. In the “Supervisor's Comments” to the “Overall Contributions” section, the Practice Manager largely repeated the same comments as presented in the 25 July 2023 extension memorandum and his 5 September 2023 email to the Applicant. In the “Behaviors and Skills to develop” section, the Practice Manager wrote:

[The Applicant] is advised to seek some training in engagement and presentation skills (including brief and report writing) as well as joining the Bank's mentor program to help acclimatize to the role. It is important to build relationships based on trust and respect within the CMU and with clients. In addition core MTI training and BBLs [Brown Bag Lunches] would help to ensure he remains up to date on core MTI competencies.

44. In his response to the "Supervisor's Comments," the Applicant wrote, "This assessment is not based on any professional or performance motivations, as evidenced by the feedback I received from my peers during the FY23. Therefore, I contest this assessment, which is arbitrary."

45. On 3 October 2023, following the circulation of a weekly briefing, the Senior Economist emailed the Applicant regarding his contribution, writing, "[T]hanks for the below contribution. As previously discussed, could you please make sure that you send those beforehand to me for review. The text below is factually correct but somewhat confusing and we should definitely have quoted our own projections to temper the optimism."

46. On 4 October 2023, the Applicant emailed the Practice Manager regarding the Applicant's work on the Economic Update for Togo, claiming that the examples he provided in the email went against the evaluation and feedback he had received from the Practice Manager and the Senior Economist. The Applicant claimed that the Senior Economist did not "even know where trade data came from" and stated that he was "waiting [...for the Practice Manager] and [the Senior Economist] to demonstrate that [he] didn't do anything on the economic update" and that, "[i]n terms of quality, it is not [the Senior Economist] to tell [him] how to do trade analysis."

47. The Practice Manager responded to the Applicant's email on 5 October 2023, thanking the Applicant for sharing his work on the Economic Update for Togo and writing:

I would also stress that your overall evaluation for the year was based on the totality of your performance last year, rather than on single pieces of work. [...] I hope that you can acknowledge some of the challenges during the year, including of developing the new relationships within the CMU. It was based on this overall assessment that resulted in the evaluation we discussed and that is reflected in your [Annual Review], and also the final SRI [Salary Review Increase] rating of 2 for the year. As we have discussed, you have a very clear work program and objectives and we will meet frequently to discuss your delivery during the year, to give you

an opportunity to highlight the deliverables and also to address any issues that might arise. As I have indicated before, I would like to emphasize that I stand ready to support you in your development in this role.

48. The Applicant responded the same day, writing:

I was not saying that your evaluation was based on only Economic Update. It is just one proof among many others. Did [the Senior Economist] tell you that he did the writing for the focus chapter? **He has the courage to tell me that he will be presenting the entire economic update including Trade chapter even though he doesn't know where data came from? (I will be watching him as his research assistant? I look forward to that day...).** I'm a second-rate contributor. (Emphasis in original.)

The Applicant added that he had received positive feedback from those he worked with in FY23 apart from the Senior Economist. The Applicant also objected to what he described as the “superiority” of the Senior Economist and the “discriminatory attitude” of the Country Director for Togo and explained that he would not request feedback from either the Country Director for Togo or the Country Manager.

49. With respect to the Economic Update presentation referred to by the Applicant, the Bank states that the presentation was originally scheduled for July 2023, when “plans had been in place for [the] Applicant to participate in the presentation of this report alongside [the Senior Economist].” The Bank states that the event format was changed shortly before it was originally scheduled to take place and it was decided that there would be only one presenter for “purely logistical reasons.” The Bank notes that the event was ultimately postponed to October 2023, but states that there was “no indication that [the] Applicant complained about the presentation format at the original time.”

50. The Applicant followed up his 5 October 2023 email on 10 October, noting that the Practice Manager had not yet responded. The Applicant restated many of his comments on feedback providers, his work on the CPIA, his contribution to the Economic Update, and the Senior Economist, writing in this respect, “[The Senior Economist] stated that I need to improve my interpersonal skills. The purpose of this statement is to falsely tarnish my reputation. Is [the Senior

Economist] a Practice Manager or a member of HR to whom my colleague has made a complaint about me?”

51. On 11 October 2023, there were a series of emails between the Applicant, the Lead Economist, and the Practice Manager responding to the 3 October email from the Senior Economist regarding the weekly briefing. The Applicant first replied to the Senior Economist, with the Lead Economist and the Practice Manager copied, writing that the Senior Economist could “feel free” to write or take the lead on weekly briefings, that the Senior Economist “continue[d] showing a kind of superiority” to the Applicant, and that he would not join the dissemination of the Economic Update for Togo if the Senior Economist was presenting alone.

52. The Lead Economist first responded to the Applicant’s email to the Senior Economist, writing that the unit worked as a team “with Country Economists (CE), Senior Country Economists, Leads and PMs [Practice Managers] all involved and responsible for quality and timely delivery across the full spectrum of products.” The Lead Economist then emphasized the importance of collaboration and team work in the unit, noting that he would “expect that any work is transparent and visible to [the Senior Economist] and the team, to enable potential discussions and inputs at any time. This does not preclude independence or leadership on your part, but strengthens it.” The Lead Economist concluded that he would be happy to have a call with the Applicant “to further clarify.”

53. The Applicant responded to the Lead Economist, writing, among other things, that he objected to how the Senior Economist perceived his performance and that the Senior Economist’s suggestion that he “improve [his] relationship with [his] colleague” was “a false accusation to tarnish [his] reputation.”

54. The Practice Manager also responded to the Lead Economist’s email, writing to the Applicant that there was “a very clear structure in [the] unit whereby [they] support each other and ensure the quality of the work.” The Practice Manager added:

I would like to reiterate the point that I expect us to all to strive to work [collegially] and respectfully so that we can support our clients and each other. I would kindly

ask that you de-escalate the language and insist that you continue to engage with your agreed functions.

55. The Applicant then responded to the Practice Manager, objecting further to what he perceived as unfair treatment with respect to his performance evaluation, noting his work on the CPIA, and stating that he would not “tolerate any kind of superiority.”

56. The Practice Manager responded to the Applicant, explaining that he did not “have a pejorative view of [the Applicant’s] engagement on the CPIA” and that he asked the Country Economist for Côte d’Ivoire to support the Applicant in his work as part of a common practice across the unit. The Practice Manager added:

The hierarchy is not “superiority.” I have also supported you by noting the other resources available to you, like the RWA [Respectful Workplace Advisor], and been supportive of your discussions with HR and [the Regional Director].

I completely agree that everyone needs to be treated fairly and with respect. This is why the unit and the Bank have clear processes to address staff concerns. This also means respecting these processes and I would suggest avoiding inflammatory language so that we can calmly address any issues properly.

57. In his last response to the Practice Manager in this exchange, the Applicant objected further to the Practice Manager’s evaluation of his performance and the “superiority” being shown. The Applicant noted, “I have a meeting with HR tomorrow and we will take the issue to another level. This kind of superiority must stop. Again, I don’t have any issue to leave the Bank but I will never tolerate to be subject to any kind of superiority.”

