



# ALSF

## AFRICAN LEGAL SUPPORT FACILITY

# MEDIUM TERM STRATEGY

## 2018 – 2022



## ENHANCING RESULTS







# **ALSF** **MEDIUM TERM STRATEGY** **2018 – 2022**

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**ENHANCING RESULTS**



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**ALSF**

African Legal Support Facility  
Facilité africaine de soutien juridique

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African Legal Support Facility

Immeuble CCIA, Plateau 01  
B. P 1387 Abidjan, Côte d'Ivoire  
Telephone:  
(+225) 20 26 35 96  
Fax: (+225) 20 32 03 91

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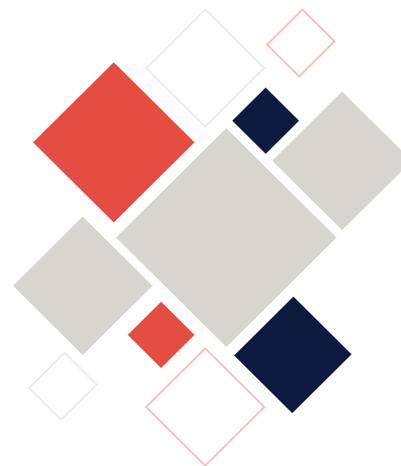
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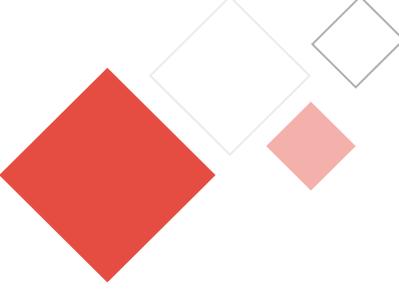
# LIST OF ACRONYMS



|          |   |
|----------|---|
| AfDB     | African Development Bank  |
| ALSF     | African Legal Support Facility  |
| ANRC     | African Natural Resources Center  |
| AU       | African Union   |
| CREAM    | Clear, Relevant, Economic, Adequate and Monitorable                                   |
| CSO      | Civil Society Organization  |
| DFID     | Department for International Development (United Kingdom)                             |
| EAC      | East African Community  |
| ECA      | Economic Commission for Africa  |
| ECOWAS   | Economic Community Of West African States   |
| EITI     | Extractive Industry Transparency Initiative   |
| EPZ      | Export Processing Zone  |
| EU       | European Union  |
| FAO      | Food and Agriculture Organization   |
| FDI      | Foreign Direct Investment   |
| FTA      | Free Trade Area   |
| GDP      | Gross Domestic Product  |
| GVC      | Global Value Chain  |
| HDI      | Human Development Index   |
| HIPC     | Highly Indebted Poor Countries  |
| IA       | Investment Agreement  |
| IFF      | Illicit Financial Flows   |
| MEL      | Monitoring, Evaluation and Learning   |
| MDG      | Millennium Development Goal   |
| MDRI     | Multilateral Debt Relief Initiative   |
| MTR      | Medium Term Review of the ALSF Mid-Term Strategy                                      |
| MTS      | Medium Term Strategy of the ALSF 2013-2017  |
| OECD/DAC | Organization of Economic Cooperation and Development/Development Assistance Committee |
| PIDA     | Programme for Infrastructure Development in Africa                                    |

- PMF Performance Measurement Framework
- PPA Power Purchasing Agreement
- PPPIRC Public Private Partnership Infrastructure Resource Centre
- REC Regional Economic Community
- RMC Regional Member Country
- SADC Southern Africa Development Community
- SDG Sustainable Development Goal
- SMART Specific, Measurable, Action-oriented, Realistic, and Timed
- SWOT Strengths Weaknesses Opportunities and Threats
- UN United Nations
- UNEG United Nations Evaluation Group
- WBG World Bank Group





# FOREWORD BY THE CHAIRMAN OF THE GOVERNING COUNCIL



ALSF has come a long way in executing its mandate to develop and embed sustainable African legal capacity as a critical ingredient in achieving economic development for the continent. As we enter the second cycle of our Medium Term Strategy (MTS), we have had occasion to ponder the complexities

of economic development in Africa, and how our work must meaningfully contribute towards the rolling back of the frontiers of poverty and inequality in our midst.

The clarion call to action has never been louder or more urgent. And hence our “Enhancing Results” theme which essentially will energise our mission To provide legal advice and capacity building to African countries on vulture fund litigation, complex commercial negotiations and related sovereign transactions. This mission remains essential and urgent as long as African countries continue to fall prey to the predatory activities of vulture fund litigations and poorly structured complex agreements. This mission remains of utmost importance as long as the elimination of these predatory vulture fund activities and weak or unfair agreements is not directly translating to increased monetary savings and better economic growth performance.

We are pleased to note that the Facility’s largest contribution comes in the form of supporting the negotiations of Power Purchase Agreements (PPAs). These agreements are central to the African Development Bank’s efforts to ‘light up and power Africa,’ which is among the operational priorities of the Bank’s High 5 initiative.

The successes that ALSF has recorded in the first MTS in delivering along the Facility’s mandate have been realized through the cooperation and active engagement of a wide spectrum of stakeholders. We are grateful for their support which has strengthened the functioning of the Facility and in turn enhanced African legal capacity. I am confident that with the continued support of these various stakeholders, ALSF will continue to contribute to Africa’s development. And although the course ahead may be challenging, the Swahili concept of “harambee” (pulling/working together) gives us the courage and assurance that we will prevail.

**Charles BOAMAH, Chairman of the Governing Council and Senior Vice-President of the African Development Bank Group**



# PREFACE BY THE DIRECTOR AND CHIEF EXECUTIVE OFFICER



Against the targets set during the first Medium-Term Strategy period (2013-2017), the performance of the African Legal Support Facility has been rated in the Medium Term Review as much better than expected. The Facility approved and successfully closed a number of litigation projects, it has provided advisory services in more than fifty contract negotiations and tender processes, saving more than USD 400 million, and it has increased or saved revenue for various Regional Member Countries (RMCs). Throughout the period, the ALSF has successfully added breadth and scope to its already-broad activities.

Following consultations with stakeholders, African and international law firms, Regional Member Countries, donors and partner institutions, the ALSF has developed a new strategy which will inform its activities across the next five-year period.

This new strategy is anchored by three key result areas (KRA):

KRA 1 – Fair commercial negotiations and agreements

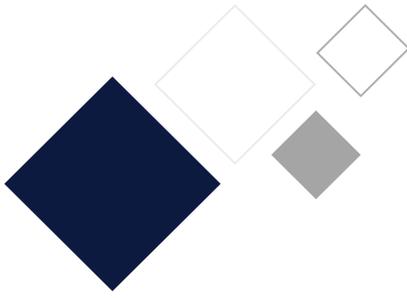
KRA 2 – Enhanced legal capacity in Africa; and

KRA 3 – Improved litigation case outcomes/results.

This Medium-Term Strategy adds a number of critical, strategic levers to the ALSF's execution of its mandate. These include the leveraging of data and information, changing perceptions, contract and project implementation, as well as improving practical and technical skills. The implementation of the Strategy will continue to evolve around Advisory Services, Creditor Litigation, Capacity Building and Knowledge Management, as well as Managing for Results.

Across these areas, our work will aim to contribute substantively to enhancing the legal capacity of RMCs for sustainable economic development and inclusive growth, throughout the African region. The ALSF's past performance, combined with the strategies and tactics that will be implemented in the second MTS period, gives confidence that the Facility will continue to make the kind of difference that truly matters to communities, governments, and the continent as a whole.

**Stephen KARANGIZI, Director and CEO**



# EXECUTIVE SUMMARY

## ALSF's Vision:

Achieving sustainable legal capacity for Africa.

## Mission:

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

**The Values that underpin our work are: ...** The 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.

Since its foundation, the Facility has recorded many key achievements that include capacity building initiatives, increased revenue generation, as well as loan account repayment savings amounting to more than **USD 400 million**. ALSF's MTS 2018 – 2022 is designed to build on the Facility's successes in the first MTS period and strengthen its contribution to the deepening of Africa's legal capacity. The Founding Treaty of ALSF has a pre-defined initial duration period which closes at the end 2022. However, the demand of ALSF's legal assistance has been on the increase in the last couple years, and it is now also clear that our objective of significantly building legal capacity, and tackling the challenges of vulture funds in Africa will not be achieved by 2022.

ALSF's 2018 – 2022 MTS is built on the following key result areas:



### **KRA 1 – Fair commercial negotiations and agreements for African governments**

Provide high quality advice and experts to African governments to achieve fair agreements in compliance with best practices in the following sectors:

- Infrastructure / PPPs (including Energy and Transportation)
- Natural Resources (including Mining, Oil and Gas, Agriculture etc.)
- Sovereign Debt / Public Finance

Advisory services will also include the following:

- Pre-negotiation assistance (review of existing legal context and framework, tender process and structuring)
- Negotiation assistance
- Contract Implementation Monitoring and Evaluation
- Promotion of the use of international commercial arbitration as the solution to disputes arising from contracts.

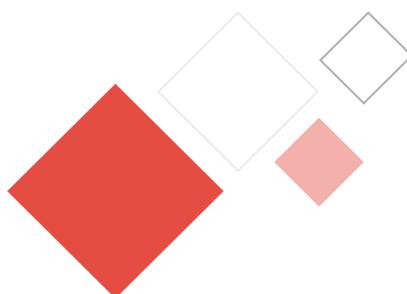


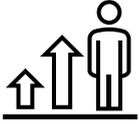
### **KRA 2 – Enhanced legal capacity in Africa**

Develop standards and model agreements from data leveraged from the operations of the ALSF to improve decision making and reduce cost and delay in project development.

Through training partnerships and the development of a training accreditation programmes, improve the negotiation skills of government officials and the quality of legal advice offered by African lawyers to both the public and private sectors.

Within this framework, international commercial arbitration, as is the case for other fields relating to commercial law, will be the object of special attention from the ALSF. In all such capacity building activities, the ALSF shall take gender into account.





### KRA 3 – Improved litigation case outcomes/results

Within this framework, international commercial arbitration, as is the case for other fields relating to commercial law, will be the object of special attention from the ALSF.

Through the provision of timely support and defence to African governments in sovereign debt cases and settlement.

These key results areas will be underpinned by increased ownership of the institution (through greater involvement and financial contributions from regional member countries) as well as a shift from primarily grant-based assistance to more sustainable financial solutions.

The outcomes and outputs defined under the key result areas are the following:

1. Increased awareness and uptake of ALSF services–RMCs have increased awareness of services offered by the ALSF and how the services can assist them by using various relevant platforms including forums created;
2. Improved quality of agreements and contracts in targeted sectors with possibility for use of expert forums and contact points to achieve multiple objectives–improving the negotiation skills of government officials and the quality of legal advice offered by African lawyers resulting in fair contracts with clauses that discourage illicit financial flows;
3. Increased RMCs’ awareness on creditor litigation services–RMCs have increased awareness of creditor litigation risks;
4. Improved litigation outcomes–i.e. a reduction in the government assets whose control has been ceded over to vulture funds as well as an increase in illicit financial flows recovered;
5. Strengthened African legal Capacity Building institutions–establish capacity building partnerships with universities and other training institution partners;
6. Developed/disseminated relevant model agreements, knowledge products, and curricula–develop training cases studies, curricula and training programmes; and
7. Consistent standards developed to improve the quality of African legal practitioners–develop standards and model agreements from data leveraged from the operations of the ALSF to improve decision making and reduce project development timelines.



