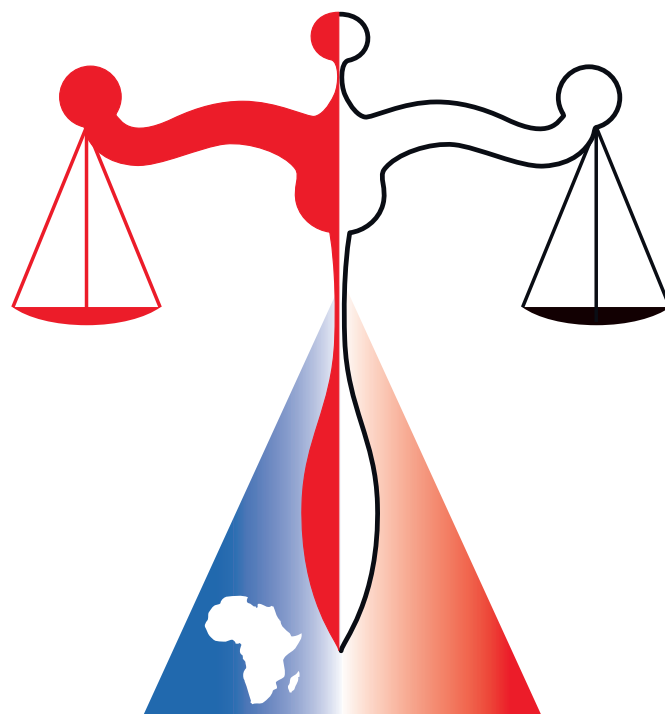


**ALSF**

African Legal Support Facility  
Facilité africaine de soutien juridique

## Medium Term Strategy 2013-2017

Adopted on 29 May 2012



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# List of Acronyms

<b>AFD</b>	<b>Agence Francaise de Developpement</b>
<b>AfDB</b>	<b>African Development Bank</b>
<b>ALSF</b>	<b>African Legal Support Facility</b>
<b>HIPC</b>	<b>Heavily Indebted Poor Countries</b>
<b>ICT</b>	<b>Information and Communications Technology</b>
<b>ICP</b>	<b>International Cooperating Partners</b>
<b>IMM OUTC</b>	<b>Immediate Outcome</b>
<b>INT OUTC</b>	<b>Intermediate Outcome</b>
<b>MTS</b>	<b>Medium Term Strategy</b>
<b>OUTP</b>	<b>Output</b>
<b>PALU</b>	<b>Pan African Lawyers Union</b>
<b>PMF</b>	<b>Performance Measurement Framework</b>
<b>PPP</b>	<b>Public Private Partnerships</b>
<b>RMC</b>	<b>Regional Member Countries</b>
<b>SWOT</b>	<b>Strengths, Weakness, Opportunities and Threat</b>
<b>TA</b>	<b>Technical Assistance</b>
<b>ULT OUTC</b>	<b>Ultimate outcome</b>



# Foreword by the Chairman



Mr. Lucien Bembamba

**T**he African Legal Support Facility's (ALSF) Medium Term Strategy comes at an opportune time as the organization, since it started operations in 2010, has amassed a wealth of experience and is now in a position to actively respond to the needs of the beneficiaries for whose purpose it was formed.

The Facility was created on the back of a call by African Ministers of Finance who in 2003 realized the importance and the need to set up an institution that would provide legal assistance to regional Member Countries of the African Development Bank particularly for Heavily Indebted Poor Countries (HIPC)s to address the challenge of creditor litigation and contract negotiation.

It is comforting to note that ALSF has made significant contributions to assist countries that are threatened by creditor law-suits and has also provided support to Regional Member Countries in complex commercial negotiations.

The African continent faces a threat from the ongoing global financial crisis and therefore it is important to safeguard the positive gains that have been realized so far and hence the importance of the Strategic Plan which will provide guidance and a clear road map for the institution as it positively responds to the challenges of creditor litigation as well as the limited capacity in commercial negotiations.

I call upon our partners to join hands with ALSF in support of our Vision of Achieving Sustainable Legal Capacity in Africa through establishing a relationship with the organization as we implement this Strategic Plan.

Chairman of the Governing  
Council H. E. Lucien Bembamba  
Minister of Finance  
Burkina Faso







Mr. Stephen Karangizi

This Medium Term Strategy (MTS) provides a Five Year Road Map (2013 to 2017) for the African Legal Support Facility (hereinafter referred to as “the Facility”). The MTS was prepared through a consultative process that involved the Governing Council, Management Board and the Technical Staff and reflects an appreciation of the challenges and tasks that the Facility should address in order to fulfill its mandate.

The Medium Term Strategy was developed against a background of the uncertain global financial crisis whose magnitude and impact on the African economies is not yet fully known and on the other hand an increasing demand on African extractive resources. The increasing demand on resources necessitates the drafting of complex agreements by legal experts that often do not have the requisite experience and knowledge in negotiating these complex transactions. Both developments underline the need for adequate capacity to deal with potential litigation on commercial debt as well as capacity to negotiate commercial contracts in the extractive resource and infrastructure sectors.

The Strategy provides a road map for the organs of the Facility and also communicates to the stakeholders what the Facility seeks to achieve over the next five-year period. It also takes into account valuable lessons learned since the formation of the Facility.