Non-confirmation

58. On 13 October 2023, in a meeting attended by the Applicant, the Practice Manager, the Lead Economist, and an HR representative, the Practice Manager notified the Applicant that he would be recommending the non-confirmation of the Applicant’s appointment. The Practice Manager emailed the Applicant the same day with the written recommendation of non-confirmation:

In terms of next steps and as we discussed, I have not and do not see dramatic and immediate improvement in your unsatisfactory performance as outlined in the prior written notices concerning your performance; the reasonable guidance and opportunity to demonstrate suitability for the position provided, and my written warning that failure to do so may result in termination of your WBG [World Bank Group] appointment via non confirmation, memo dated July 25, 2023. Specifically, no significant improvement in the quality, collaboration, and proactivity of delivering your work program as Country Economist was observed, despite guidance and learning opportunities including peer mentoring. Therefore, I am recommending the non-confirmation of your WBG appointment to [the Regional Director].

Consistent with the Staff Rule, you will have reasonable opportunity to comment on this recommendation and will be allowed 10 calendar days to do so. You may provide your comments directly to [the Regional Director] and you may copy me. Thereafter, my recommendation together with your comments will be considered by [the Regional Director] for final decision. If [the Regional Director] approves this recommendation, i.e., non-confirmation of appointment, we will start a formal process to provide you with at least 60 days of notice that your position is not confirmed. Staff Rule 4.02, Section 04 and Staff Rule 7.01, Section 07 describe the rules for ending employment through non-confirmation of appointment and allows for a severance payment equal to one month's net pay.

Finally, as we discussed, you may resign your appointment and avoid non-confirmation should you so choose.

59. According to the Applicant, he contacted the Race and Equity Office (REO) the same day to report his allegations of discrimination.

60. On 20 October 2023, the Applicant emailed his response to the recommendation of non-confirmation to the Regional Director. In his emailed response, the Applicant stated that he “strongly disagree[d]” with the Practice Manager’s recommendation, highlighted his “accomplishments” and “ongoing tasks” in FY24, and largely repeated his objections to his FY23 performance evaluation.

61. On 17 November 2023, the Applicant met with the Regional Director regarding the recommendation of non-confirmation. According to the Applicant, the Regional Director informed him during this meeting that he was approving the non-confirmation recommendation not because of the Applicant’s “technical performance” but rather because the Practice Manager, the Senior

Economist, and the Lead Economist “no longer wanted to work with [the Applicant].” The Applicant further states that the Regional Director “urged” him to resign because the Applicant’s “allegations could threaten [the Practice Manager’s] and [the Senior Economist’s] careers.” In his Manager’s Response to the Applicant’s Request for Review to PRS, the Regional Director stated with respect to this meeting:

The second time I had a discussion with [the Applicant] was prior to issuing my decision of non-confirmation. Following [the Practice Manager’s] recommendation not to confirm him, I engaged in extensive consultations with the Togo Lead and Senior Economists, the Togo Country Manager, the Togo Country Director, the Togo Operations Manager, and other colleagues who have some working relationship with [the Applicant]. What these consultations confirmed to me was [the Applicant’s] lack of professional behavior [...] that would enable him to be an effective Country Economist. Ahead of my issuance of the non-confirmation notification to him, I reached out to him to offer him the chance of resignation in case he wanted to preserve any future eligibility for World Bank Group employment opportunities.

62. According to the Applicant, shortly thereafter an HR representative proposed a severance or settlement agreement to the Applicant if he decided to resign. The Applicant states that he “felt that [the Regional Director] and [the HR representative] were threatening him to resign to protect [the Senior Economist].” The Applicant ultimately decided not to resign.

63. On 4 December 2023, the Regional Director emailed the Applicant with his decision endorsing the recommendation not to confirm the Applicant’s appointment. In his email, the Regional Director wrote:

In the past several months, your manager [the Practice Manager] has discussed with you the quality, collaboration, and proactivity required of delivering your work program as a Country Economist for Togo and ways in which your performance was expected to improve. Your manager also advised you that if your behavior did not improve, your appointment would not be confirmed and would result in termination of employment. Because no significant improvement has been noted, I have endorsed your manager’s recommendation not to confirm your appointment. Please be informed that your employment with the WBG will be terminated effective close of business on December 31, 2023.

The Regional Director also noted in his email that he decided to provide the Applicant a lump sum payment in lieu of administrative leave.

64. The Applicant's appointment ended on 31 December 2023.

Ethics and Internal Justice Investigation

65. Prior to the termination of his appointment, on 15 December 2023, the Applicant filed a complaint of misconduct with the Ethics and Internal Justice, Investigations unit (EIJIN), alleging "discrimination, retaliation, harassment and abuse of authority" by the Senior Economist, the Practice Manager, the Regional Director, the Country Director for Togo, the Country Manager, and others.

66. EIJIN conducted a preliminary inquiry involving witness interviews and documentary evidence submitted by the Applicant. EIJIN determined that there was insufficient evidence to proceed with an investigation and closed the matter on 25 April 2024.

Peer Review Services

67. Also prior to the termination of his appointment, on 20 December 2023, the Applicant filed Request for Review No. 625 with PRS challenging the non-confirmation of his appointment and alleging racial discrimination and retaliation in relation to the non-confirmation decision. The PRS Panel issued its Report on 3 December 2024, concluding that the non-confirmation decision had a reasonable and observable basis and that management followed a fair and proper process. The PRS Panel also found no evidence that the non-confirmation decision was discriminatory, retaliatory, or otherwise improperly motivated. The PRS Panel accordingly recommended the dismissal of the Applicant's Request for Review.

68. On 18 December 2024, the relevant Regional Vice President accepted the PRS Panel's recommendation that the Applicant's Request for Review be dismissed and no relief be granted.

The present Application and relief sought

69. The Applicant filed the present Application with the Tribunal on 1 May 2025. The Applicant challenges the non-confirmation of his term appointment.

70. The Applicant requests the following relief: (i) rescission of the non-confirmation decision; (ii) reappointment to a comparable position for a term no less than the remainder of his original four-year term; and (iii) backpay and benefits retroactive to the date of his wrongful separation from employment. The Applicant additionally requests “compensation in an amount deemed just and reasonable by the Tribunal to remedy the damage to [his] professional reputation and career and undue emotional distress resulting from the impugned non-confirmation decision and the unfair treatment leading thereto.”

71. The Applicant claims legal fees and costs in the amount of \$36,207.75.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Applicant’s Main Contentions

The non-confirmation decision lacked a reasonable and observable basis and was improperly motivated, and the Applicant was treated unfairly and deprived of due process with respect to the probationary period and the extension and non-confirmation decisions

72. The Applicant contends that the non-confirmation decision should be invalidated on the grounds that it lacked a reasonable and observable basis because, to the Applicant, the Practice Manager failed to fairly and objectively evaluate the Applicant’s performance as a whole. The Applicant submits that, although he received “substantial positive feedback during his probationary period,” “there is no evidence” that the Practice Manager considered the positive views when making his non-confirmation decision. Rather, the Applicant avers, the Practice Manager “appears to have relied solely on the negative feedback he received from [the Senior Economist] and [the Lead Economist] after soliciting their views.” To the Applicant, this “one-

sided assessment” of his performance “continued a pattern of management undervaluing and underrecognizing the Applicant’s positive contributions to the Bank.”