**Build on the Facility’s successes and strengthen its contribution to the deepening of Africa’s legal capacity.**

ALSF’s indicative resource requirements of **USD123 million is spread over the planned period starting with USD 23million in 2018, rising to USD 25million per year for the remaining four years.** ALSF’s MTS 2018 – 2022 sets an ambitious roadmap to ensure that well before the expiry of the initial period, a review will be undertaken to assess the possibility of the Facility to continue contributing to building commercial law issues in Africa. The post 2022 era should then focus on “scaling up” the results that will have been achieved.

In terms of the Facility’s logic model, the achievement of the sustainable legal capacity for Africa will make a significant contribution to the continent’s quest for a prosperous Africa with high quality growth that creates inclusive development.

This second MTS for the ALSF was developed through an extensive consultative process which included a mid-term review of the first MTS, a stakeholders’ round table conference in 2016 as well as consultations carried out with RMCs, partner institutions, the Management Board and the Governing Council.

# 1. INTRODUCTION

## 1.1 Historical Journey: achievements and lessons learned

In 2003, African Finance Ministers attending the United Nations (UN) Economic Commission for Africa (ECA) called for the establishment of a legal technical assistance facility to help highly indebted poor countries (HIPCs) in Africa. This subsequently led to the African Legal Support Facility (ALSF) being established in 2008 and effectively starting operations in 2010. In 2007, at the African Big Table, Ministers of Finance requested for assistance in negotiating complex commercial transactions, especially related to extractive resources. This backdrop culminated in 2008 with the AfDB establishing the ALSF and an approval of a grant of UA 10 million, operations starting in earnest in March 2010. Initial procedures were based on drafts provided by the AfDB and the Facility also received funding from AfDB Trust Funds. The Facility's mandate therefore was primarily to provide direct legal advice in vulture fund litigations, complex investment and project agreements, as well as building of sustainable legal capacity among target African states so that they can eventually meet their own requirements in this regard.



The specific objectives of the Facility were defined as:

- obtaining specialist legal assistance for the negotiation and/or litigation of vulture fund claims;
- building legal capacity on the continent to deal with this primary objective; and

enhancing the capacity of RMCs to negotiate complex commercial transactions, including those in the natural resource sector.

What is particularly unique about the ALSF is that:

- 1) it was established on demand by African States;
- 2) its key objective of "Maximising resources available for economic development and social progress" is considered as adding value;
- 3) it is an African institution established to provide support only to African States;
- 4) it has a close relationship with the AfDB;
- 5) it is the only African institution that has the potential to cover major commercial law issues across the continent since it is solely dedicated to commercial law issues;
- 6) it is considered as a trusted and competent convener to address commercial law gaps by African Lawyers' Associations.

Addressing the commercial law gaps through capacity building may however, require that the ALSF continues its activities beyond 2022, the cutoff date for the ALSF's existence as envisioned in the Founding Treaty's "initial duration and period".

As awareness of the Facility began to gain momentum its membership base also began to expand. The ALSF's unique character driven by a sense of ownership by RMCs who are willing to accommodate the Facility's operations within the confines of their sovereignty, makes it an ideal entry point and preferred partner in legal capacity building and allied matters. Indeed, this ownership and endorsement has its roots in the fact that the establishment of the ALSF was championed by African Finance Ministers to solve a distinctly African challenge.

THE FOUNDING MEMBERS SET OUT THE OBJECTIVE OF THE ALSF AS FOLLOWS:

*"To eliminate the asymmetry of expertise and the imbalance of knowledge in addressing the challenges posed by vulture funds and in an ancillary manner complex commercial transactions, especially relating to natural resources, the Facility will have two main program areas: the provision of a legal advisory services and litigation expertise against vulture funds and a capacity enhancing and capacity building programme"*

The Facility also owes much of its success to the close relationship it has with the AfDB, whose footprint on the continent is rather significant. The ALSF therefore wishes to continue this unique legacy.

Several African countries<sup>1</sup> have issued Eurobonds during these recent years, with values generally ranging from \$500 million to \$1 billion. In particular, the total value of yearly issues of Eurobonds by Sub Saharan governments rose from just about \$200 million in 2006 to over \$6 billion in 2014 and 2015, meanwhile the total cumulative value of all Eurobond issues over the same period stands at \$20.8 billion. (<https://www.weforum.org/agenda/2016/02/overview-of-the-sub-saharan-african-eurobond-market/>). This new round of sovereign borrowings implies new challenges, including foreign exchange risk management, and other issues related to the trading of sovereign debt on international capital markets. ALSF's assistance will be needed as it has been the case in 2016 for the structuring and negotiation of a Swap Agreement for the Republic of Cameroon in the framework of a USD denominated Eurobond issuance.

## 1.2 Achievements

An independent review of the implementation of the MTS 2013-2017 found that **ALSF services are significant, appropriate and continue to match the priority needs of the eligible countries for creditor litigation, negotiation of commercial transactions, and legal capacity building** (ALSF, 2016).

ALSF has delivered **75%** of the expected outputs. Through training and knowledge sharing, ALSF has built legal capacity of African experts. The review showed that there are still opportunities for African states to build capacity to undertake many of the services locally as they still need international expertise.

ALSF has supported negotiations for projects cumulatively whose value represents 8.6% to **27.2%** of 2015 gross domestic product (GDP) of countries, and returning sustainable positive effects to the people in the African countries. Moreover, supported RMCs have enjoyed reduced legal fees and gained pro bono hours from law firms working on ALSF projects. It is concluded that ALSF is effective but sometimes with delay in the implementation of projects caused by country level factors. Despite these achievements, the potential for legal assistance is still largely unmet.

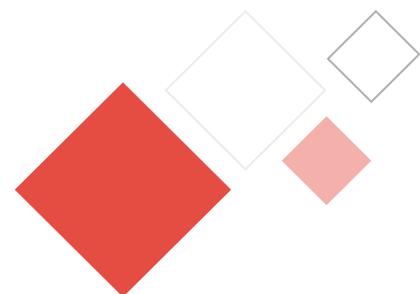
Forty-nine African countries among the 54 eligible RMCs have signed ALSF's agreement of establishment, and 67% have already requested assistance to ALSF. Guinea has contributed to the ALSF and a few other countries have expressed interest to do the same.

For stakeholders to get the information needed for programme decision making, some critical aspects for a successful monitoring and evaluation function will be enhanced, including data collection and management that are cumbersome, time consuming, and not efficient for a results-based reporting. The report noted that significant progress had been attained in developing a more comprehensive Results Management Framework and implementation started in 2016.

In terms of capacity building, ALSF's vision of "Achieving sustainable legal capacity" and the strategic objective of "Coordinated capacity building in the ALSF's focal areas" by carrying out the following activities: (i) regional and national capacity building projects for specialists; (ii) secondments, attachments and on-the-job training; (iii) establish partnerships with academic institutions and develop curriculum; (iv) establish partnerships with collaborating institutions and eventually look to get them to start performing functions the ALSF is currently performing; and (v) develop a communications and visibility strategy targeting the media underscored the Facility's commitment in this area.

**The MTR undertaken showed that thirty-six capacity building projects were ongoing or closed, involving 20 countries and 10 regional initiatives.** In Tunisia, ALSF's assistance resulted in the recovery of misappropriated assets worth 28 million USD. Thirteen African law firms and 2,696 counterpart experts trained among which 28 % of female lawyers. 696 participants (25.8 %) attended the extended training version (15+ hours)".

<sup>1</sup> Ghana, Gabon, Senegal, Nigeria, Namibia, Côte d'Ivoire, Zambia, Rwanda, Kenya, Ethiopia, Angola and Cameroon





## 1.3 Lessons Learned

A number of lessons have been learned during implementation of the current MTS. These are presented below from two perspectives; first the experiences gathered while working with governments and secondly those lessons garnered from working with international lawyers. These valuable experiences have informed the development of the new Strategy.

### 1.3.1 Working with Governments

The ALSF has established a close relationship with RMCs' governments, and an important aspect of the Facility's work involves preliminary research and advisory work. This work is carried out by the ALSF through formal requests from RMCs. Once a formal request for assistance has been received, the ALSF can begin to work in earnest as an appointed advisor to the government. The success of projects requires the formation of negotiating teams, while developing common negotiating positions requires a combination of political will and technical capacity. Some of the challenges governments and government officials face in playing their roles as part of negotiation teams typically include the following:

- Policies where the government is unwilling to either work with local advisors or will alternatively insist on the participation of local advisors.
- Whilst governments are often willing to pay their fair component for services rendered, delays in getting payments processed creates risks for the timely delivery of ALSF's services.
- The choice of law and venue is complex when financing agreements are established under foreign laws and to this regard, financing agreements are a challenge and need to be carefully managed.
- Governments may lack financial and technical skills.
- Fiscal constraints may also act to limit governments from offering guarantees
- Changes of government and or political administrations sometimes result in attempts to renegotiate or cancellation of large scale projects.
- If the government's legal advisors are brought onboard just before the transaction is finalized, this can negatively affect the pace at which contracts are concluded as there is a need to review the proposed agreements and this translates into long implementation delays.

The ALSF however, has a common and robust approach to working with the government to overcome these challenges. The ALSF makes use of the procurement processes approved by the Governing Council to select the best lawyers for the specific task at hand. This process makes sure that the ALSF and government are both participants in the selection of the legal team as well as the development of the terms of reference. The introduction of a monitoring and evaluation framework with a learning component ensures that both ALSF and the government engage continuously on the results that are being achieved and the key underlying success factors.



### 1.3.2 Working with International Lawyers

By and large, the international law firms have very good technical capabilities, however, due to unfavourable exchange rates and differences in the purchasing power, their services tend to be pricey in local currency terms. The ALSF ensures that international law firms have an obligation to provide relevant and practical capacity building to experts of beneficiary countries.

Another challenge when working with international firms is that they tend to use foreign law as a basis for project documents. Many African countries have however, adopted hybrid legal systems that interweave local legal traditions with international traditions often inherited from former colonial powers. The use of international law in the drafting of a contract has the advantage of allowing for best international practice to be incorporated into the provisions of the contract. The use of foreign law as the basis for drafting a contract is therefore not typically a challenge at the point of contract, but may become a challenge in the long term, particularly if there is a dispute and the provisions of the agreement must be interpreted.

A robust network of business lawyers is a critical component in the overall business environment. Without a sufficient supply of highly skilled and specialized lawyers, investors will continue to use legal experts outside of the continent. African law firms lack the practice management skills and systems that allow them to compete on an international level.