The Medium Term Strategy document consists of interlinked chapters, chapter one provides some background information about ALSF and also presents a review of the achievements accomplished since the formation of the organization. ALSF’s Vision, Mission and the core values are in chapter two; while chapter three provides an analysis of the key internal strengths and weaknesses of ALSF as well as the external threats and opportunities that face the organization. Expectations of stakeholders are presented in chapter four; strategic objectives are outlined in chapter five; followed by the implementation framework in chapter six. Chapter seven presents the performance measurement framework, functions of the ALSF core staff are outlined in chapter eight and a multi annual indicative budget is presented at chapter nine. The last chapter is the conclusion for this strategic plan.

The organs of the Facility will review progress continuously and ensure the full implementation of the MTS while taking necessary steps to readjust whenever it is deemed necessary.

I am grateful for the contributions from the Governing Council, Management Board and staff that made the development of this Medium Term Strategy possible.

Stephen Karangizi  
Director and Chief Executive Officer





# 1 Background



The Facility was established following a call by African Finance Ministers, in June 2003, for the creation of a legal technical assistance facility to help HIPC countries address a growing problem of vulture funds. The Commission for Africa, in March 2005, reiterated the need of a facility to assist African countries in dealings with these aggressive creditors. Moreover the Group of Eight (G8) recognized the lawsuits instituted by Vulture Funds against RMCs as obstacles to debt relief arrangements agreed in 2005 at Gleneagles<sup>1</sup>. The Facility contributes directly to the Millennium Development Goal 8 which is to “Develop a global partnership for development” supporting the specific target of dealing comprehensively with the debt problems of developing countries and that debt burdens ease for developing countries and remain well below historical levels.

The African Big Table, in February 2007, called for a technical advisory facility to assist RMCs negotiate extractive resource contracts and create an appropriate, enabling environment with modern legal and regulatory frameworks for the extractive resource sector. The viability of such a facility was shown by a study commissioned by the Bank in 2007 and confirmed the pressing need for such a facility. According to the study, such an organization should consist of an autonomous, independent, international institution with a focused approach concentrating on:

- (i) combating vulture funds;
- (ii) assisting RMCs negotiate complex transactions; and
- (iii) building capacity of RMCs in these and related areas for sustained impact.

The goal of the Facility is therefore to remove asymmetric technical capacities and level the playing field of legal expertise among parties to litigation and negotiations.

Against this background the Facility was created as an International organization established by Agreement (Agreement establishing the African Legal Support Facility) signed on 15 December 2008.

Membership in the Facility is open to all sovereign nations and international organizations. As of April 2012, 43 member countries and 4 international organizations have signed the Agreement Establishing the African Legal Support Facility.

The structure of the Facility includes a Governing Council representing twelve (12) of the participating members, a five (5) person Management Board chosen for their technical expertise, and a small technical staff headed by a Director who is also the Chief Executive Officer.

<sup>1</sup> Greater than seventy percent of the nearly one billion United States dollars in judgments awarded to plaintiffs instituted by vulture funds have been against RMCs.

A sunset provision for the expiry of the Facility is also intended to allow the phase-out of the Facility after a fourteen-year period during which the Facility should have built the requisite capacity in RMCs that are the focus of the Facility.

## 1.1 Review of progress to date

Since its launch in 2009, the Facility has focused on creating a sustainable structure through membership recruitment, resource mobilization, establishing operational systems and controls, creating awareness as well as executing projects to assist the RMCs. A summary of the progress and achievements made is presented below under each of the above mentioned areas:

Efforts to recruit members have yielded positive results and as of April 2012, the Facility has 47 members as shown at Annex 1. Further work needs to continue being undertaken to recruit more members to join the Facility. Membership recruitment also provides an opportunity to create awareness of the Facility and to solicit requests for assistance.

The Facility has so far received financial support from the AfDB and other partners. Negotiations are underway with additional International Cooperating Partners (ICPs) for more support. Key to successful resource mobilization will be the recognition by stakeholders of the Facility as a unique institution to assist RMCs in the following areas: legal assistance to resolve creditor litigation in particular vulture fund litigation as well as legal advice in the negotiation of commercial contracts.

The Facility has successfully recruited a team of highly qualified experts that are led by a Director who is also the Chief Executive Officer. Operating systems and controls have been established and are now fully in place. Work is underway to develop a database to track precedents in litigation as well as a database of legal experts. A Monitoring and Evaluation Framework (MEF) is now being developed to measure progress towards the goals of the Facility.

## Operations

While laying the groundwork for the administrative functions, the Facility has successfully launched operations and is currently executing projects in the focal areas that are mentioned below:

### Creditor Litigation Support

This is the most important focal area of the Facility as the threat of vulture fund litigation is viewed as a major threat to debt relief of the RMCs especially the High Indebted Poor Countries (HIPC). According to IMF reports, claims by vulture funds constitute between 12 to 13 percent of a country's gross domestic product (GDP) and it is estimated that eleven HIPCs have been targeted in forty-six lawsuits.

In response to the mandate, the Facility has been actively identifying vulture fund litigation cases against its members. The first case in vulture fund litigation to support the Democratic Republic of Congo was approved by the Management Board in 2010 and is ongoing. The Facility will continue to monitor this case as it progresses. Support to an RMC for a second creditor litigation case was approved by the Management Board in March 2012. This is a relatively new case which will also be monitored by the Facility. Two new cases have been identified and consultations are underway with the respective governments to process their representation.

### Advisory Services Support

Provision of Advisory Services is considered an important function as it is closely linked in to the prevention of vulture fund litigation. In some cases, vulture fund litigation is a direct consequence of badly negotiated commercial contracts where the RMC was not fully aware of its rights and obligations.