73. Responding to what the Applicant characterizes as “two additional justifications for the non-confirmation decision,” the Applicant submits that “the contemporaneous record shows that [his] conflict with [the Country Manager] [in March 2023] was not a motivating factor for the non-confirmation” and thus cannot be used to justify the decision now. The Applicant further contests the Bank’s characterization of his August and September 2023 emails as a refusal to work and submits that “this after-the-fact justification is irrelevant, because the Bank’s non-confirmation decision never stated that they were ending [the Applicant’s] appointment because of his alleged refusal to work.”

74. The Applicant next contends that the non-confirmation decision was improperly motivated by retaliatory animus in response to his raising concerns about racial discrimination. In this respect, the Applicant submits that there are “four key pieces of circumstantial evidence [to] support an inference of improper retaliatory animus.” First, the Applicant submits that the Practice Manager solicited the Senior Economist and the Lead Economist for negative feedback “less than a week” after a meeting in which the Applicant raised concerns about discriminatory treatment by the Senior Economist. Second, the Applicant claims that, during their late August meeting, the Practice Manager “expressly threatened to end [the Applicant’s] appointment” if he continued to raise concerns about discrimination. Third, the recommendation of non-confirmation was made two days after the Applicant informed the Practice Manager “that he had scheduled a meeting with HR to further pursue his allegations of discriminatory treatment.” Finally, the Applicant submits that, prior to his raising concerns about discriminatory treatment in late July 2023, “there was simply no indication that his probationary period had gone off course or that he was on a path to potential non-confirmation.”

75. The Applicant further contends that he was treated unfairly and deprived of due process with respect to his probationary period, the decision to extend his probation, and the non-confirmation decision. In this regard, the Applicant submits that management failed to warn him that his probation would be extended or that he was not on track for confirmation. The Applicant

avers that the decision to extend his probation “came as a total surprise” as management had not alerted him to any significant concern regarding his performance, his mid-year performance check-in was generally good, and his initial round of peer feedback was positive. The Applicant submits that, if management had concerns about specific aspects of his performance, like his work on the Togo Economic Update or the June 2023 weekly briefing, it failed to raise these concerns with the Applicant contemporaneously, violating its obligation to provide “adequate warning.”

76. The Applicant next contends that management failed to give him adequate warning of the issues purportedly leading to the non-confirmation decision. In this respect, the Applicant avers that the probation extension memorandum “[did] not identify a single alleged behavioral deficiency, nor [...] articulate any specific concerns about [the Applicant’s] technical skills or work product.” Moreover, the Applicant rejects the proposition that the “template language” in the non-extension memorandum stating that the Applicant would be subject to non-confirmation constituted adequate warning for purposes of due process.

77. To the Applicant, following the extension of probation, management “continued to deprive him of any meaningful guidance as to what, if anything, management expected him to do differently.” The Applicant submits that, while the Practice Manager noted that he had some “challenges” in his FY23 Annual Review, “the review did not identify any specific technical or behavioral deficiencies with [the Applicant’s] work, nor did it contain any indication that [the Applicant] was at imminent risk of non-confirmation.” With respect to the negative feedback shared by the Senior Economist and the Lead Economist with the Practice Manager, the Applicant submits that the Practice Manager never shared this feedback with him, depriving him of fair warning of the “alleged deficiencies.”

78. The Applicant further contends that he was deprived of any meaningful opportunity to defend himself against the non-confirmation recommendation or the criticisms that purportedly motivated it. The Applicant submits that, as he was never informed of the specific behavioral or performance deficiencies which he was alleged to have had, he was never given an opportunity to refute or address them. To the Applicant, he “was never able to gain a fair understanding of what he was up against until well after the non-confirmation process had been set in motion.” While the

Applicant notes that he was able to submit comments on the non-confirmation recommendation, he submits that this opportunity did not cure the due process violations because the non-confirmation recommendation failed to identify the specific bases on which it was founded.

79. Finally, the Applicant contends that management failed to support him with adequate supervision and guidance during the probationary period. Specifically, the Applicant submits that he was given “no managerial advice” on “how to ensure confirmation and avoid premature termination of employment.” The Applicant notes the Practice Manager’s “contemporaneous concessions in [his] FY23 Annual Review acknowledging that management had provided him with limited support and guidance.”

The Bank’s Response

The non-confirmation decision had a reasonable and observable basis and was not improperly motivated, and the Applicant was afforded fair treatment and due process

80. The Bank contends that the non-confirmation decision had a reasonable and observable basis. The Bank submits in this respect that the Applicant’s “performance deficiencies were very well documented in writing,” noting the Applicant’s performance review, the notes from the 5 April 2023 check-in meeting, and the informal feedback correspondence in the record. To the Bank, the record demonstrates that “the technical and behavioral sides of [the] Applicant’s performance fell woefully short of what was required.” The Bank further submits that the Practice Manager “did not specifically solicit negative feedback” and avers that, “when poor performance is the heart of the issue, managers must be able to highlight the poor performance.” As examples of the Applicant’s poor performance, the Bank highlights the March 2023 incident with the Country Manager and the Applicant’s late August 2023 emails in which he stated that he would not continue to work under the current conditions for the remainder of the fiscal year.

81. The Bank next contends that the non-confirmation decision was in no way motivated by retaliatory animus and submits that the Applicant “has not in any way established a *prima facie* case of retaliation.” The Bank avers that the Applicant “has not provided a single documentary reference or even witness testimony to support his bare assertions that he was subjected to racial

discrimination” and notes that EIJIN and PRS both dismissed the Applicant’s allegations in this respect. The Bank further contends that, even if the Applicant could establish a *prima facie* case, “clear and convincing” evidence of the Applicant’s performance deficiencies provide a legal basis for the non-confirmation decision.

82. Next, the Bank contends that the Applicant was afforded fair treatment and due process at all times. The Bank first submits in this respect that the Applicant received written notice of his performance deficiencies. As examples, the Bank notes the specific feedback the Applicant received on the Togo Economic Update in March 2023, written comments on the 5 April 2023 check-in meeting with the Practice Manager, and his FY23 performance evaluation. The Bank submits, “[T]he record shows that [the] Applicant was firmly closed to constructive criticism and open merely to feedback he wished to hear,” and contends that, “despite repeated written notice, [the] Applicant continued to remain willfully closed to improvement, rendering feedback meaningless in any event.”