At its founding, the ALSF was confronted with weak legal capacity among most RMCs. The African Development Bank observes that poorly crafted contracts and financial agreements have significant costs to African countries. The response of the ALSF was to address the immediate

gap through the provision of litigation support and advisory services, provided through international law firms. The capacity gap would be addressed over time by the Facility making skills transfer a pre-requisite for contracting an international law firm.

The ALSF ensures that there are no conflicts of interest where the law firms may have acted as legal counsel for the international investors. And with respect to using international lawyers, based on the lessons outlined above, ALSF will carefully consider their deployment while making an effort to increase the role of African law firms. In line with best practice of ensuring value for money, ALSF will regularly update or review the list of international lawyers from which it procures services.



## 1.4 Challenges and Opportunities

### 1.4.1 Building commercial legal practice in Africa

Globally, the legal profession has seen an unprecedented consolidation and revenue growth. Individual international law firms now have thousands of lawyers and billions of dollars in revenue. These firms are highly specialized and have in depth knowledge to serve investors globally.

The legal profession in Africa is generally characterized by small firms (or solo practitioners) with limited experience in negotiating internationally financed complex commercial transactions. National practitioners are often viewed as generalists who are hired for their market knowledge rather than their specialized and substantive legal expertise. The most complex and high value legal work is usually performed by experts outside of the continent.

The Facility's knowledge management activities would contribute towards capacity building by developing, collecting and managing knowledge products such as academic and legal materials, and databases of case precedence, curricula, publications and training platforms.

Despite the progress that ALSF has recorded to date, the ongoing need to provide advisory support and develop legal capacity remains. This is primarily because there is still a growing demand for investment in infrastructure including, telecommunications, water, and energy sectors, public-private partnerships (PPPs) and natural resource projects.



## 1.4.2 Opportunities

The ALSF has taken a leading role in several areas over the last 7 years and become a valued resource for governments in the following areas:



**Advisory Services** for complex contract negotiations related to PPPs, power projects, transportation utilities and bulk services infrastructure.



**Creditor Litigation** services for countries facing vulture fund litigation.



**Capacity Building** for selected government officials in the negotiation of complex commercial transactions.



**Knowledge management projects** through both physical and online publications.

The ALSF's focus on government assistance is still relevant, but now must be leveraged into a more sustainable model. By gaining insight through these advisory engagements, the ALSF needs to focus on how to build on its experience and turn it into a framework for quickly getting deals done.

This will not be done through the use of public sector lawyers alone, but requires a fundamental shift in the business law profession in Africa. To do this, the ALSF sees a number of areas where there are both short term and long term opportunities that enhance the core focus areas of the ALSF:

### A. Short term opportunities

1. Decrease development time for projects through the development of **more uniform documentation** and standards.

2. **Train African business lawyers** to enhance their skills, and involve them in ALSF's interventions on the continent.

3. **Expand the current scope of capacity building** to go beyond the traditional methods which have been so far used by encouraging the transfer of knowledge from international firms to African firms through promoting exchange programmes and twinning of firms. Alongside this, change agents in capacity building will be identified and engaged to support the training programmes.

4. **Continue to partner with the African Natural Resource Centre (ANRC) of the AfDB in the extractive sector.** ALSF will focus on supporting negotiation of contracts whilst the ANRC will provide policy advice and technical assistance in the extractive industry in RMCs.

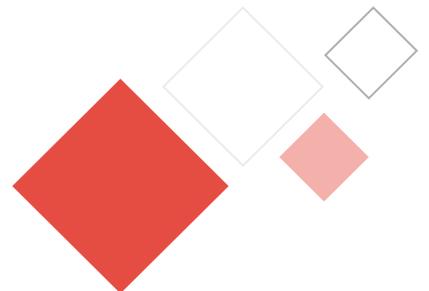
5. **Improve the implementation of contracts so as to mitigate the impact of Illicit Financial Flows (IFFs)** and ensuring that the contract is not the goal, but the beginning of the development impact.

### B. Long term opportunities

1. **Leverage data** to improve decision making regarding project development.

2. **Enhancing the technical and practical skills** of African business lawyers so that more of the highest value legal work stays on the continent.

3. **Improve the competitiveness of African Lawyers** and encourage greater specialisation. ALSF will broaden the courses that are being offered.



Owing to its position as an African Institution dedicated to supporting African countries, other potential areas of leadership may present themselves in the long term. The realization of these opportunities will however be conditional on the ALSF having the capacity to take advantage of these opportunities. Examples of such opportunities include the following:

- ALSF is currently focused on commercial transactions, however, the Agreement Establishing ALSF also envisaged that the institution would contribute towards law and development in general. There is currently no African Institution actually dedicated to law and development;
- In addition to the areas it is currently leading, the Facility could provide leadership on legal issues such as sovereign debt, discouraging IFFs through actions such as supporting asset recovery, and contract management. In order for the ALSF to be effective, such contract management support will be limited to post-contract management and only for cases in which the ALSF was involved in the contract negotiation phase; and
- ALSF is currently focused on commercial transactions, however, the Agreement Establishing ALSF also envisaged that the institution would contribute towards law and development in general. There is currently no African Institution actually dedicated to law and development;

A final high impact opportunity arises where the use of ALSF services could be a basis for lowering the cost of financing major commercial transactions. The ALSF plans to make the case that transactions supported by the ALSF result in more balanced and sustainable contracts that mitigate against possible contract renegotiation or even cancellation. ALSF involvement would therefore reduce project risk and should be considered a mitigating risk factor for International Financial Institutions to consider when financing projects.

## 1.5 The ALSF beyond 2022

Moving from the challenges and opportunities listed above to looking into the future, it is important to bear in mind that the ALSF as an entity, was not designed to exist in perpetuity. The 2008 Agreement establishing the Facility listed the purposes for which the facility was established as follows:

- To provide legal advice and services to African countries in creditor litigation;
- To provide technical legal assistance to African countries to strengthen their legal expertise and

negotiating capacity in matters pertaining to

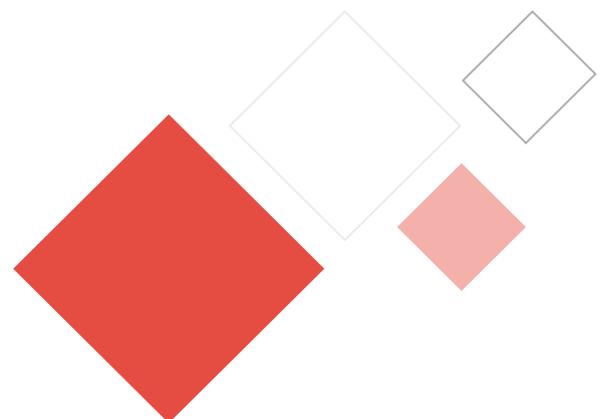
- o debt management and litigation;
- o natural resources and extractive industries management and contracting;
- o investment agreements; and
- o related commercial and business transactions, as the case may be

- To strengthen legal capacity building process in African countries.

The Agreement went further to provide for a first phase which would enable the Facility to operate initially for 14 years, at which point it was assumed that RMCs would have developed sufficient capacity in terms of legal expertise related to litigation and negotiations. The Agreement however, left it to the Governing Council to make the decision as to whether to extend or reduce the period during which the Facility would be in force.

In order for the Governing Council to make the determination as to whether or not there is still a business case for the continued existence of the Facility, the mid-term review for the period 2017 to 2022 will play an invaluable role in determining, inter alia a needs analysis regarding the ALSF's services. Having undergone a shift in focus of the ALSF in the period 2013 to 2017, it is worth noting that there are changes in the ALSF's approach and work foreseen for the period 2018 to 2022. A mid-term review will also play an important role in determining the time horizon for the Facility's continued operation.

Although this strategy covers the initial period planned to end in 2022, it is reasonable to assume that at least some of the conditions that gave rise to the creation of the Facility will, even in an evolved format, combined with emerging new challenges, still exist thus calling for the continued work of the Facility with a possibly adjusted mandate to meet such challenges. It is therefore reasonable to assume that a post 2022 era should focus on scaling up the achievements that will have been registered during the current MTS period.



# 1.6 The process of developing the ALSF Medium Term Strategy 2018 - 2022

The ALSF Medium Term Strategy (MTS) is the overarching strategic guide for the ALSF's planned future direction and operations. The process for the development of the MTS was therefore a structured process designed to ensure that the activities of the ALSF would remain within the context of the overall strategy of the African Development Bank as well as contribute to the African Development Agenda.

The process for developing this strategy therefore involved the following steps:



**1** Review of the Medium Term Strategy 2013-2017 and its implementation. This process involved a wide consultation process from a number of different sources. The information collected provided a basis for prioritising activities for the second MTS. Elements identified in this regard included the need to improve the monitoring and evaluation framework as well as the financial reporting system.



**2** Consultations were conducted with the relevant stakeholders during the Stakeholder Roundtable Conference held in November 2016 and consultations with individual Regional Member Countries. Consultations were also conducted with internal stakeholders such as members of Staff, the Management Board and the General Council.

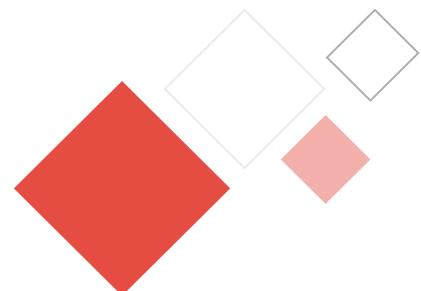


**3** The Review of the MTS 2013-2017 and stakeholder engagements were then analysed and used to identify the strategic pillars and formulate the actions susceptible to achieve the desired results.

The rest of this strategy document is structured as follows;

- The section on the "Evolving Context of ALSF Operations" provides a synopsis of the factors that influence complex investment and project agreements in Africa as well as the impact of these factors on the local economy. This is followed by an overview of how the skills gap in the public sector impacts on complex investment and project agreements.
- This is followed by a section that begins by explaining the strategic objectives of the ALSF and its guiding principles. These inform how the Facility will conduct its actions in order to attain the desired results. The section identifies the "Action Themes" which form the Key Result Areas of the ALSF's activities in the Theory of Change.
- The next section presents cross-cutting issues. These include governance issues as well as mainstreaming broader social development issues such as gender equity, job creation and environmentally sustainable growth.
- The fifth section of the MTS looks at institutional arrangements, particularly the internal governance framework as well as the monitoring and evaluation framework. The section also includes guidance on the role of strategic partners operating in the same space.

The strategy document is completed by a presentation of the global resource requirements and concluding remarks.



## 2. THE EVOLVING CONTEXT OF ALSF OPERATIONS

### 2.1 Changing Context and Facility Services

In terms of areas of intervention, two areas of particular significance to the ALSF are (1) vulture fund litigation in the sovereign debt context<sup>2</sup> and (2) the negotiation of complex commercial transactions, particularly in the natural resources sectors. In these two areas there are a number of external factors such as the operating environment that will impact the effectiveness of the ALSF's interventions. In this regard it is necessary to look at some of the main trends in the operating environment.