As at the end of March 2012, two projects had been undertaken in Advisory Services Support; the first one was for the Government of Djibouti and has been successfully concluded. The se-





Launching of the ALSF/PALU Capacity Building Project, 11<sup>th</sup> February 2011, Kigali, Rwanda.

cond is still ongoing and focuses on the provision of support for the Government of Liberia.

By the end of May 2012, eleven additional requests had been received and were now being considered. In line with the Mandate, the Facility will give preference to requests related to extractive resources, infrastructure and debt.

### Capacity Building

Capacity building for legal experts in the RMC is another priority for the Facility and has received attention mainly through a project that was approved by the Management Board in 2010. This first capacity building project entailed working with the Pan-African Lawyers Union (PALU) to host training workshops for legal experts from the RMCs in complex commercial trans-

actions and vulture fund litigation. A second capacity building project for another RMC involved support in building legal capacity to recover sovereign assets. A third capacity building project involves advising an RMC on its nascent energy and mining sectors.

### Partnerships

Realizing the importance of working with other institutions, the Facility has successfully established partnerships with the following organizations: PALU, World Bank, AFD, Banque Ouest-Africaine de Développement (BOAD), Center of Comparative Law in Africa, Revenue Watch, International Senior Lawyers Programme (ISLP), and the International Lawyers for Africa (ILFA). The Facility will continue to establishing partnerships with other strategically aligned organizations.





## 2 ALSF's Vision, Mission and Values



**T**he ALSF is an independent organization whose membership is open to all member states of the African Development Bank, other states, the African Development Bank and other international organizations or institutions.

The Facility has adopted the following Vision, Mission and Values to guide the Strategic Plan over the medium term from 2013 to 2017.

### 2.1 Vision

Achieving sustainable legal capacity for Africa.

### 2.2 Mission

To provide legal advice and capacity building to African countries on vulture fund litigation, complex commercial negotiations and related sovereign transactions.

### 2.3 Values

The ALSF is founded on the values of respect for the rule of law, equity, transparency and good governance. These values are grounded on its "African character" as the ALSF is a partner of all African countries and respects the diversity of the continent. ALSF's team is committed to uphold ethics, accountability, excellence, professionalism, probity and a team working spirit.





### 3 Analysis of Strengths and Opportunities



The following analysis provides an overview of the strengths and opportunities for ALSF which have been taken into account during the development of this Strategic Plan.

#### Strengths

The strength of the Facility lies in the fact that it was established on the request of African Ministers of Finance through the African Development Bank and therefore enjoys good relationship with the AfDB. Through close collaboration with the RMCs the Facility has a good understanding of challenges faced by them and is playing a major role as a partner. It is also the only African institution that specializes in addressing the problem of vulture funds. Finally, as an independent entity that is also an international organization, ALSF enjoys good relationships with law firms worldwide and is adaptable in responding to specific requests from countries.

#### Opportunities

The Facility has a unique opportunity to intervene in areas where there is high demand from RMCs (such as advisory services and capacity building) as well as where it has comparative advantage (with respect to vulture funds). There is great potential for the

Facility to provide reimbursable advances especially in cases involving asset recovery. The global economic meltdown has resulted in investors turning to Africa for resources, especially in the extractive sector thereby placing a burden on RMCs to have the requisite expertise to negotiate complex commercial agreements. The European debt crisis is impacting on debt restructuring in African countries and offers an opportunity for ALSF to provide support to RMC in response to potential creditor litigation.

The HIPC and Multilateral Debt Relief Initiative (MDRI) is yet another opportunity and justification for the need of the Facility.

The Facility should provide answers to those new challenges mentioned above by intervening in key areas such as debt restructuring, creditor litigation, complex commercial transactions and related issues. To provide those services, the Facility can also take advantage of the extensive network of AfDB offices across the continent.

The success of the Facility is dependent on the ability to raise adequate resources so as to meet the demands of the RMCs. In addition, the issue of vulture funds is very complex and often underestimated by the RMCs resulting in limited reporting of their occurrences until it is usually late.





## 4 Stakeholder Analysis



The analysis below identifies the Facility's stakeholders and their interests. The Medium Term Strategy acknowledges

the existence and interests of the stakeholders and has accordingly developed appropriate responses.

**Table 1 Stakeholder Mapping**

STAKEHOLDER-PRIMARY BENEFICIARIES	INTERESTS
RMC Governments and AfDB Members	Services
African Lawyers	Information, networking platform and capacity building
STAKEHOLDER-INTERESTED PARTIES	INTERESTS
AfDB	Complementarity and funding of joint programmes
International Development Banks and Regional Cooperating Partners	Partnership, coordination and funding of joint programmes
International Cooperating Partners	Social protection, capacity building, funding of joint programmes and technical assistance
Non Traditional ICPs (BRICS)	Trilateral cooperation-capacity building, collaboration and funding joint programmes
Academic and other Training Institutions	Partnerships
African Bar Associations	Capacity building, collaboration and networking
Media	Information
Parliamentarians, Traditional Chiefs	Information
African Law Firms	Information, networking and business opportunities
Non-Commercial creditors	Vulture fund litigation
Philanthropic Foundations	Partnerships, coordination and funding of joint programmes
STAKEHOLDER-OTHER	INTERESTS
Civil Society Organizations (CSO) including Non-Governmental Organizations (NGOs)	Collaboration, information, competitors
African Regional Economic Communities (RECs) and the African Union (AU)	Information sharing
African Bar Associations	Capacity building, collaboration and networking
Private Sector Investors (Oil and gas companies, mining companies, fund managers)	Improved business environment, partnerships, funding e.g Community Social Responsibility (CSR)
International Law firms and other institutions	Business opportunities, information and collaboration in training
Vulture Funds and other similar entities	Impede ALSF
Commercial Creditors	Settling disputes to recover part of the money owed to them





Members of the Management Board and Director of the Facility, November 2011, Tunis, Tunisia.