83. The Bank next contends that the Applicant “received ample guidance and opportunities to demonstrate his suitability for the position.” The Bank notes that the Applicant was paired with the more experienced Country Economist for Côte d’Ivoire for support. The Bank submits that, following the probation extension, the Practice Manager provided supervision and guidance to the Applicant in regular check-in meetings. The Bank also notes the feedback and guidance provided by the Senior Economist regarding the Applicant’s work on the Togo Economic Update. The Bank avers that management had no obligation to extend the Applicant’s probation, but it did so “precisely to give him more time to demonstrate his suitability for continued employment.”

84. The Bank further contends that the Applicant was given adequate warning in advance of the recommendation for non-confirmation, noting that the probation extension memorandum stated, “If [...] it is determined that you are not suitable for confirmation based on an assessment of your achievement of the work program, technical qualifications and professional behaviors, your employment may be terminated by non-confirmation.” The Bank submits that “the mere fact that this is standard wording [...] does not render it meaningless, let alone devoid of legal effect.” The Bank also avers that, contrary to the Applicant’s assertions, the Applicant’s performance

concerns were documented both before and after the extension decision and submits that it would be an “unworkable” requirement if “every time a manager has to correct or critically comment on a staff member’s work or behavior he or she has to give that staff member a warning that any such mistake(s) could lead to non-confirmation.”

85. The Bank finally contends that the Applicant was given opportunities to comment on the non-confirmation recommendation and that the notice of non-confirmation satisfied all formal requirements. The Bank notes the Applicant’s 20 October 2023 email to the Regional Director explaining his disagreement with the Practice Manager’s recommendation for non-confirmation. The Bank further notes that the Regional Director met with the Applicant on 17 November 2023, providing the Applicant another opportunity to defend himself against the recommendation for non-confirmation. The Regional Director ultimately notified the Applicant of his non-confirmation decision on 4 December 2023, and the Bank submits that the “amount of time that had passed, coupled with the Regional Director’s consultations with relevant individuals on this matter [...] show that non-confirmation was in no way a foregone conclusion.” The Bank further submits that the notice of non-confirmation set out the date of termination, the reasons for termination, and severance provisions and notes that granting the Applicant payment in lieu of a notice period was permissible under the relevant Staff Rule.

THE TRIBUNAL’S ANALYSIS AND CONCLUSIONS

WHETHER THE NON-CONFIRMATION DECISION WAS AN ABUSE OF DISCRETION

Standard of review for non-confirmation decisions

86. Principle 4.1(c) of the Principles of Staff Employment states, “An appointment for more than a year shall normally commence with a probationary period to allow The World Bank [...] and the staff member to assess their suitability to each other.”

87. Staff Rule 4.02, in force at the relevant time, sets out the provisions governing the probationary period. According to paragraph 1.01 of that rule, “[t]he purpose of the probationary period is to assess the suitability of the World Bank Group Institution and the Staff to each other.”

88. In *McNeill*, Decision No. 157 [1997], para. 30, the Tribunal stated:

The scope and extent of the review by the Tribunal of the Bank’s decisions concerning confirmation or non-confirmation of appointment during or at the end of the probationary period rest on the basic idea that the purpose of probation is “the determination whether the employee concerned satisfies the conditions required for confirmation” (*Buranavanichkit*, Decision No. 7 [1982], para. 26), that is to say, in the language of Staff Rule 4.02, the determination whether the probationer is “suitable for continued employment with the Bank Group.” The probationer has no right to tenure; pending confirmation his situation is essentially provisional and his future with the Bank depends on his suitability for permanent employment. The assessment of his suitability is a matter of managerial discretion, as the Tribunal has ruled in *Salle* (Decision No. 10 [1982]):

It is of the essence of probation that the organization be vested with the power both to define its own needs, requirements and interests, and to decide whether, judging by the staff member’s performance during the probationary period, he does or does not qualify for permanent Bank employment. These determinations necessarily lie within the responsibility and discretion of the Respondent [...]. (para. 27).

It is, therefore, for the Bank to establish the standards which the probationer should satisfy. The Tribunal has determined that these standards

may refer not only to the technical competence of the probationer but also to his or her character, personality and conduct generally in so far as they bear on ability to work harmoniously and to good effect with supervisors and other staff members. The merits of the Bank’s decision in this regard will not be reviewed by this Tribunal except for the purposes of satisfying itself that there has been no abuse of discretion [...]. (*Buranavanichkit*, Decision No. 7 [1982], para. 26).

It is also for the Bank to determine, at the end of the probation or at any time during the probation, whether the probationer has proven either suitable or unsuitable for Bank employment and to terminate his employment whenever it concludes that he is unsuitable. As the Tribunal has repeatedly stated, it will not review the exercise by the Respondent of its managerial discretion unless the decision constitutes an

abuse of discretion, is arbitrary, discriminatory, improperly motivated or carried out in violation of a fair and reasonable procedure.

89. The Tribunal continued at paragraph 34 of *McNeill* [1997]:

Regarding probation, the problem is not so much whether the probationer has performed satisfactorily as whether he has proven his suitability to the specific requirements of the Bank regarding the work which he would have to perform if he were to be confirmed.

90. The Tribunal stated in *Zwaga*, Decision No. 225 [2000], para. 32, that it

will not substitute its own judgment for that of the Respondent on the staff member's suitability for employment. In reviewing the Respondent's decision not to confirm the [a]pplicant's appointment, the Tribunal further notes that the concept of unsatisfactory performance as applied in the case of probation is broader than that of a confirmed staff member.

Whether the non-confirmation decision had a reasonable and observable basis

91. To the Applicant, the non-confirmation decision lacked a reasonable and observable basis because, in his view, the Practice Manager failed to fairly and objectively evaluate the Applicant's performance as a whole. The Bank, by contrast, contends that the Applicant's technical and behavioral performance "fell woefully short of what was required" and submits that, "when poor performance is the heart of the issue, managers must be able to highlight the poor performance."

92. The record reflects that in June 2023 the Applicant received positive feedback from several colleagues in response to a feedback request he made through the ePerformance system. In this respect, the Applicant's colleagues highlighted that the Applicant had "good interpersonal communication skills," had been "friendly and professional," seemed "keen to learn," was "proactive and easy to work with," showed "great understanding of the different WB products and diverse aspects of the economy," and was "responsive to [...] requests for data inputs in a timely manner." Several of the colleagues who provided positive feedback noted the Applicant's good performance with respect to the CPIA.

93. The record also reflects, however, several ongoing concerns with the Applicant's performance throughout his probation. For instance, as part of the June 2023 feedback, one colleague remarked that the Applicant had a "challenging first year" and as a result "focus[ed] primarily on core activities." This colleague noted that, while the Applicant performed well on the CPIA, "other tasks required an unusual amount of supervision and guidance" and that the Applicant needed to "strengthen his attention to details, cross-check evidence being used in his analysis, ensure more policy-sensitive drafting and improve interpersonal skills." Similarly, in an 8 August 2023 email providing feedback on staff unit-wide, the Lead Economist wrote that the Applicant had "[s]ub-par performance" with a "flat learning curve" and that the Applicant made mistakes when unsupervised.