#### 2.1.1 Accelerating Structural (Economic) Transformation

Although Africa has achieved impressive economic growth over the last 15 years, most RMCs are still Commodity Dependent Developing Countries with limited manufacturing and tertiary sectors. Much of the recent historic economic growth has been attributed to the relatively high extractive commodity prices. As a result, the role of commodities has increased steadily in the region over the past 30 years<sup>3</sup>. Whilst the rise in commodity prices increased sector profitability, it was important for African governments to try and manage the continent's natural resources prudently so that they are exploited in a manner that is sustainable and benefits the broader community. The ALSF has contributed to this objective through its provision of legal advisory and technical support in the extractive industries.

It is common cause that Africa has significant natural resource endowments in terms of vegetation, fossil fuels, minerals, metals as well as water courses. The AfDB estimates that Africa's extractive resources will contribute over USD 30 billion per annum in government revenue for the next 20 years. However, due to the capital intensive nature of extractives projects and emphasis on exports of raw materials, the region's employment levels in the sector are comparatively lower than those in other resource-rich regions. This is because the industry's footprint in infrastructure development, mineral processing and the manufacturing sector remains negligible.



**Africa's extractive resources will contribute over USD 30 billion per annum in government revenue for the next 20 years.**

The high commodity prices were supported by the high demand for commodities from manufacturing centres in Asia, particularly China. The slowdown in the Chinese economy and fluctuations in the commodity prices placed a strain on the growth prospects for many African states. The IMF estimates that dependence on natural resource exports made nearly half of Sub-Saharan African countries vulnerable to downward trends in commodity prices<sup>4</sup>. The challenge for many resource dependent RMCs is that they typically occupy the supply end of the global natural resources trade which the AfDB notes attracts investments driven from abroad. The timing of investments, sequencing and rate of exploitation are also typically driven by external factors<sup>4</sup>.

<sup>2</sup> In order to manage the risk associate with holding sovereign debt, a secondary market has developed in recent decade. The secondary market for debt allows Vulture Funds purchase distressed debt where it trades significantly below its face value, and then seek to recover the full amount through litigation.

<sup>3</sup> Source: International Monetary Fund (2016) Regional Economic Outlook: Sub-Saharan Africa - Time for a policy reset. World Economic and Financial Surveys.

<sup>4</sup> Source: International Monetary Fund (2016) Regional Economic Outlook: Sub-Saharan Africa - Time for a policy reset. World Economic and Financial Surveys.

In order to reduce their dependence on external factors as well as increase domestic employment, many resource rich RMCs are seeking to diversify their economies. This can be achieved through higher levels of local beneficiation and investment in manufacturing. The ALSF has been providing support to RMCs negotiating investment agreements and related complex commercial agreements. Through its work with both the public and private sector, the ALSF has increased awareness of unfair contract terms and their effects, highlighted the benefits of transparency in state contracts, and begun working with RMCs against illicit financial flows.

The Facility's service offering while focussed on enhancing sustainable legal capacity as well as providing relevant advisory services will also need to be sensitive to this skew towards commodity extraction. And as the offering is adjusted in line with structural economic transformation, the Facility will likely need to broaden the range of activities undertaken in the key areas of advisory as well as capacity building.

### 2.1.2 Sovereign debt obligations

Dependence on commodities means that negative shocks will often also affect fiscal stability. The 2016 IMF's Regional Economic Outlook reported how commodity exporters in the Sub-Saharan African region had allowed fiscal deficits to widen in response to declining fiscal revenues from the extractive sector. Despite the declining revenues, the desire to continue implementing public investment projects in order to meet infrastructure gaps as well as the implementation of countercyclical fiscal policies results in a widening fiscal gap. The fiscal gaps are often filled with new sovereign debt obligations.<sup>5</sup>

Over a prolonged period this will result in rising public debt, increasing borrowing costs and a decline in national income. Contingent liabilities have become more common, states are increasingly guaranteeing PPPs and infrastructure needs. At the same time there is an increasing risk of contract re-negotiations over the next five year cycle.



This aspect of the evolving context mirrors the commodity dependence discussed above and also calls for a range of services that is fine-tuned specifically to meet merging heavy sovereign debt obligations among RMCs.

## 2.2 Persistent skills gaps in the public sector

The African Capacity Report (2015) notes that many African countries do not have sufficient capacity in terms of technical and legal expertise, and this challenge is further compounded by poor legal frameworks. Furthermore, the report specifically mentions the need to improve capacity to negotiate fair contracts in extractive industries particularly in terms of the licensing of mining rights, tax administration and oversight (i.e. verifying prices, the quantity and grade of minerals etc)<sup>6</sup>.

The ALSF has made a concerted effort to assist African governments to address some of these challenges. By the end of 2015, the Facility was advising African governments on **over USD 30 billion worth of transactions** and more than **1000 lawyers** had passed through the capacity building programmes; whilst creditor litigation support had been provided and **53 commercial agreements** and contracts between the government and investors had been reviewed<sup>7</sup>.

Through these activities a transfer of knowledge would have occurred directly during the training activities and indirectly during the ALSF's interactions with officials in their advisory capacity. After the skills transfer has occurred, the challenge that remains is that of retaining competent legal counsel in resource constrained countries, particularly in terms of the negotiation of complex contracts.

<sup>5</sup> Source: International Monetary Fund (2016) Regional Economic Outlook: Sub-Saharan Africa - Time for a policy reset. World Economic and Financial Surveys  
<sup>6</sup> African Capacity Building Foundation (2015) Africa Capacity Report 2015  
<sup>7</sup> ALSF (2015) Annual Report 2015

The public sector's talent retention challenge is not unique to African countries, with some European countries struggling to retain highly skilled talent during the period of austerity following the 2008 financial crisis. Job cuts and wage freezes weakened morale and resulted in a talent drain<sup>8</sup>. Skills that are transferable to the private sector such as financial management, human resource management, strategic planning, performance management, commercial law, and the application of information and communications technologies; are particularly difficult to retain. Faced with stricter budget constraints, remunerations offered by the public service usually cannot compete against remunerations offered by the private sector<sup>9</sup>.

In instances where the public sector is able to offer competitive salaries, another challenge in the public sector is that the political principals of government departments or ministries change regularly. This change is often followed by changes in senior management as political administrations change. Such changes are often driven by political considerations rather than competency considerations.

The competitiveness of public sector remuneration and the degree to which the public service is depoliticised are two risk factors that are beyond the ALSF's span of control. Where public sector remuneration cannot compete with the private sector, highly skilled individuals may however, be contracted by the government as external consultants that may be brought in for discrete projects.

Capacity building is part of the ALSF mandate. The Facility's service offering in this respect may need to broaden beyond the sustainable development of legal expertise to also assist RMCs with strategies to attract and retain such capacity.



## 2.3 Demand for Services

In the next plan period, it is anticipated that the demand for creditor litigation services will continue to decline as was foreseen at the establishment of ALSF. In addition, the nature of the demand is also expected to continue the change that was observed over the past four to five years (2013-2017). Independent reviews however, point to the fact that the threat is by no means over. The risks posed by the issuance of sovereign bonds still exist. Threats are expected to differ from the past by becoming more, subtle in nature. Illicit flows, sovereign debt and other forms of externalization are expected to gain greater prominence hence it is important to focus on these challenges in the next planning cycle (MTS). The Facility can take action against IFFs in three ways, namely:

- 1 Providing advisory services on major commercial agreements especially in the extractive and infrastructure industries hence ensuring that agreements are well negotiated to minimize IFFs.
- 2 Support negotiations with commercial creditors to avoid otherwise expensive defaults and debt accumulation that exposes the state to potential IFFs by intransigent creditors
- 3 Work to build the capacity and raise awareness regarding IFFs and the risks that such flows pose to a country. Specifically, collaborate with various partners to build the required legal capacity to close the gaps and regulatory loopholes that historically made it relatively easy for the criminal and corrupt minded to siphon large sums of money out of the continent.

<sup>8</sup> Deloitte (2017) The public sector's talent retention challenge. Viewed at <https://www2.deloitte.com/uk/en/pages/public-sector/articles/public-sectors-talent-retention-challenge.html>

<sup>9</sup> Kauzya, J. (2010) Strategies for attracting and retaining the best talent in the public service in Africa: Challenges and strategies.



Lessons can be drawn from examples such as the African Union and United Nations Economic Commission for Africa (UNECA) report (also known as the Mbeki report) on IFFs<sup>10</sup>. This report recommended that the continent's response to IFFs should focus on:

- trade mispricing;
- transfer pricing; and
- Base-erosion and profit sharing.

The recommendations of the Mbeki report can be taken into account through the advisory services provided by the Facility with respect to extractives transactions as well as through knowledge products that highlight the need to address the respective challenges that lead to IFF.

These changes, which will also be mirrored in the fundamental shift in the business law profession in Africa will require that the ALSF uses its unique position to customize offerings and solutions as well as to test and pilot new approaches, and partnering in areas where there is no previous experience or capacity.

## 2.4 The International Development Agenda

The United Nations has adopted 17 Sustainable Development Goals over 2015 to 2030. In the pursuit of foreign investment, RMCs must therefore ensure that agreements reached with negotiating parties must take the SDGs into consideration.

The evolving role of the ALSF as it consolidates its advisory role for governments, enhances good governance that in turn enables economic growth and the attainment of the SDGs. In addition the interventions of the ALSF enable the governments to maximise use of public resources which can then be redirected towards attainment of the SDGs.

The most relevant SDGs for the extractive and primary industries that the ALSF engages with include:

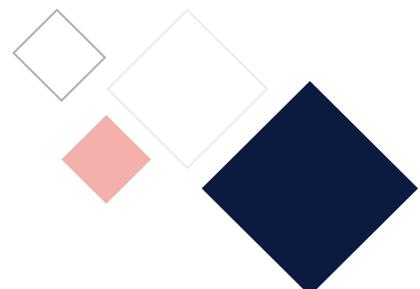
- **SDG #9: Innovation and infrastructure** – which seeks to build resilient infrastructure that promotes inclusiveness and sustainable industrialisation, particularly in developing countries. Such infrastructure will contribute to job creation and hence poverty reduction.

- **SDG #13: Climate Action:** Climate change can alter weather patterns which can potentially derail sustainable development. Investments in industrialisation must therefore take into consideration their effects on environment.
- **SDG #15: Life on Land** – which seeks to protect, restore and promote sustainable use of terrestrial ecosystems, sustainably managed forests, combat desertification and stop land degradation and the loss of biodiversity.
- **SDG #16: Promote peaceful and inclusive societies** for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels (targets include combating IFF and substantially reducing corruption).



These development goals are incorporated into continental, regional and national development plans. At the 22<sup>nd</sup> African Union Summit in January 2014, African states agreed on a 50 year development plan dubbed African Union Agenda 2063. It captures the desire for the continent to be “integrated, people centre, prosperous, and at peace with itself.” ALSF assistance contribute to the achievement of its goal 4 related to transformed economies in Africa.

<sup>10</sup> The “Illicit Financial Flows” report is taken from the “High Level Panel on Illicit Financial Flows from Africa”



# 3. ENHANCING RESULTS

## 3.1 Our Vision and Mission

The actions of the Facility are expressed succinctly in the Mission whilst main desired result of the Facility's actions is encompassed in the Vision.