## 5 Strategic Objectives and Core Activities



The Facility is an international organization dedicated to providing legal advice and technical assistance to African countries in matters pertaining to creditor litigation and complex commercial transactions.

ALSF's Medium Term Strategy focuses on three strategic pillars, which are as follows:

- a) Creditor litigation services.
- b) Advisory services.
- c) Capacity building.

The Facility strives to further development in Africa by removing obstacles to realizing the benefits of debt relief through its work in Creditor Litigation. The Facility also provides Advisory services to improve the negotiating capabilities of its member countries.

Through all of its activities, the Facility aims to build sustainable Capacity of legal expertise on the continent. It is widely recognized that many RMCs lack the specialist legal expertise or experience in creditor litigation and in matters of complex commercial transactions. The purpose of the Facility is to assist RMCs in these areas.

The Facility's goals directly align with the 8th Millennium Development Goal: To deal comprehensively with the debt problems of developing countries. By supporting RMCs in their cases against Vulture Funds, the Facility is directly supporting developing countries in dealing with their debt issues. By providing advisory services in complex commercial transactions, the Facility is strengthening the abilities of the RMCs to make debt sustainable in the long-term by ensuring that their interests are properly advocated for in key commercial contracts.







The challenges as well as the opportunities facing the Facility have been analysed in the Strengths and Opportunities section of the Medium Term Strategy and have a bearing on the three strategic pillars. ALSF's response is captured in the objectives and core interventions that are presented in this MTS document.

The three strategic pillars are elaborated further in the section below.

(i) **Strategic Pillar 1: Creditor Litigation Services**

**Strategic Objective: Improved capacity to respond to and manage external commercial credit litigation.**

In order to address the lack of capacity for RMCs to effectively litigate against vulture funds and commercial debt creditors especially in jurisdictions outside Africa, the ALSF engages and

funds international law firms to represent the respective RMC in the litigation.

The Facility supports the various debt relief initiatives of the AfDB and other international financial institutions. There is need to ensure that savings gained from debt relief that are earmarked for developmental purposes in RMCs. However, in many cases these are diverted to pay vulture funds. This erodes the effectiveness of the debt relief arrangements.

The Facility support will give priority to strengthening relevant assistance to fragile states and post-conflict countries in Africa. Fragile, post-conflict, low- income countries that are eligible for IDA or ADF support are most vulnerable to creditor litigation. In addition due to limited capacities and resources fragile states and post-conflict States are more likely to conclude inequitable commercial Agreements.

OUTPUTS	CORE ACTIVITIES
1) Database of potential, on-going and previous creditor litigation cases 2) Best practice examples of successful litigation 3) Successful litigation of cases 4) Savings of government revenue	<ul style="list-style-type: none"><li>• Developing database of litigation cases (base line + on-going)</li><li>• Developing database of legal firms</li><li>• Compiling best practice examples (case studies)</li><li>• Conducting litigation</li><li>• Compiling data of revenue savings</li><li>• Sensitization campaigns</li><li>• Information sharing-newsletter and website</li></ul>

(ii) **Strategic Pillar 2: Advisory Services**

**Strategic Objective: Improved legal capacity to negotiate complex agreements related to extractive resources, infrastructure and debt.**

The Facility is intended to provide advisory services on a selective basis focusing on areas not being served by other institutions. The Facility shall provide services aimed at removing unequal technical capacities and leveling the field of expertise between the countries and third parties (parties that have commercial relations with RMCs). The Facility seeks to level the field by providing regional member countries with high quality legal advice so as to ensure that their legal rights are represented.

The ALSF provides technical legal assistance to African countries to strengthen their legal expertise and negotiating capacity. In particular, the ALSF focuses in order of priorities on matters pertaining to: (a) debt management and litigation, (b) natural resources and extractive industries management and contracting, (c) investment agreements and PPPs, and (d) other related complex commercial transactions. The ALSF's goal is to ensure fair and balanced negotiations.

Given Africa's unique resource development, the Facility offers a window of opportunity for RMCs to extract better terms from natural resources exploitation and to promote growth and poverty alleviation across the continent. RMCs are then afforded an opportunity to strengthen their economies by optimizing the benefits from assets such as extractive resources, upon obtaining adequate technical advice from the Facility. In effect with savings from avoiding losses of national resources, more resources will be available for other development efforts.

The infrastructure gap in sub-Saharan Africa is estimated to be 31 billion dollars per year.<sup>2</sup> Many of the suggested ways to address this gap involve complex commercial and financial arrangements (such as PPPs, accessing international debt markets, or regional projects). As can be expected, complex legal issues follow these complex project structures. This is an area where governments may require one-time advisory services to deal with unique or particularly complex transactions. The Facility is indeed receiving multiple requests from African countries for support in the development of their PPP frameworks and operations. The Facility will aim to fill the gap by developing a specific program, coherent and complimentary with the programs developed by other institutions, in order to unlock additional ways to address the infrastructure gap.