94. The record further reflects issues with the Applicant's technical performance on one of his core responsibilities for the probationary period, the Economic Update for Togo. In this respect the Tribunal notes the Senior Economist's feedback given on the Applicant's early March 2023 draft of the Economic Update's first chapter as well as his 5 September 2023 reflections to the Practice Manager that the Applicant's subsequent draft lacked a "clear sequence" and had analytical deficiencies. The Tribunal further notes the Senior Economist's statement that he ultimately took over the preparation of and "completely" redrafted the first chapter.

95. With respect to the Applicant's work on the second chapter, the Tribunal notes the Senior Economist's feedback that, although the subject matter was "much closer to [the Applicant's] area of expertise," the Applicant's contribution was "disjoined, without a clear narrative and with several internal inconsistencies." The Applicant disputed the Senior Economist's feedback in communications with the Practice Manager and the Regional Director and suggested that they ask the External Consultant, with whom the Applicant worked on the second chapter, for feedback. In this respect, the Tribunal observes the PRS testimony of the External Consultant, in which he testified that the Applicant was "missing the local knowledge," that the Applicant's work was "mechanical as he failed to include a good set of policy recommendations," and that the Applicant's draft had to be revised.

96. The Bank identifies the Applicant's work on the weekly economic briefings as a further example of the Applicant's unsatisfactory performance. The Tribunal notes in this respect the Senior Economist's 5 September 2023 email to the Practice Manager sharing examples of the Applicant's work which he stated "illustrat[ed] disjointed drafting, digressions from the main topic and misguided conclusions." The Tribunal also notes the Lead Economist's 5 September 2023 email recalling a June 2023 weekly briefing "with grave errors [...] at a time of high visibility" and stating that the Applicant "had not shared/checked with [the Senior Economist] or myself and once this was circulated, we had to recall and revise to circulate an updated weekly on Togo with corrected text and figures." While the Applicant claims that another colleague, the Young Professional, was responsible for the error, the Tribunal observes that the record does not substantiate the Applicant's claim. The Tribunal further considers the Bank's position that, even if the Young Professional inserted the error into the weekly briefing, it remained the Applicant's responsibility to identify and correct any such mistake. Finally, with respect to the weekly briefings, the record reflects that issues persisted into October 2023, when the Senior Economist emailed the Applicant with notes on the briefing and a reminder that the briefings should be reviewed before circulation.

97. The record also supports the conclusion that there were concerns with the Applicant's professional behaviors throughout his probationary period. The Tribunal notes, for instance, the incident of 17 March 2023 that occurred between the Applicant and the Country Manager. In his write-up following the incident, the Country Manager stated that he was "about to call in security or ask for medical intervention" due to the Applicant's behavior. Moreover, as a result of the incident, the Applicant temporarily worked from home, and the Senior Economist and the Practice Manager traveled to Lomé from their respective external duty stations to help resolve the incident.

98. The Tribunal notes the Bank's claim that the Applicant threatened to stop working in late August and early September 2023 following the July 2023 extension of his probation. In this respect, the Tribunal observes the Applicant's 29 August 2023 email to the Practice Manager in which the Applicant wrote, "I cannot continue to work in the same condition this fiscal year and be subjected to the same treatment. Before continuing to work actively during this fiscal year, I must resolve the issue with the extension of the probation." Further, on 31 August 2023, after the

Applicant returned from his 1 August to 18 August annual leave, the Lead Economist emailed, “I understand that you have been back from leave for a while now but we haven’t hear[d] from you recently,” to which the Applicant responded that it was “necessary for [him] to resolve some issues before continuing to work actively during this fiscal year.” On 4 September 2023, the Senior Economist emailed the Practice Manager that the Applicant was “refusing to work on the MPO or any other part of the work program and does not respond to emails or phone calls.” The Lead Economist noted in an email to the Applicant the same day that the Applicant had not been attending team meetings.

99. The Applicant disputes the Bank’s claim that he was threatening a work stoppage and submits an email sent to another colleague on 24 August 2023 as evidence that he was still working during the relevant time; however, the Tribunal notes that neither this email nor anything else in the record demonstrates that the Applicant was engaging with either the Senior Economist or the Lead Economist. While the Applicant may not have fully ceased working in late August and early September 2023, the record supports a finding that there was a serious breakdown in communication between the Applicant and the staff members with whom he was meant to be working closely.

100. The Tribunal finally notes with respect to the Applicant’s professional behaviors the email exchanges between the Applicant, the Senior Economist, the Lead Economist, and the Practice Manager on 11 October 2023. For example, in response to the Senior Economist’s email of 3 October reminding the Applicant to share the weekly briefing with him for review before circulation, the Applicant emailed that the Senior Economist should “feel free” to write or take the lead on the weekly briefings to “give [him] more credibility to state that [he] was doing all the job on Togo.” The Applicant also repeated his statements that the Senior Economist did not “even know where trade data came from” and that he would not join the Economic Update dissemination if the Senior Economist would be presenting alone. The Tribunal observes that this email and others from the Applicant in these exchanges prompted the Practice Manager to write, “I would kindly ask that you de-escalate the language and insist that you continue to engage with your agreed functions,” and “I would suggest avoiding inflammatory language so that we can calmly

address any issues properly.” The Tribunal considers that the Applicant’s tone and defensiveness throughout these exchanges reflect negatively on his professional behavior.

101. The Tribunal next observes that the record demonstrates that the Practice Manager discussed and documented his concerns with the Applicant’s performance several times throughout the probationary period. For instance, in his 19 June 2023 write-up of his 5 April 2023 meeting with the Applicant, the Practice Manager wrote that they “agreed that a country economist needs to be much more engaged with both the country team, country management and global practices” and that it was “essential to continue to work on strengthening those relationships.” In the 25 July 2023 extension memorandum, the Practice Manager highlighted the areas the Applicant needed to develop with respect to his performance, including “proactively provid[ing] technical inputs to the CMU,” “presenting and developing MTI-led technical outputs,” “need[ing] to demonstrate a high level and wide range of technical macroeconomic skills,” “expanding [his] proactive, regular follow-up with the client and development partners on MTI’s routine engagement processes,” and “seek[ing] some training in engagement and presentation skills (including brief and report writing).” In a 5 September 2023 email to the Applicant on the probation extension, the Practice Manager noted that the Applicant had challenges in developing relationships and in demonstrating the “high level and wide range of technical macroeconomic skills demanded of a country economist.” The Practice Manager noted similar concerns in the Applicant’s FY23 Annual Review around the same time.

102. The Applicant contends that the Practice Manager did not consider the “substantial positive feedback” on the Applicant’s performance when making his recommendation for non-confirmation and posits that the Practice Manager solicited negative feedback from the Senior Economist and the Lead Economist. However, the Tribunal is not convinced that the Practice Manager discounted positive feedback when assessing the Applicant’s overall performance. For instance, though the Applicant repeatedly claimed that the Practice Manager viewed his performance on the CPIA negatively despite positive feedback, the Practice Manager explicitly told the Applicant that he did “not have a pejorative view of [his] engagement on the CPIA.” Furthermore, though the Applicant claims that the Practice Manager ignored additional positive feedback the Applicant received in December 2023, the Tribunal notes that such feedback was

requested and received by the Applicant after both the Practice Manager's non-confirmation recommendation and the Regional Director's non-confirmation decision. Thus, there is no expectation that this feedback would have informed these decisions.