Whilst the Vision and Mission of the ALSF appear to focus more broadly on legal capacity and the capacity gap in African countries, the focus of the first MTS was particularly on creditor litigation support. As expected, demand for litigation services declined during the period 2013- 2017, in part due to the end of the HIPC process. There is however still scope for the ALSF to provide its services in complex negotiations and sovereign transactions as some challenges remain. The need to curb illicit flows and strengthen the legal expertise and negotiating capacity of RMCs to support actions against IFFs will be important focus areas in the second MTS<sup>11</sup>.



<sup>11</sup> Source: AfDB (2016) Strategic Framework and Action Plan on the Prevention of Illicit Financial Flows in Africa (2016-2020)



### Our Mission:

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

### Our Vision:

**A**chieving sustainable legal capacity for Africa.

## 3.2 Guiding Principles

The Facility is founded on the values of respect for the rule of law, equity, transparency and good governance. Given the ALSF's mandate, where we work, who we work with and our approach are by implication already pre-defined.



## WHERE WE WORK



ALSF works in African states within the context of the African development agenda. Emphasis is therefore given to prioritising transitioning states and the least developed countries.

As an entity based and staffed by individuals living on the continent, the character of the Facility offers a comparative advantage over other partners when it comes to matters of legal support.

## WHO WE WORK WITH



The ALSF works with African governments facing vulture fund litigation claims and undertaking negotiations of complex commercial transactions. The ALSF also works with national lawyers to enhance their capacities to be more competitive in the increasingly global legal market.

The Facility also works with a wide range of stakeholders that include the private sector, legal professionals and firms, civil society organizations as well as other international cooperating partners. In particular, the ALSF works with not only the AfDB and its institutions but also various African Institutions, African law associations (both national and regional), the African Union Commission, and the World Bank.

## HOW WE WORK



Recognizing that RMCs will have a different mix of litigation, legal advisory and capacity building needs, ALSF customizes its solution offerings to suit those specific needs. The twin emphases are the resolution of specific project requests, accompanied by the building of local and regional legal capacity to continue handling such matters even when ALSF's initial involvement has been terminated.

ALSF provides services directly but also engages legal counsel to provide litigation and advisory services as well as capacity development for RMC staff. ALSF retains the role of interfacing with RMCs as well as quality assuring the work done for the RMCs. The Facility also manages resources on behalf of cooperating partners depending on the scope of the agreed interventions.

The ALSF offers a variety of financial instruments to support its work.

In the 2018-2022 period, the way the ALSF works will include three key elements, namely:

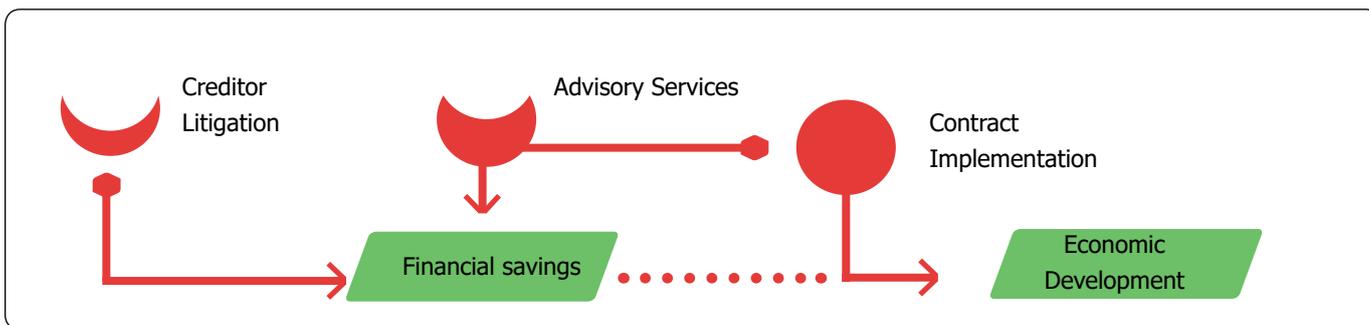
- **Innovativeness:** As the ALSF spreads its scope of work, the Facility will need to incorporate new approaches such as testing and piloting and leveraging data especially where there is no previous experience.
- **Fundamental shift:** This will entail a concerted effort to address the business law profession in Africa where there is great potential to build long term capacity which will in turn deliver tangible benefits to the small African law firms as well as to RMCs that use their services.
- **Sustainability focus:** Ensuring the sustainability of the intervention by building the domestic legal capacity in areas such as: dealing with sovereign debt, complex agreements, PPPs, IFFs, arbitration, sovereign asset recovery, and governance.



### 3.3 Proposed Strategic Framework for the period 2018-2022

The second MTS continues previous efforts, with however a critical addition: ALSF is now involved directly in contract and project implementation:

**Figure 1: ALSF’s Key Intervention Points**



in the AU Agenda 2063 and Sustainable Development Goals. There are two principal ways in which ALSF contributes, at continental and global levels, to the AU Agenda 2063 (Goal #4 on Transformed Economies), SDG #8 (on Decent Work and Economic Growth), and SDG #9 (on Industry, Innovation and Infrastructure). First, the savings from creditor litigation and advisory services mean that there are additional resources available to RMCs to invest in job creation and poverty alleviating projects.

For RMCs to realize the full benefit of complex commercial agreements, they must be judiciously executed. It is quite feasible that major failure may occur during the implementation phase for a number of reasons including limited capacity, lack of political will or governance issues.

ALSF will therefore actively get involved in the management of certain actions after the award or contract agreement finalization. This will be done to ensure that the terms of the contract agreement are fully complied with during implementation.

This additional service means that ALSF will be involved in the full spectrum of services inclusive of the provision of advisory services covering creditor litigation, debt and contract negotiation. This in turn may imply additional resource requirements in terms of budget and human resources. In order to ensure adequate provision for these resource requirements, each intervention and project will be thoroughly costed and provision configuration agreed upfront by the various parties involved such as the Facility itself, RMCs as well as other cooperating partners. Whether resourcing will be met internally by ALSF or through external partnerships, the specifics will need to be defined upfront to ensure adequate provision thereof.

#### 3.3.1 Outcomes/Impact

Achieving higher economic growth rates, job creation as well as structural transformation of African economies are key to attaining overall sustained economic development and prosperity as envisaged

Secondly, the legal capacity that is created also means that RMCs can negotiate better contracts that have a positive spin off in their respective sectors in terms of sustainability, job creation, and contribution to GDP.

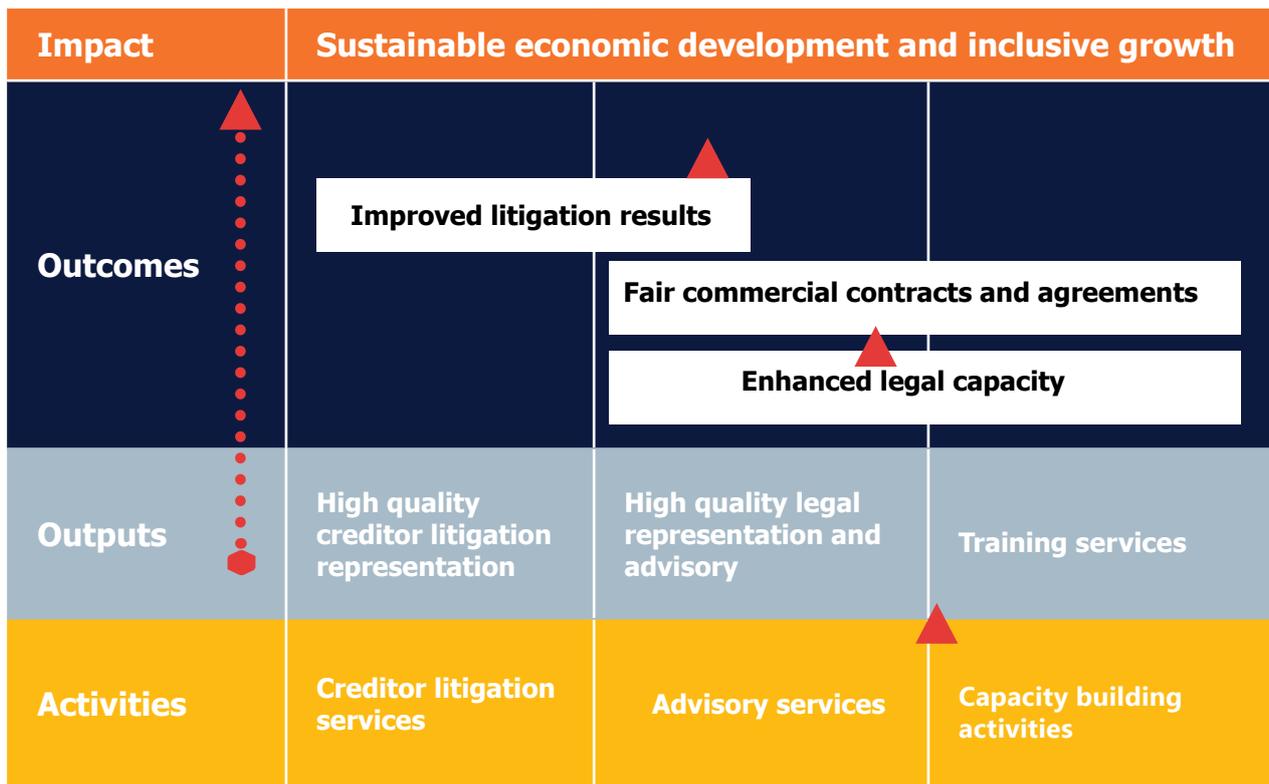
The MTS is anchored on three key result areas (KRA):

- 1 FAIR COMMERCIAL CONTRACTS AND AGREEMENTS FOR AFRICAN GOVERNMENTS
- 2 ENHANCED LEGAL CAPACITY IN AFRICA
- 3 IMPROVED LITIGATION CASE OUTCOMES/RESULTS

As discussed above, the Facility’s key interventions are in the areas of creditor litigation, advisory services, and capacity building. Internally, the Facility will continue to implement corporate management for principles, such as monitoring and evaluation and project supervision, which contribute to the attainment of results. The activities conducted under each KRA provides outputs that contribute towards the attainment of the desired outcomes and impacts.

The different elements of the model are explained below and the graphic logic model is attached as an Annexure.

**Figure 2: Summary Results Framework**



### 3.3.2 KRA 1 – Fair commercial negotiations and agreements for African governments

Under KRA1 the Facility will focus on advisory services and this will revolve around the procurement of high qualified legal firms which will in turn lead to high quality legal and financial advisory services being provided.