OUTPUTS	CORE ACTIVITIES
1) Business enabling environment improved 2) Complex contracts reviewed	<ul style="list-style-type: none"><li>• Review complex contracts- (aim for 7+ projects per annum)</li><li>• Assist in sovereign asset identification and recovery</li><li>• Develop model mining/PPP agreements</li><li>• Develop database of precedents in complex commercial cases</li><li>• Develop database of experts</li></ul>

<sup>2</sup> Africa Economic Brief, African Development Bank, April 2011.

(iii) **Strategic Pillar 3: Capacity Building****Strategic Objective: Coordinated capacity building in the ALSF's focal areas.**

One of the primary areas of need identified during the creation of the Facility was the recognition that there is a shortage of qualified African lawyers to advise on complex commercial transactions and vulture fund litigation. The Facility is attempting to address that need by focusing on developing legal capacity across the continent. A key pillar of the Facility is to require law firms that provide legal services to member countries to transfer skills to their local counsel and counterparts. The ALSF will intensify efforts in building legal capacity on the African continent as well as creating on knowledge and virtual resources in those areas for lawyers in Africa.

By identifying and establishing a body of African lawyers and law firms that are able to defend litigation by creditors and lead negotiations for Governments on complex commercial transactions, the Facility will build sustainable legal expertise that can continue with similar work after its existence. The ALSF will rely on building partnerships with sub-regional and continental bodies that bring together lawyers to continue with coordinating similar activities.

In providing capacity building, the order of priorities will be as follows: (a) debt management and litigation, (b) natural resources and extractive industries management and contracting, (c) investment agreements and PPPs including concession agreements, and (d) other related complex commercial transactions.

(iv) **Cross Cutting Issues****a. Environmental protection and social responsibility**

Over the past ten years there has been increasing participation of the private sector in public projects. These have included concessions given to the private sector in the infrastructure and agriculture sectors. In most African countries businesses still face vague or arbitrary laws and regulations and opaque enforcement mechanisms. Together, this creates incentives for informality, discourages investment and undermines entrepreneurship. Often, informal business activities have little regard for environmental protection and social responsibility issues; however, through the promotion of a positive business environment and supporting commercial negotiations especially in the extractive sectors, the Facility will encourage environmental protection and social considerations in the commercial agreements.

OUTPUTS	CORE ACTIVITIES
1) Capacity building in relevant areas to key RMC personnel 2) Partnerships established with other capacity building programmes 3) Curricula developed for specific training 4) Development of best practices in capacity building  a. Government Officials better skilled b. Private lawyers develop c. Online Training developed  5) Research papers published Information of knowledge management centres and programmes spread 6) Information and knowledge management system established	<ul style="list-style-type: none"> <li>• Regional and national capacity building projects for specialists</li> <li>• Secondments/ attachments/ On the job training</li> <li>• Establish partnerships with academic institutions and develop curriculum</li> <li>• Establish partnerships with collaborating institutions and eventually look to get them to start performing functions the ALSF is currently performing</li> <li>• Develop a communications and visibility strategy targeting the media</li> </ul>





The Facility through its intervention in the focal areas will contribute to the improvement of the business environment particularly for enabling private sector participation in investment in large formal business ventures where there is increased scope for adherence to and respect of environmental protection and social standards.

**b. Enhancing Good Governance**

The intervention of the Facility in the respective areas will contribute to the development of good governance and best practices at national level.

**c. Gender Equity**

The Facility will actively promote and support the mainstreaming of gender in all its activities. In particular the participation of female lawyers and disabled persons will be encouraged in the activities of the Facility.



## 6 Implementing the Strategic Direction



In order for the Facility to implement the Objectives, it is important that the Facility deploys the following strategies:

- (i) Flexibility and prioritization;
- (ii) Links with Law Firms and Academic Institutions;
- (iii) Partnerships;
- (iv) Relations with Beneficiaries;
- (v) Financing Instruments
- (vi) Resource Mobilization;
- (vii) Information Management and Sharing; and
- (viii) Organizational Management.

### (i) Flexibility and Prioritization

The Facility will be flexible in its operations through expedited assessment of the needs of each State and approval upon receiving a request for support. The type of services provided by the Facility - especially in the litigation area - require urgent intervention. The requests addressed by African countries need prompt assessment and approval by the Mana-

gement Board. This procedure follows a fast track mechanism and high priority requests will be accorded faster approvals. In extending support to the RMCs, the Facility will also put in place a prioritization system to ensure that funding and support are based on the highest priorities of the Facility and also to countries depending on the economic development levels. In addition, the Facility will establish clear time lines for the approval process to help in the planning process and to avoid undue delays by RMCs in making decisions once an application is being processed.

### (ii) Links with Law Firms and Academic Institutions

The Facility will establish strong links with international law firms within and outside Africa to ensure that there is transfer of knowledge and expertise to African lawyers both in the public and private sectors. The Facility will build a database of law firms and legal practitioners who develop the necessary expertise so as to ensure continuity of similar services. The Facility will also establish links with Academic Institutions in Africa providing high-level legal training with a view to develop of appropriate curricula.





### (iii) Partnerships

The Facility recognizes that there are other partners providing similar services in Africa. However most of their services are not coordinated and are provided on a piece meal basis. The Facility will embark on working with all such partners so as to ensure the interventions are coordinated. For this purpose the Facility will establish partnerships with institutions within and outside Africa.

The Facility will also provide leadership on the African Continent by ensuring that all interventions create long-term sustainability through capacity development of African Lawyers.