103. The Tribunal is also not convinced that the Practice Manager sought out negative feedback from the Senior Economist and the Lead Economist. The Applicant cites the Practice Manager's emails in early September 2023 as evidence that the Practice Manager was soliciting such reviews. The record demonstrates that, following the extension of the Applicant's probation in July 2023, the Practice Manager asked the Senior Economist and the Lead Economist to "carefully document" their interactions with the Applicant and to share examples of the Applicant's work. While the Tribunal notes that the Practice Manager linked the need to document the Applicant's performance with the Applicant's reaction to the extension decision, the Tribunal considers that taking special care to seek additional feedback on and document staff performance in such circumstances is both appropriate and expected. The Tribunal further considers that it was reasonable and appropriate for the Practice Manager to seek feedback from the Senior Economist and the Lead Economist about the Applicant given their connected mandates and common projects.

104. In sum, while the record demonstrates that the Applicant received some positive feedback from colleagues, the Tribunal concludes that the totality of the evidence supports the Bank's assessment that the Applicant's performance was lacking throughout his probationary period. Moreover, the Tribunal recalls that, when reviewing non-confirmation decisions, "the problem is not so much whether the probationer has performed satisfactorily as whether he has proven his suitability to the specific requirements of the Bank." *McNeill* [1997], para. 34. The Tribunal also recalls that "the concept of unsatisfactory performance as applied in the case of probation is broader than that of a confirmed staff member." *Zwaga* [2000], para. 32. In *Motabar*, Decision No. 351 [2006], para. 40, the Tribunal observed:

The [a]pplicant is correct in saying that there were many positive comments about both his work and his behaviors in both interim [Annual Reviews]. But he tends to read comments as too uniformly laudatory. It may be true that judging simply by the number of comments, the good outnumber the bad. But it is necessary to take the negative comments seriously, based particularly on their level of detail and

corroboration, and one must also, of course, give weight to the negative appraisals coming from the [a]pplicant's supervisor herself.

105. Considering the record as a whole, the trial nature of a probationary period, and the standard of review for non-confirmation decisions, the Tribunal concludes that there was a reasonable and observable basis for the adverse assessment of the Applicant's performance and the resulting non-confirmation decision.

Whether the non-confirmation decision was motivated by retaliatory animus

106. The Applicant contends that the non-confirmation decision was improperly motivated by retaliatory animus in response to his raising concerns about racial discrimination, while the Bank maintains that the Applicant has failed to establish a *prima facie* case of retaliation and that, in any case, the Applicant's documented performance deficiencies provide a legal basis for the non-confirmation decision.

107. The Tribunal has previously stated that retaliation is prohibited under the Staff Rules. In *Bauman*, Decision No. 532 [2016], para. 95, the Tribunal stated:

As the Tribunal has frequently observed, the Staff Rules are clear that retaliation against any person "who provides information regarding suspected misconduct or who cooperates or provides information in connection with an investigation or review of allegations of misconduct, review or fact finding, or who uses the Conflict Resolution System" is prohibited. [...] This prohibition extends also to retaliation against any person who is believed to be about to report misconduct or believed to have reported misconduct, even if such belief is mistaken.

108. Staff Rule 8.02 defines retaliation as "any direct or indirect detrimental action recommended, threatened, or taken because an individual engaged in a [protected activity]." The WBG Staff Code of Ethics explains that a staff member is protected from retaliation if he or she "reports an allegation of misconduct to INT [the Integrity Vice Presidency], [EIJIN,] or a manager, cooperates with or provides information in a related investigation, or uses any of the resources of the WBG Internal Justice Services."

109. The Tribunal has recognized that “it is not always easy for an applicant to produce evidence to support a claim of retaliation.” *Harou*, Decision No. 273 [2002], para. 68. Still, “[i]t is not enough for a staff member to speculate or infer retaliation from unproven incidents of disagreement or bad feelings with another person” (*Bauman* [2016], para. 99); an applicant must make a *prima facie* case “with some evidence to show the [...] retaliatory motives behind the impugned decision” (*EY*, Decision No. 600 [2019], para. 134). The Tribunal has explained that a *prima facie* case means, simply, that an applicant “has pointed to facts that suggest that the Bank is in some relevant way at fault.” *DP*, Decision No. 547 [2016], para. 97, citing *BI*, Decision No. 439 [2010], para. 47. Once an applicant has established a *prima facie* case, “the burden shifts to the Bank to disprove the facts or to explain its conduct in some legally acceptable manner.” *DJ (Merits)*, Decision No. 548 [2016], para. 58, citing *de Raet*, Decision No. 85 [1989], para. 57.

110. The Tribunal will first consider whether the Applicant engaged in a protected activity. The Applicant claims that he first reported allegations of discriminatory treatment by the Senior Economist to the Regional Director in late July 2023, following the extension of his probation. The Tribunal notes that there is no contemporaneous record of the Applicant’s allegations, and the Regional Director did not recall such allegations in his description of the meeting before PRS. The Applicant further claims that, in late August 2023, the Practice Manager threatened termination if the Applicant continued to raise discrimination complaints. The Tribunal notes that the Applicant made no reference to any allegations or threats in his email to the Practice Manager following this meeting; rather, the Applicant contested his probation extension and noted that he would be escalating the issue.

111. In his 5 October 2023 email exchange with the Practice Manager, which the Applicant submitted to PRS as evidence of his having alleged discrimination and marginalization by the Senior Economist, the Applicant stated that “treatment should not be discriminatory.” The Tribunal observes, however, that this statement was made in reference to the Senior Economist not requesting feedback from the Applicant and not in relation to allegations of misconduct. The Applicant also objected to the Senior Economist’s alleged “superiority,” which, without more, the Tribunal likewise does not consider to be an allegation of misconduct.

112. The Applicant further claims that the recommendation of non-confirmation was made two days after the Applicant had informed the Practice Manager that he scheduled a meeting with HR to further pursue his allegations of discriminatory treatment. Reviewing the Applicant's final 11 October 2023 email to the Practice Manager, the Tribunal does not find anything to support the Applicant's claim that he told the Practice Manager that his meeting with HR was to pursue allegations of discriminatory treatment. While the Applicant continued to object to the Practice Manager's performance evaluation and the Senior Economist's alleged "superiority" and stated that he was meeting with HR on these issues, he made no allegations of misconduct, nor did he suggest that he would be raising any allegations of misconduct with HR. The Tribunal observes in this respect that the Applicant noted his engagement with HR on several occasions following the extension of his probation.

113. While reporting an allegation of misconduct to one's manager is considered a protected activity under the WBG Staff Code of Ethics, in view of the above, the Tribunal considers that the record does not substantiate that the Applicant ever made any such report.