The ALSF will accomplish this by providing high quality advice and experts to achieve fairer contracts and agreements in the following areas:

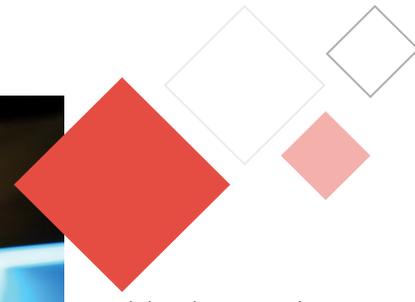
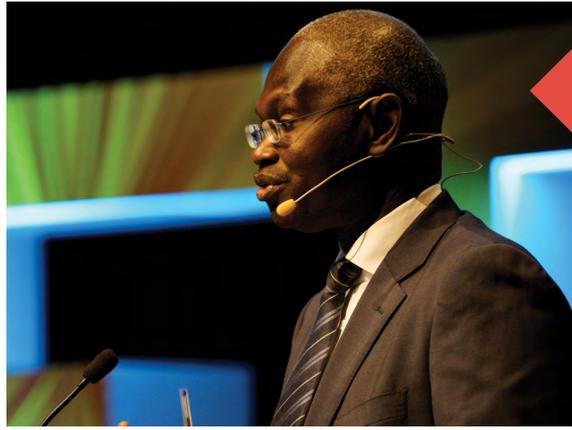
- Infrastructure / PPPs (including Energy and Transportation)
- Natural Resources (including Mining, Oil and Gas, Agriculture etc.)
- Sovereign Debt / Public Finance

The focus on the natural resources is in line with the African Development Agenda 2063 which recognises the African Mining Vision’s objectives of for the “a transparent, equitable, and optimal exploitation of mineral resources to underpin broad based sustainable growth and socioeconomic development on the continent”<sup>12</sup>.

<sup>12</sup> Source: African Union (2014) The Africa We Want. A shared strategic framework for inclusive growth and sustainable development. First ten-year implementation plan 2014-2023.

The advisory services will include the following:

- Pre-negotiation assistance (review of existing legal context and framework, tender process and structuring)
- Negotiation assistance
- Contract Monitoring and Implementation
- The promotion of the use of international commercial arbitration in Africa to resolve disputes arising from the execution of contracts



participating in actual negotiations, the ALSF interventions will help reduce development time required for investment projects. Based on these services, the ALSF plans on creating more model documentation and

In order to ensure that the benefits of the advisory support are maximised for the greater benefit of the whole country, advisory support will be targeted in priority RMCs that have signed onto the EITI, this is over and above the focus on RMCs in a fragile situation. The transparency provisions of this initiative will increase the chances of the savings from the ALSF's intervention being directed towards development.

In addition the ALSF will expand its activities by focusing on the following:

#### A. Leveraging data and information<sup>13</sup>

The outputs under this pillar will be enhanced by leveraging data and information. The ALSF will use systematic data analytics pertaining to developing networks of legal practitioners, laws, contract negotiations and implementation experiences, as well as dispute settlement by means of arbitration. Increasing access to laws and jurisprudence will see ALSF making use of big data to predict case outcomes by studying years of historical data, including the kind of legislation in question, the related issues, the ruling history of judges or specialized courts, etc.

Where advisory services are outsourced by the Facility to a legal firm, leveraging data and information for contract analysis will provide a time and cost saving solution to the challenges of learning the specific terms, vendor, products and language typically used by a service provider.

#### B. Decreased Development Time for Projects

By providing timely assistance to governments for the preparation of negotiations, developing negotiation teams, developing negotiating positions and

toolkits to help streamline the negotiation processes in the future. In addition, the ALSF proposes to develop internal advisory services capabilities in order to provide additional legal advice and recommendations to Governments, reviewing institutional and legal frameworks, and implementing action plans and strategies, particularly in response to emergency official requests received from governments, or in relation to additional needs identified in the course of the implementation of on-going ALSF's projects.



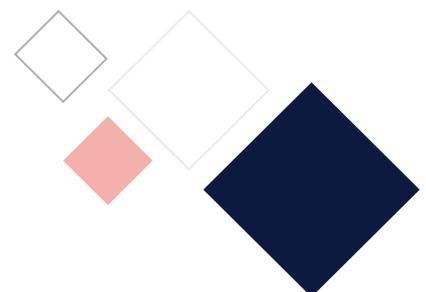
#### C. Improve Implementation of Contracts

One of the major sources of prior request for assistance to the Facility were related to poor contract implementation. Contract implementation and monitoring will be included in the advisory services in order to help prevent these situations from arising in the future.

#### D. Procurement of International law firms

The Facility will build on the successful experience of working with international law firms that are keen to provide mentorship in advisory services and creditor litigation. The Terms of reference will accentuate this particular dimension during the selection process.

<sup>13</sup> Data leveraging, therefore, involves collecting data and making use of information acquired through previous experience for a strategic or tactical advantage. Data leveraging, organizations can leverage data to improve performance outcomes significantly. Leveraging data, therefore, makes it possible to convert historical raw data to intelligence.



### 3.3.3 KRA 2 – Enhanced legal capacity in Africa

To enhance legal capacity in Africa, the Facility's work will include training of African legal professionals, establishing capacity building partnerships, and developing and disseminating relevant knowledge products. These activities will lead to a range of outputs that include trained professionals, developed training cases studies, curricula and training programmes.

The outcomes will include enhanced legal capacity in Africa and ultimately, economic growth and sustainable inclusive development in Africa.



ALSF's MTS focuses on the development of technical and practical skills that are pertinent to enhancing's African legal capacity with the overall intent of ensuring that there is a growing pool of African legal experts in various disciplines. The ALSF also seeks to strengthen the system that will continue to generate knowledge products and training in the areas of litigation and advisory services to RMCs.

The ALSF shall aim to promote international commercial arbitration in Africa by means of the improvement of legislation in the RMCs and capacity building for African lawyers and legal experts in this area. Gender shall be the object of special focus in this area.

In addition, ALSF will strengthen the capacity of African business lawyers from a legal perspective which will include getting an understanding of financial implications and transfer pricing. This will require consideration of working with law associations, African law firms and educations institutions to strengthen curricula to be able to meet stringent demands if complex commercial transactions.

#### **A. Enhancing practical skills for African Business Lawyers**

ALSF will use a blended learning approach to deliver the technical and practical skills training referred to above. Such a learning approach blends formal or informal, online digital delivery with traditional classroom methods as well as on-the-job practical case assignment:

Making use of the blended learning model will rely

heavily on technology, and the implication is that both the universities and other training institution partners as well as the legal firms and/or government legal experts will need to also be capacitated in terms of such technology. It is envisaged that a significant aspect of this training will be via a virtual campus or similar computer based delivery that will allow learners (legal experts) to access training content and assessments online. The focus of this program will be on the development of standards and an accreditation process.

The primary outputs will be throughput regarding experts registered on specific programmes, as well as successful completion rates. In particular cases, penetration will also be a useful indicator beside the absolute number of legal advisors trained and placed.

ALSF will also partner with academic and training institutions in the design, development, and packaging of multi-media knowledge products in each of the target curriculum focus areas. The Facility will also work with law faculties to enhance and strengthen related curricula, such that it is able to meet the stringent demands of complex transactions. An analysis will be undertaken to determine the financial implications of this approach.

Practical skills are typically acquired through simulation or on-the-job training. While simulation and role playing for legal experts may be useful for individual behaviour competencies, the emphasis in the MTS is experiential where the legal experts undergoing specific training will be given the opportunity to participate, under supervision, in selected live cases. This is largely dependent on the cooperation of legal firms as well as a profile of their case load at any given time. ALSF's capacity building interventions will deliberately also include some coaching which goes beyond just capacitating advisors to do the work, but also to be able to pass on the knowledge obtained to their counterparts. Training in special topics, such as renewable energy use, negotiation skills as well as green economic growth will be routinely considered and scheduled.

In addition, ALSF will also initiate learning and sharing platforms, which will also include the possibility of visiting other countries, benchmarking what exists in other regions where people have similar challenges and opportunities and will collaborate with inter-ministerial commissions, where they exist and core groups to drive ongoing improvements in selected focus areas.

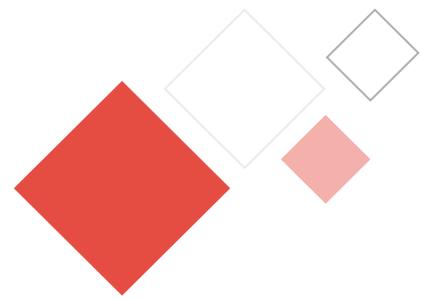
## B. Leveraging data and information

Leveraging data and information can enhance the outcomes observed under this KRA. Leveraging data can be used by procurement professionals to manage contracts such that the procurement team knows where the organization's contracts are held as well as the terms and obligations of such contracts. In terms of managing data and information, the ALSF can also support governments with data generation and analysis, to improve decision making in the targeted areas. For example, part of the challenge in managing contracts between the government and private sector is that many of the contracts are concluded and stored in repositories that are not easily accessible. This results in knowledge asymmetries between the state and contracting parties which could create incentives for corruption and also most importantly, scrutiny of the contracts is hindered. Creating a central searchable repository for contracts ensures that there is transparency and that all parties are aware of the terms and conditions of a contract during its implementation. Experience has shown that when governments change, some of this historical information contained in documents and agreements can be misplaced. The ALSF has by default become a repository of such "lost" information, where new governments can access the legal documents and agreements. Given that the Facility was never conceptualised as an entity that would exist in perpetuity, the Management Board must explore ways to capacitate RMC and law firms to store the library of agreements and legal documents.

It means that ALSF and the assisted RMCs will need to build technical and human capacity for capture, search, discovery, and analysis to gain insights from otherwise unstructured data. Government markets tend to be ripe for this kind of information given the realization that information is a strategic asset, and all governments, therefore, need to protect, leverage and analyse both structured and unstructured information to serve better and meet all mission critical requirements.

## C. Enhancing the skills of African lawyers

The ALSF will encourage specialization of African lawyers and advocate for the recognition of their capacity, enhancement of business practices and skills. Support will be targeted at enhancing their skills set with respect to major commercial negotiations issues.



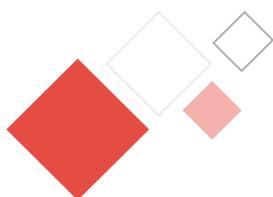
## 3.3.4 KRA 3 – Improved litigation outcomes/results

The key activities for Creditor Litigation include procurement of highly qualified legal firms and experts well as implementing sensitization campaigns on creditor litigation. The results of these activities will be mainly high quality representation of African countries in litigation cases and communication materials distributed to key decision makers.

The anticipated immediate outcomes are increased awareness of creditor litigation risks by RMCs as well as reduced litigation payments and increased government savings among and economic growth of African countries.