### (iv) Relations with Beneficiaries

The Facility will become a dependable partner with the beneficiaries of the services (African countries) through the provision of speedy and high quality advisory services particularly in the extractive resource industry and infrastructural development based on PPP models.

The Facility will also establish links with the Governments who are the beneficiaries of the services of the organization.

The Facility will disseminate information on the ALSF's activities continuously to the countries through different forums. These

should include: media, website development; newsletters; Law Society publications and relevant conferences.

### (v) Resource Mobilization

The Facility recognizes that in order to fully implement the Strategy there is need to mobilize resources that will enable timely and efficient response to the Countries.

To implement the Strategy, the Facility requires resources to finance operations; and secondly to cover administrative expenses to support the Facility's intervention. The Facility will also seek to implement projects on a joint basis where the needs of more than one country relate to similar issues.

While selecting the appropriate financial instrument to assist the beneficiary, the ALSF takes into consideration the country's resource base and the ability of the country to pay for such assistance.

Together with development partners, the ALSF intends to mobilize resources for specific operations. The Facility will strengthen dialogue with development and financial institutions to develop co-financing opportunities, for instance by introducing a legal assistance or a capacity building component in specific operations they finance, such as infrastructure projects.

In addition, it is expected that relations with private corporations will be established, with a view to soliciting their support using their corporate social responsibility and philanthropic programmes to support the countries in certain targeted areas.

The Facility will ensure that resources are effectively used on a value for money basis with clear indication of the results achieved for resources used.

Funding for the Facility will come from contributions from the members, non-member countries of the Bank, and other international organizations.

Partnerships with donors will be based on various options. Donors can choose to either support one or all strategic pillars namely: Litigation Services, Advisory Services or Capacity Building efforts. In addition the ALSF and a donor can also agree on the modality for financing such objectives either through the endowment fund or through the establishment of a dedicated account.

#### **(vi) Information Management and Sharing**

The Facility will adopt a clear policy on the use of Information and Communications Technology (ICT). The adoption of an Information Management Plan will be the starting point. The elements of the plan will include: easier interactive access to the web site of

the Facility; and use of IT for case Management system development.

The ultimate objective should be to ensure that the organization has institution-wide IT applications, databases with monitoring system in place to ensure adherence to them.

In order to ensure continuity of the work done by the Facility, a database will be established that provides the following information to the RMCs:

- a) Law Firms, Institutions and Lawyers that can provide similar services to Countries;
- b) Precedents of cases on the Creditor Litigation issues; and
- c) Best practices in the negotiation of complex commercial transactions including model Agreements in the different sectors (extractive resource industry and infrastructure development with the private sector participation).

The Facility will also enhance information sharing between the RMCs on all the experiences relating to the Strategic Objectives.

#### **(vii) Organizational management**

The Facility will continue to operate a lean team that is big enough but efficient to respond to the demands for services from RMCs through co-opting the services of law firms and lawyers increasingly from the pool of lawyers identified.



Members of the Management Board, Director and staff of the Facility, November 2011, Tunis, Tunisia.



## 7 Performance Measurement Framework



**T**he Facility will use the Performance Measurement Framework (PMF) to track performance based on key performance indicators. The PMF will monitor and evaluate results based on:

- the indicators (outputs and outcomes) that will act as a tool for the reporting, monitoring and evaluation exercise, to present the most important achievements of the Facility for verification and follow-up.
- the continuing function of the monitoring that aims to provide management and key stakeholders with regular feedback on the consistency or discrepancy between planned activities of ongoing projects with early indications of progress, or lack thereof, in the achievement of results.
- the systematic and objective process of evaluation of the relevance, usefulness, effectiveness, efficiency, impact and sustainability of the activities undertaken based on agreed criteria and benchmarks.

### 7.1 The proposed approach to Performance Measurement framework

One of the major challenges of performance monitoring and evaluation is to create links between the different levels of the Faci-

lity's intervention and to collect data regarding both the (1) outputs and (2) outcomes.

Monitoring the performance of ALSF will be carried out in accordance with a logical framework model which is shown at Figure 1. (composed by outputs, immediate, intermediate and ultimate outcomes), which includes the list of the performance measures (results-oriented indicators).

Indicators on outcomes are about measuring a change (savings in government revenue, change in awareness about creditor litigation, knowledge, skills, behaviour, etc.) resulting from the impact of the ALSF's output on its main stakeholders, namely the RMCs.

This will show the extent to which the Facility has achieved its intended objective, which is "Helping to develop a global partnership for development<sup>3</sup>" Accordingly, the indicators on outcome should measure the extent to which "Relevant institutions, bodies, offices and agencies of Regional Member Countries have enhanced legal capacity to better litigate and negotiate fair commercial contracts."

At this point it should be noted that this outcome does not depend exclusively on the ALSF's efforts or performance, as ALSF

<sup>3</sup> Extracted from Millennium Development Goal 8.



is a facilitator and advisor and is not an executing entity. Final responsibility to execute rests with the RMCs. Therefore, the data collection and analysis should also include the factors that do not allow “relevant institutions, bodies, offices and agencies of the Regional Member Countries” to litigate or negotiate better commercial contracts, as they are presented in its reports.

The performance framework will set out the practical steps needed to assess the Facility’s performance elaborating some important aspects (such as defining more precise quantitative and qualitative information to be collected, selecting methods and tools of collecting monitoring data) as well as providing a clear and accurate overview of the extent to which the activities contribute to the realization of ALSF’s outcomes.

1. Regarding outputs the monitoring information will be based on the collection, analysis and interpretation of reliable and robust quantitative and qualitative data, e.g. on the projects implemented by ALSF.