114. The Applicant also states that he contacted REO on 13 October 2023 to report his allegations of discrimination but does not provide any record of such a contact. While this was the same day the Practice Manager recommended non-confirmation of the Applicant's appointment, the Tribunal considers that nothing in the record demonstrates that the Practice Manager knew of the Applicant's contact with REO and observes that the Applicant makes no contention that the two actions were related. The Applicant also filed a complaint of misconduct with EIJIN on 15 December 2023. The Tribunal notes that in doing so the Applicant engaged in a protected activity; however, the Applicant's report to EIJIN occurred after both the non-confirmation recommendation and the non-confirmation decision. As such, the Tribunal sees no link between this protected activity and the adverse employment actions. The Tribunal notes further that EIJIN closed the Applicant's case due to insufficient evidence of misconduct, including insufficient evidence of retaliation by either the Practice Manager or the Regional Director.

115. In view of the above, the Tribunal is not convinced that the non-confirmation decision was motivated by retaliatory animus. Having already concluded that there was a reasonable and

observable basis for the adverse assessment of the Applicant's performance, the Tribunal is satisfied that the decision not to confirm the Applicant's appointment was not an abuse of discretion.

WHETHER THE APPLICANT WAS DEPRIVED OF DUE PROCESS

116. Staff Rule 4.02, paragraph 3.02, provides:

During the probationary period, the Manager or Designated Supervisor:

- a. as soon as practicable, meets with the Staff to establish the Staff's work program; and
- b. provides the Staff feedback on the Staff's suitability and progress based on achievement of the work program, technical qualifications and professional behaviors.

117. Staff Rule 4.02, paragraph 4.02, sets out the requirements for non-confirmation of an appointment at the end of the probationary period, as follows:

At any point during or at the end of the probationary period, the Staff's Manager may recommend to end a Staff's employment by non-confirmation of appointment. The written recommendation to not confirm is supported by prior written notice to the Staff concerning deficiencies in their performance, technical qualifications, or professional behaviors; reasonable guidance and opportunity to demonstrate suitability for the position, and warning that failure to do so may result in termination. The Staff is provided an opportunity to comment on the recommendation. The recommendation, together with any comments of the Staff, are submitted to the Manager's Manager (at Level GI or above) for decision, which is made in consultation with the Manager, Human Resources Business Partner/Manager and with notice to the Staff's Vice President. Termination procedures are specified in Paragraphs 7.01 through 7.05 of Staff Rule 7.01 "Ending Employment".

118. In *Salle* [1982], para. 50, the Tribunal emphasized the importance of due process because "[t]he very discretion granted to the Respondent in reaching its decision at the end of probation makes it all the more imperative that the procedural guarantees ensuring the staff member of fair treatment be respected."

119. In *McNeill* [1997], para. 44, the Tribunal recognized that the Bank has a

duty to meet what the Tribunal has called “the appropriate standards of justice” (*Buranavanichkit*, Decision No. 7 [1982], para. 30). While the probationer has no right to be confirmed, he has the right to be given fair opportunity to prove his ability, and the Tribunal will review whether this right has been respected and whether the legal requirements in this regard have been met.

120. In *Zwaga* [2000], para. 38, the Tribunal held

that one of the basic rights of an employee on probation is the right to receive adequate guidance and training (*Rossini*, Decision No. 31 [1987], para. 25) and that it is its duty to make sure that the Bank’s obligation to provide a staff member on probation with adequate supervision and guidance has been complied with in a reasonable manner. (*Salle*, Decision No. 10 [1982], para. 32.)

121. In *Samuel-Thambiah*, Decision No. 133 [1993], para. 32, the Tribunal recognized the elements of due process, in the context of probation, as follows:

First, the staff member must be given adequate warning about criticism of his performance or any deficiencies in his work that might result in an adverse decision being ultimately reached. Second, the staff member must be given adequate opportunities to defend himself.

122. The Applicant contends that he was treated unfairly and deprived of due process with respect to his probationary period, the recommendation of non-confirmation, and the non-confirmation decision. To the Bank, the Applicant was afforded fair treatment and due process at all times.

123. The Tribunal will first consider the Applicant’s contention that management failed to support him with adequate supervision and guidance during the probationary period. In this respect, the Applicant submits that the Practice Manager made “contemporaneous concessions in [his] FY23 Annual Review acknowledging that management had provided him with limited support and guidance.” The Tribunal observes that the Practice Manager did recognize “the challenges of on-boarding in the country office” in the Applicant’s FY23 Annual Review, but the Tribunal does not consider this recognition to be a concession that the Applicant was deprived of adequate supervision and guidance.

124. The Tribunal also considers that the record supports the Bank's contention that the Applicant "received ample guidance" during his probationary period. For instance, the Practice Manager asked another Country Economist to support the Applicant in his work on the CPIA, which the Practice Manager explained was a common practice in the unit. The Practice Manager also emphasized to the Applicant that his work program would be supported by the Senior Economist and the Lead Economist, and the Tribunal observes in this respect that the record demonstrates that the Applicant received significant guidance from the Senior Economist during his probation, particularly with respect to his work on the Economic Update for Togo.

125. In the probation extension memorandum, the Practice Manager recommended that the Applicant seek specific training and join the Bank's mentor program. The Practice Manager repeated these recommendations in later communications with the Applicant and in his FY23 Annual Review. The Tribunal notes that there is nothing in the record that suggests the Applicant took any training in response to these recommendations. Following the extension of his probation, the Practice Manager also held regular meetings with the Applicant to "give [him] an opportunity to highlight the deliverables and also to address any issues that might arise." The Tribunal notes that the Practice Manager highlighted on several occasions that he was "ready to support" the Applicant's development.

126. In view of the above, the Tribunal is satisfied that the Applicant received adequate supervision and guidance during his probationary period.

127. The Tribunal will next consider whether the Applicant was given adequate warning of the deficiencies in his performance in accordance with Staff Rule 4.02, paragraph 4.02.

128. Reviewing the record, the Tribunal notes that the Practice Manager first provided written notice of performance concerns and areas for development on 19 June 2023, when he summarized the 5 April 2023 meeting with the Applicant in ePerformance. Then, on 25 July 2023, the Practice Manager held a formal Annual Review meeting with the Applicant during which the Applicant was informed that his probation would be extended. In the extension memorandum, shared with the Applicant the same day, the Practice Manager wrote that the Applicant was being provided a

“further opportunity to assess [his] overall suitability for employment with the World Bank Group,” provided expectations for the Applicant’s performance and work program moving forward, and noted that the Applicant’s appointment may be terminated by non-confirmation “[i]f during, or at the end of [the] extended probationary period, it is determined that [he is] not suitable for confirmation.” Finally, in an email to the Applicant on 5 September 2023, the Practice Manager clarified that the probation extension was to “allow [the Applicant] additional time in order to develop as a World Bank Country Economist,” recalled the concerns with the Applicant’s performance, and highlighted expectations for the Applicant’s development.