While it is true that over the last four or so years, there has been a decline in the initial demand for creditor litigation services, as was initially envisaged at the inception stage of the ALSF, the activity still remains highly relevant for the African context, especially the threat of illicit flows and other concerning conduct, which take on different forms. Thwarting these practices will continue to be necessary and it will be important to incorporate these considerations into the next phase of the planning cycle. ALSF has identified the following areas for its interventions under IFFs:

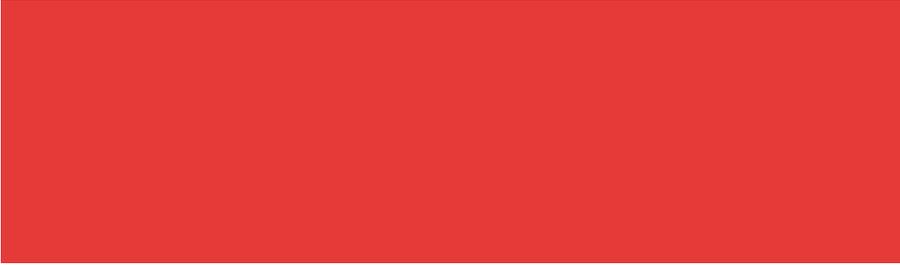
1. Prevention of IFF through providing advisory services on major commercial agreements especially in relation to extractives and infrastructure (in particular PPPs).
2. Supporting negotiations with commercial creditors to avoid otherwise expensive default and debt accumulation that exposes the States to potential illicit financial flows by intransigent creditors
3. Raising awareness and capacity building
  - The Facility will organize events that raise issues concerning sovereign debt and the need to conclude appropriate legal agreements when issuing sovereign bonds;
  - The Facility intends to develop knowledge instruments on the key issues to address when issuing sovereign bonds on the international market;
  - The Facility will work with other partners to develop tools that RMCs can use in combatting IFFs;



- The Facility will provide capacity building for African States in negotiating key loan agreements and conclusion of key agreements in the extractive sector and infrastructure (PPPs).
- The Facility will provide capacity building for sovereign asset recovery based on experience in asset recovery.

Certain standards and regulatory mechanisms will be developed and canvassed targeting stakeholders on the lending side.

On the borrowing side, ALSF will target RMCs, with general and bespoke campaigns putting the spotlight on responsible borrowing drilled down to sector and project level.



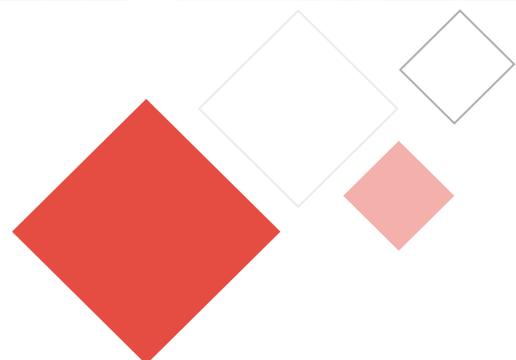
RMCs need to be aware of the ramifications attached to different debt financing proposals for both current and future fiscal stability.



### Challenging perceptions regarding fairness

ALSF intends to magnify its voice in challenging and changing perceptions around what is fair lending advocacy on the importance of responsible borrowing and debt restructuring practice at international level as well as what is responsible borrowing at national (RMC) level that mitigates against potential vulture fund litigation. In the first instance, ALSF will raise awareness among RMCs on the predatory nature of vulture funds to assist those who are already ensnared as well as those who may be well on the slippery trajectory to such situations. Such activities will assist in ensuring that the impact of the ALSF's activities is sustainable.

RMCs need to be able to flag each case where vulture funds buy distressed debt at steep discounts on secondary markets with the goal of later litigating for the face value plus interest, and, in so doing, severely compromising a state's restructuring efforts. ALSF will, therefore, make its contribution towards an international mechanism/solution for sovereign debt restructurings that will ensure fair, orderly and predictable sovereign debt restructuring.



# 4. CROSS-CUTTING ISSUES

## 4.1 Overview of cross-cutting issues

A number of cross-cutting issues have been identified, these are governance issues as well as mainstreaming broader social development issues such as gender equity, job creation and environmentally sustainable growth. The cross cutting issues are in the main related to the global development agenda as articulated first in the Millennium Development Goals (MDGs) and more recently in the Sustainable Development Goals (SDGs). Goal 8 of the MDGs and Goal 17 of the SDGs call for global partnerships in the attainment of the development goals.

These crosscutting issues are also in tandem with the African Union Agenda 2063. The Agenda details a number of aspirations for the continent. In particular, aspiration 1: "A prosperous Africa based on inclusive growth and sustainable development"; aspiration 3: "An Africa of good governance, democracy, respect for human rights, justice and the rule of law"; aspiration 4: "A peaceful and secure Africa" and aspiration 6: "An Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children" are very pertinent for the overall social and gender mainstreaming, environmental and governance based orientation of the continent.

As a creation of the AfDB Group, the ALSF's MTS must also align with the policies and strategies of the AfDB. In formulating the second MTS, the Facility has therefore taken into account the relevant cross-cutting strategies and policies of the AfDB to ensure alignment.

The 2003 Integrated Environmental and Social Impact Assessment Guidelines<sup>14</sup> provided a reference guide to RMCs and AfDB staff on how to adequately consider cross-cutting themes such as population, gender, the environment and inclusivity, while assessing the environmental and social impacts of a project. The guidelines proposed the adopting of monitoring indicators to assist in evaluating the real impacts associated with a project.

## 4.2 Mainstreaming Gender

The AfDB's Gender Strategy (2016) identifies operational areas for which units such as the ALSF will play a key role. For the ALSF, all the key operational areas identified in the AfDB Gender Strategy related to Pillar 1: Legal status and priority rights. There is however, scope to also include gender mainstreaming provisions in the ALSF's training activities for the second MTS (2018-2022) which would fall under knowledge management and capacity building interventions.

The ALSF will highlight the need to take account of gender considerations in advisory services with respect to projects in all sectors to ensure that gender perspectives have been given priority. Account the relevant cross-cutting strategies and policies of the AfDB to ensure alignment.

In addition, the ALSF will support the mainstreaming of gender during the capacity building and knowledge management activities. For example, the ALSF could stipulate the inclusion of gender provisions during the process of identifying beneficiaries for legal training programmes. All procurement processes including activities targeting the promotion of Africa-based law firms will also include gender targets as part of the procurement process.

As part of the implementation process, the collection of data will be critical for monitoring the inclusion of gender mainstreaming and equity provisions. The indicators as to how the ALSF is contributing to gender equality must align with those included in Results Measurement Framework (i.e. Annex 1 of the AfDB Gender Strategy - Investing in Gender Equality for Africa's Transformation).

This overall commitment to gender mainstreaming is also in line with aspiration 6 of the AU Agenda 2063, where full gender parity is envisaged in public offices and managerial positions in the public and private spheres.

<sup>14</sup> Source: AfDB (2003) Integrated Environmental and Social Impact Assessment Guidelines



Mainstreaming of Gender by the international commercial arbitration institutions is a very important aspect which will be considered in consultations relating to international commercial arbitration issues. In this respect, ALSF will align its gender main streaming with the AfDB guidelines and checklists which provide for, among others, promoting strategies for effective implementation of internationally accepted norms and standards on women's rights, as well as supporting reforms within RMCs judicial systems including capacity enhancement for the promotion and respect for women's human rights. In particular, the ALSF will support the global initiative entitled "The Pledge"<sup>15</sup>, which aims to raise the visibility and presence of women in the field of arbitration.

Apart from tracking gender participation and involvement in its various interventions such as capacity building and advisory services. This will extend to such programmes as AMLA which will be used to place female lawyers as part of ALSF's contribution to the bigger commitment to gender mainstreaming.

<sup>15</sup> <http://www.arbitrationpledge.com/>

## 4.3 Environmental concerns

The AU's Agenda 2063 spells out a number of objectives in relation to environmental issues under the aspiration of a prosperous Africa based on inclusive growth and sustainable development. The overall goal is the eradication of poverty through a self-driven developmental praxis based on the careful stewardship of African resources in the long-term. These considerations will drive the overall strategic orientation of the Facility.

In the AfDB's Ten Year Strategy (TYS), it was noted that climate change was straining economic and social infrastructure as well as the productivity of the land, threatening rural livelihoods. This in turn had a negative impact on agriculture and food security<sup>16</sup>. The bank's long standing position regarding the environment is that the AfDB will only finance programmes and projects that are environmentally sustainable.

In 2015, the AfDB published the Integrated Environmental and Social Impact Assessment (IESIA) guidance materials. The guidelines were designed to address new and more challenging elements such as<sup>17</sup>:

- Providing additional clarity on ESIA, assisting clients to prepare terms of reference for ESIA, reporting formats, guidance on how to select high quality ESIA consultant and evaluate their outputs, and compliance enforcement.
- How to apply safeguards to policy and programme lending, public consultation and grievance mechanisms.
- Sector specific guidance.

The ALSF is also able to provide additional guidance to RMCs through the capacity building initiatives either through training or providing case study evidence as to why IESIA is important.

## 4.4 Governance and accountability considerations

Governance and accountability are cross-cutting issues that can determine whether or not an intervention is successful in addressing the concerns identified. Governance and accountability issues are relevant from the perspective that the ALSF aligns itself with the position of the AfDB and only supports the development of states with the following capabilities:

- effective institutions such as the justice system;



<sup>16</sup> Source: AfDB (2010) Implementing the Bank's environmental and social safeguards policies.

<sup>17</sup> Source: Diop, M (2015) Bank Group's new guidance on Environmental and Social Impact Assessment to boost sustainable development in RMCs. AfDB website: <https://www.afdb.org/en/news-and-events/bank-groups-new-guidance-on-environmental-and-social-impact-assessment-to-boost-sustainable-development-in-rmcs-15256/>

- a government that abides by principles of good governance and that is committed to combating corruption. The ALSF will also adopt incentives to encourage RMC to adopt the EITI global standards for the good governance of oil, gas and mineral resources in order to ensure that these sectors operate in a transparent manner; and
- sectors of the economy that are well governed economic growth.

The cases for which the ALSF will support must therefore comply with the position of the AfDB in terms of respect for property rights, equality of access to justice and greater social participation in decision making.

For the ALSF, the training of African legal professionals and advisory services offer an opportunity to contribute to the development of better governance frameworks in RMCs. In strengthening the legal sector, the Facility's support will help in the development of standards and regulations in the relevant sectors.

Since sovereign debt affects all taxpayers, the training for legal professionals can be expanded to include civic society organisations working towards greater government accountability. In promoting good governance and accountability among RMCs, ALSF will integrate a number of important international norms and standards. The first is the UN Agenda 2030 with the SDG emphasis on People-Planet-Prosperity based on the concept of the triple bottom. At the centre of these SDG commitments is the clear principles of governance and accountability where governance is not a role played by governments only but requires interaction with businesses, civil society organisations and knowledge institutions.