**At the level of outputs the main sources of informa-**

**tion to be used include standard reporting templates, surveys of participants and checklists for quality assessments.**

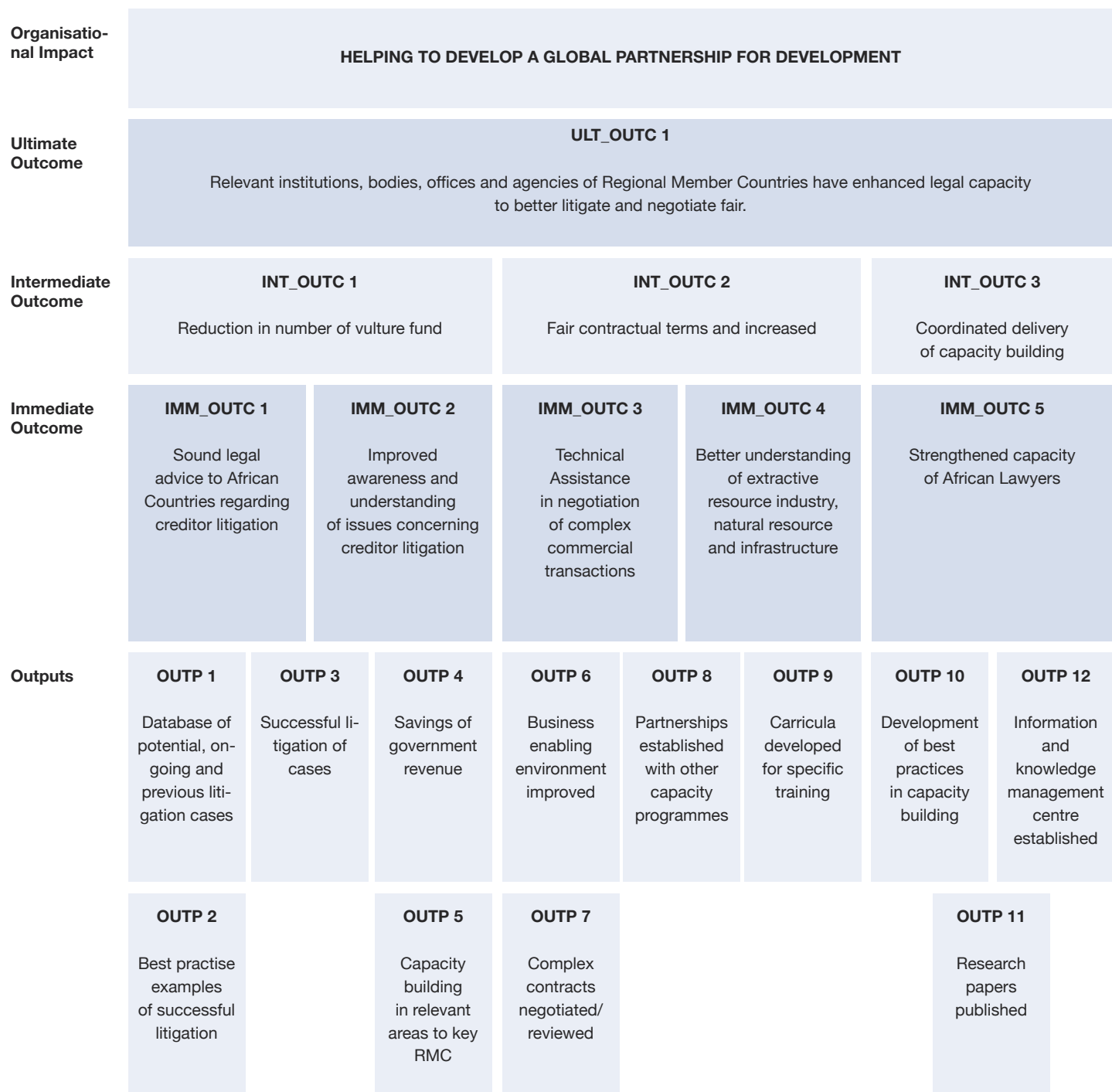
2. Regarding outcomes the monitoring information will be based on the collection, analysis and interpretation of reliable and robust quantitative and qualitative data regarding the usage of the services provided by ALSF to the “relevant institutions, bodies, offices and agencies of the RMCs”.

**At the level of outcomes, key information sources will include surveys and research data supported by expert panels and focus group meetings organized for each of the strategic pillars.**

The analysis of reports and assessments on results achieved (outputs and outcomes) will be published in the ALSF Annual Report that will provide fair and reliable information based on key performance expectations, major strategies implemented, activities undertaken and achievements focused on outcomes taking into account the mission, mandate and objectives of ALSF.

## ALSF Logic Model

The ALSF logic model, which is common to all the focal areas, sets out 12 types of outputs to be delivered, which are expected to lead to 5 immediate outcomes and eventually contribute to 3 intermediate outcomes and the final outcome.







## 7.2 Technical Assistance (TA) to facilitate PMF

In order to facilitate monitoring and evaluation activities technical assistance support will be necessary. The TA will assist ALSF in the development and implementation of the monitoring framework, entailing in particular monitoring the extent to which ALSF outcomes and objectives are being achieved and how efficiently and effectively ALSF is operating.