129. In the Applicant’s view, management failed to give him adequate warning of the issues purportedly leading to the non-confirmation decision, submitting that the probation extension “came as a total surprise,” that the extension memorandum did not identify any behavioral deficiencies or concerns about the Applicant’s technical work, and that the “template language” of the extension memorandum does not constitute adequate warning for purposes of due process.

130. The Tribunal is not convinced by the Applicant’s assertions. With respect to the extension decision, the Tribunal considers that the Applicant should have been aware that the Practice Manager had some concerns with his performance following the 19 June 2023 written summary. The Applicant was also aware of the critical peer feedback received in late June 2023 as part of the performance review process. The Tribunal further considers that the Practice Manager informed the Applicant of the extension decision during the 25 July 2023 Annual Review discussion, several months before the original conclusion of the Applicant’s probationary period. Given the documented performance concerns prior to the extension decision, and given that the Applicant’s probation was extended as part of the Practice Manager’s Annual Review discussion with the Applicant, the Tribunal is not persuaded that the Applicant was treated unfairly or deprived of due process with respect to the extension decision.

131. With respect to the non-confirmation decision, in *FN*, Decision No. 632 [2020], para. 93, the Tribunal found that the standard warning of non-confirmation provided in the extension memorandum was “ineffective when not accompanied by the specific deficiencies which need to

be addressed, as the purpose of any such warning is to give the staff member the opportunity to improve.”

132. In *Venkataraman*, Decision No. 500 [2014], para. 66, the Tribunal noted that, even where the applicant received feedback explicitly informing him of performance deficiencies, the “question, however, is whether the [a]pplicant was provided with warning that failure to demonstrate his suitability for the position may result in termination as required by the Staff Rule.”

The Tribunal further explained that

not informing the [a]pplicant of the grave consequences of his failure to improve his performance may have denied him the opportunity to fully realize the seriousness of his situation and thereby increase his efforts to prove his suitability for continued employment. (*Id.*, para. 73.)

The Tribunal also noted that, “instead of an unequivocal warning of imminent termination, the [a]pplicant’s supervisor as well as his manager gave him mixed messages.” *Id.*, para. 69.

133. In *GW*, Decision No. 686 [2023], paras. 172–173, the Tribunal determined that the applicant’s supervisor “failed to warn the [a]pplicant of the seriousness of his situation with respect to his suitability for continued employment” when the supervisor wrote, “Management has decided to extend [the applicant’s] probationary period by six (6) months, but [the applicant] should not interpret this as a negative as his work performance has been very good.”

134. Reviewing the record in the present case, the Tribunal finds that, unlike the applicant in *FN* [2020], here, along with the standard warning of non-confirmation in the extension memorandum, the Applicant received notice of the performance deficiencies he was required to address in the extended probationary period, first in the extension memorandum and then in the Practice Manager’s 5 September 2023 email. The Tribunal also considers that, unlike in *Venkataraman* [2014] or *GW* [2023], here there were no equivocations or “mixed messages” by the Practice Manager in his communications with the Applicant. Moreover, the Tribunal observes that the Applicant’s communications with the Practice Manager and others demonstrate that, while he disagreed with the assessment of his performance deficiencies, he was aware or should have

been aware that there were concerns with his performance prior to and during the extended probationary period.

135. In sum, the Tribunal finds that the standard non-confirmation warning provided in the extension memorandum coupled with the Practice Manager's written guidance in the extension memorandum and later email satisfy the adequate warning requirement of Staff Rule 4.02, paragraph 4.02.

136. The Tribunal notes that some negative feedback was not shared with the Applicant, such as the Lead Economist's 8 August 2023 assessment and 6 October 2023 ePerformance feedback. However, given that the record sufficiently demonstrates that the Applicant was adequately warned of the risk of non-confirmation even absent the Lead Economist's assessment and feedback, the Tribunal finds that any failure to share this feedback does not amount to a violation of due process.

137. The Tribunal will finally consider whether the Applicant was denied any meaningful opportunity to defend himself against the basis for the non-confirmation decision.

138. The Tribunal first notes that, following the probation extension decision, the Practice Manager emailed the Senior Economist and the Lead Economist on 4 September 2023, writing, "For now, and for setting his annual objectives, we have to assume that [the Applicant] will be able to fulfil his responsibilities as country economist for Togo." The Tribunal observes that, at this time, non-confirmation of the Applicant's appointment was not a foregone conclusion. The Practice Manager also continued to communicate and meet with the Applicant regarding his performance and recommended concrete steps the Applicant could take to develop in his role, such as seeking training and joining the mentor program. The record does not show that the Applicant followed the Practice Manager's recommendations. The Tribunal is satisfied that the Applicant had an opportunity to address the identified performance deficiencies following the extension of his probation.

139. The Tribunal observes that continued instances of poor professional behavior by the Applicant were reflected in his 11 October 2023 email exchanges, which were characterized by an

inflammatory tone and defensiveness to any constructive feedback. Following these exchanges, on 13 October 2023, the Practice Manager recommended non-confirmation of the Applicant's appointment, both in person and in writing. The written notice of the recommendation explained that the Practice Manager "ha[d] not and d[id] not see dramatic and immediate improvement in [the Applicant's] unsatisfactory performance," and it stated that "no significant improvement in the quality, collaboration, and proactivity of delivering [the Applicant's] work program as Country Economist was observed, despite guidance and learning opportunities including peer mentoring." The Practice Manager further stated that he was recommending the non-confirmation of the Applicant's appointment to the Regional Director and noted that the Applicant would be allowed ten calendar days to comment on the recommendation.

140. The record demonstrates that the Applicant submitted comments on the recommendation to the Regional Director on 20 October 2023 and that the Regional Director met with the Applicant on 17 November 2023 regarding the recommendation. The Tribunal observes the Regional Director's statement to PRS that, in addition to meeting with the Applicant, he "engaged in extensive consultations with the Togo Lead and Senior Economists, the Togo Country Manager, the Togo Country Director, the Togo Operations Manager, and other colleagues who have some working relationship with [the Applicant]" prior to making a decision on the non-confirmation recommendation. The Regional Director ultimately notified the Applicant in writing of the non-confirmation decision on 4 December 2023.

141. Having reviewed the sequence of events in the record, and having taken note in particular of the Applicant's comments on the non-confirmation recommendation and the Regional Director's consultations with both the Applicant and the Applicant's colleagues, the Tribunal is satisfied that the Applicant was provided a meaningful opportunity to defend himself against the non-confirmation recommendation.

142. Having found that the Applicant was provided adequate supervision and guidance during the probationary period, adequate warning of the risk of non-confirmation, and a meaningful opportunity to defend himself against the non-confirmation recommendation, the Tribunal

concludes that there was no deprivation of due process related to or arising from the non-confirmation decision.

DECISION

The Application is dismissed.

/S/Janice Bellace
Janice Bellace
President

/S/ Zakir Hafez
Zakir Hafez
Executive Secretary

At Washington, D.C., 14 November 2025