Under the coordination and supervision of management the TA will:

- Analyze the quality of the drafted ALSF monitoring and evaluation framework and propose improvements where necessary.
- Propose a common and coherent operational framework for the monitoring and evaluation at the project level.
- Establish a baseline situation collecting and gathering data and processing and analyzing information to make both quantitative and qualitative comparisons.
- Advise on which thematic areas should be measured through performance monitoring and evaluation
- Develop practical guidance, common reporting templates for

annual reporting. questionnaire for survey of participants, checklist for quality assessment, expert panels, focus-group meetings).

- Gather and analyze accurate information (quantitative or qualitative) at the level of the ALSF processes, projects and outcomes in relation to the ALSF planning and programming cycle.
- Provide ad hoc assistance to improve the quality of monitoring data during the implementation of the Annual Work Programmes and related projects.
- Gather other information required to carry out the monitoring and evaluation activities (desk research, statistical indicators, surveys, on-site visits, working meetings, etc.).

- Collect and assess the data at the different level (focal area, project) and monitoring them on a regular basis for indications on ALSF performance.
- Provide technical assistance to other ALSF staff members, contractors and beneficiaries, as most of the data at the project level will have to be collected and gathered by them.
- Supervising the collection and gathering of information by contractors and beneficiaries, to assess their usefulness, reliability and quality.
- Provide technical assistance for the annual reporting (interim and annual performance report) collecting and analyzing the data that will inform the measurement of ALSF performance.





## 8 ALSF Office Core Functions



A small core staff will be maintained for ALSF to effectively and implement the Strategic Plan. The following functions for the office are considered important:

- Facilitation
- Coordination
- Networking (building partnerships)
- Resource mobilization
- Knowledge management
- High level advice
- Screening of requests
- Information sharing
- Supervision of contracts/tasks
- Monitoring and evaluation
- Secretariat and administrative functions



## 9 Multi Annual Indicative Budget



A Multi Annual Indicative Budget has been developed to implement the MTS. The budget is at Annex 2 and comprises both operational and administrative expenses. It is estimated that US\$56 million is required over the five year period. Eighty four percent of the budget is allocated for project related

activities with Advisory services being allocated 45% of the total budget, litigation services taking up 27 % and capacity building allocated 9% in line with the founding principles of the Facility. Administrative expenses have been allocated 16% of the total budget over the five- year planning cycle.





## 10 Conclusion



The Facility's Medium Term Strategy is intended to provide a clear road map for intervention in supporting African countries to develop capacity to better address the challenges of creditor litigation and weak bargaining power in the negotiation of complex commercial transactions.

Through its intervention the Facility will be able to assist African countries preserve the benefits of debt relief and improve the ma-

nagement of negotiations particularly with the private sector in developing infrastructure and in the extractive resource industry. The success of the Facility will greatly contribute to the economic development of the recipient African countries.







# Annex 1: ALSF Signatories-April 2012

	STATES/ORGANIZATIONS	DATE OF SIGNATURE		STATES/ORGANIZATIONS	DATE OF SIGNATURE
1	Belgium	25/09/2008	25	Mauritania	15/05/2009
2	Benin	31/12/2008	26	Morocco	12/09/2008
3	Burundi	15/09/2008	27	Mozambique	16/09/2008
4	Brazil	18/08/2008	28	Netherlands	26/03/2010
5	Burkina Faso	24/09/2008	29	Niger	12/09/2008
6	Cameroon	15/04/2009	30	Nigeria	31/07/2009
7	Central African Republic	14/05/2009	31	Rwanda	08/08/2008
8	Chad	08/09/2008	32	Senegal	25/08/2008
9	Congo	19/09/2008	33	Seychelles	25/06/2009
10	Côte d'Ivoire	16/09/2008	34	Sierra Leone	13/05/2009
11	Democratic Republic of Congo	22/08/2008	35	Sudan	25/05/2012
12	Djibouti	10/09/2008	36	South Sudan	25/06/2009
13	Egypt	05/08/2010	37	Tanzania	16/06/2009
14	Ethiopia	15/08/2008	38	Togo	08/09/2008
15	Gabon	13/10/2008	39	Tunisia	24/06/2009
16	Gambia	10/09/2008	40	Uganda	29/07/2008
17	Guinea	31/10/2008	41	United Kingdom	17/12/2009
18	Guinea Bissau	12/09/2008	42	Zambia	02/12/2008
19	Kenya	07/11/2008	43	Zimbabwe	14/10/2008
20	Liberia	12/12/2008	44	AfDB	11/02/2009
21	Libya	25/08/2008	45	African Union	23/08/2010
22	Madagascar	05/09/2008	46	BOAD*	05/04/2011
23	Malawi	12/08/2008	47	OHADA**	23/06/2009
24	Mali	15/12/2008			

\* BOAD : Banque Ouest –Africaine de Développement.

\*\* OHADA: Organisation pour l'Harmonisation du Droit Des Affaires en Afrique.



# Annex 2: Multi Annual Indicative Budget (amounts in USD \$)

N°	Description	Budget 2013 (in USD \$)	Budget 2014 (in USD \$)	Budget 2015 (in USD \$)	Budget 2016 (in USD \$)	Budget 2017 (in USD \$)	Total 2013-2017 (in USD \$)
1	Operational expenses	7 671 720.00	8 438 892.00	9 282 781.20	10 211 059.32	11 232 165.25	46 836 617.77
2	Total Administrative expenses	1 489 094.40	1 638 003.84	1 801 804.22	1 981 984.65	2 180 183.11	9 091 070.22
	TOTAL	9 160 814.40	10 076 895.84	11 084 585.42	12 193 043.97	13 412 348.36	55 927 687.99