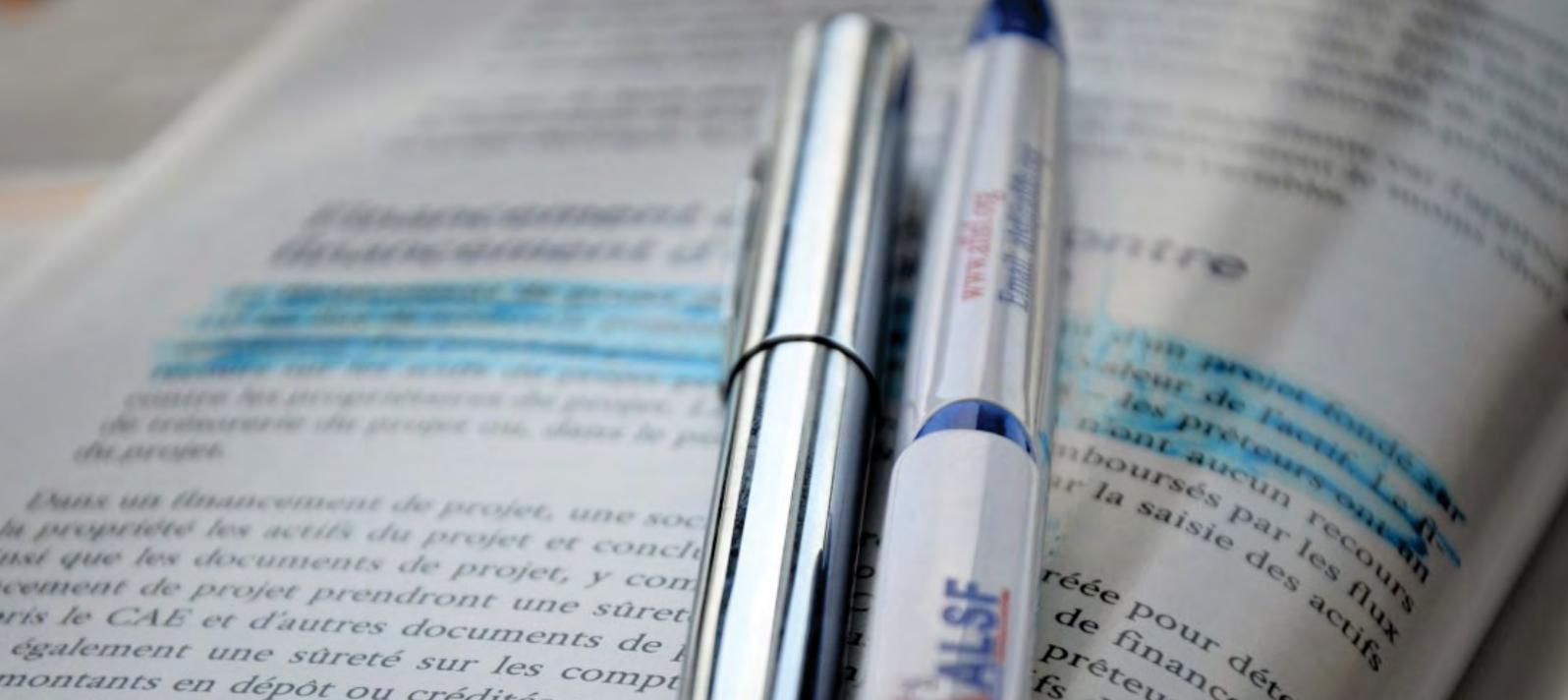


The second is the AU Agenda 2063 which envisions an Africa practising good governance, democracy, respect for human rights, justice and the rule of law. ALSF's programmes must therefore be seen against the light of an Africa that will be a continent where democratic values, cultural practices, universal principles of human rights, gender equality, justices and the rule of law are entrenched and an Africa that has capable institutions and transformative leadership at all levels.

ALSF will also seek alignment with the World Bank's WDR 2017 (World Development Report: Governance and the Law) which emphasizes that: successful reforms are not just about "best practice" (they must guarantee credible commitment, support coordination, and promote cooperation) and that capacity building must take into account power asymmetries as well as to go beyond just the rule of law to the role of law in achieving the desired goals.



*The training of African legal professionals and advisory services offer an opportunity to contribute to the development of better governance frameworks in RMCs.*



## 5. INSTITUTIONAL ARRANGEMENTS

### 5.1 Improved ALSF effectiveness and efficiency

Key determinants of the performance of the ALSF include the resolution of project risks and bottlenecks, the implementation of a good governance strategy for the ALSF, efficient management and effective implementation of the Facility's projects. For this reason, the Facility's project design and implementation must incorporate adequate strategies for performance monitoring and evaluation (M&E), financial reporting and stakeholder engagement. The immediate results of a more effective ALSF will include:

- Increased demand for ALSF support due to increased awareness of the Facility. This will increase the workload, which may require the recruitment of new personnel, additional training for staff members or outsourcing to third parties.
- An increase in contributions to the ALSF,
- Timely information flow and decision making within the ALSF,
- The promotion of African based law firms which over time will lead to more high quality African law firms getting shortlisted and selected,

- Enhanced institutional sustainability

The Facility's Governing Council and Management Board will continue to exercise effective oversight functions over the overall activities of the ALSF by meeting at regular intervals throughout the year. At project level, the governance structure will be enhanced by the implementation of project level management and control protocols and frequent dialogue with stakeholders regarding roles and responsibilities. Such dialogue allows local and sector specific context to filter into the governance framework which may act to counteract the weak governance structures within certain RMCs. Engagements with RMC governments will present opportunities to discuss aspects such as blockages and bottlenecks. Project implementation will become more responsive to the urgent and important matters without having to wait for the next scheduled Management Board or Governing Council meeting.

Enhancing the oversight function will also benefit from the sharing of information with the various representatives to build awareness around the needs of the various constituencies as well as RMCs themselves to improve ratification, financial contributions to the ALSF, and generally increased ownership of the Facility by RMCs that will also underpin ongoing operation of ALSF beyond the initially envisaged duration (beyond 2022).

ALSF will create a Forum of Governing Council constituents not only as a platform to raise awareness of pertinent issues but also to increase ownership of and participation in the Facility's business. The configuration of the Forum should enable it to undertake multiple functions covering information sharing as well as oversight.

The ALSF will also strengthen the directorate through continuously making it more efficient and putting in place appropriate measures to build human resources and corresponding internal structures so as to respond to the enhanced role of the Facility.

In line with AfDB policy, the ALSF is committed to the promotion of good governance. The ALSF subscribes to the CONNEX Code of Conduct that seeks to ensure that all service providers of advisory services to countries commit and abide by the highest standards of good governance.

## 5.2 Monitoring and evaluation

The Facility has had commendable achievements in addressing the initial problem of costly litigation by vulture funds against African countries with limited specialized legal expertise. The ALSF has documented some of its achievements at output level.

Since 2014 however, ALSF started to measure more outcomes or results level indicators in order to assess the changes that ALSF's legal assistance has brought in RMCs for the government, local communities, local law firms and experts. Whilst measures such as "the cumulative value of projects supported by the ALSF" were more or less collected, there was limited information on "institutional capacity established", "social benefits generated", "business and/or wealth created", etc.

In order to respond to the call for more outcome data, the ALSF has developed a number of performance measures as a part of the results-based M&E framework. At the heart of the ALSF's results based M&E framework is the logic model which outlines the goals of the ALSF, their main activities, the expected outcomes of such activities, and the underlying theory and assumptions used to justify the actions.

The proposed logic model in Annex 1 builds on the findings of the independent review of the implementation of the MTS 2013-2017, and the discussions during the ALSF stakeholder meeting in November 2016. The following key performance indicators were adopted:

### Outcome indicators:

1. Number of ALSF-supported negotiations and renegotiations that achieve greater financial benefits (royalty rates, development fees, taxes etc.) to host countries (compared with world or regional benchmarks or original contract)
2. Number of ALSF-supported contracts that government and investor negotiators consider to reflect a fair distribution of benefits
3. Number of ALSF-supported contracts with clearly specified and budgeted community development programmes to enhance the rights and interests of communities living in areas where resources will be extracted or with respect to an infrastructure project.



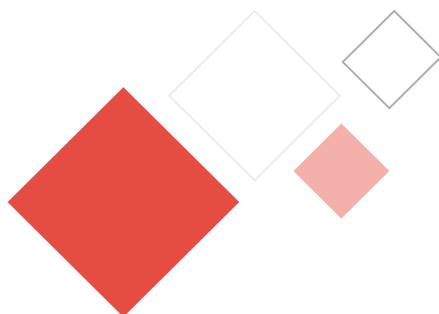
## Output indicators:

4. Number of requests from governments for support or for follow-up support
5. Cumulative number of national counterparts trained on negotiation of complex commercial transactions or commercial creditor litigation (with percentage of female participants)
6. Cumulative number of knowledge products from ALSF or to which ALSF contributed disseminated in African countries (presentations, published papers or manuals, etc.)

In addition to the above, some indicators will be defined for a comprehensive coverage of ALSF operations. They will have to meet the following criteria:

- Data will be collected during the project implementation phase. Additionally, management of the database would be centralized and continuously updated;
- Allow for the benchmarking of the ALSF's performance against other similar development organizations;
- Provide leadership to RMCs on results based M&E frameworks and impact analysis

The M&E framework will inform stakeholders through the website and printed media. The Annual Report will be distributed to key stakeholders in RMCs and key partners whilst implementation reports will be distributed to members of the Governing Council, Management Board, and representatives of donor organisations.



## 5.3. Financial Reporting

Along with Monitoring and Evaluation, financial reporting is one of the priority areas identified for institutional strengthening by the ALSF. The ALSF will continue to work with the relevant department of the AfDB in producing timely, accurate and informative financial reports.

## 5.4. Stakeholder Roles and Partnerships

### 5.4.1 Key Partners

Success of the Facility's interventions has in the past be reinforced by the existence of strong strategic partnerships with stakeholders that have been built over a long period. Going into the future, ALSF will consolidate the partnerships with a number of development partners which will include, bilateral and multi-lateral aid agencies, academic institutions, national governments and African civil society organization. The ALSF has always looked to form strategic partnerships with other development institutions operating in the same space. In a period where donor funding has decreased, it is increasingly important to have symbiotic relationships with other partners in order to maximise resources.

The ALSF has been a beneficiary of long term grants from the following partners over the past 6 years<sup>18</sup>:

- African Development Bank
- The Netherlands Government
- The Norwegian Government
- KfW of Germany
- Department for International Development of the UK
- Islamic Development Bank
- Canadian Government
- France
- The Indian Government.

In addition the ALSF expects to conclude a long term grant Agreement with the European Union.



<sup>18</sup> ALSF (2014) Management Board MTS Meeting Report

## 5.4.2 Other Strategic Partnerships

In addition the ALSF maintains implementation arrangements with several other strategic partners.

The ALSF will continue to work closely with the African Natural Resource department of AfDB in implementing several natural resource projects both on a regional and national basis; the Office of the General Counsel of the AfDB in raising awareness about law and development in Africa as well as capacity building; and other infrastructure departments of the AfDB such as the Energy complex in implementing the New Deal on Africa strategy. The ALSF will continue to work with regional and national offices of the ALSF as well as with the African Water Facility, the Infrastructure Consortium for Africa, the International Finance Corporation, the G7 CONNEX, Power Africa Initiative, the African Minerals Development Center at United Nations Economic Commission for Africa, various African universities, Regional Economic Communities and the African Union.

The strategy seeks to further consolidate partnerships built around existing Memorandums of Understanding (MoU) with various organisations such as the African Business Lawyers Association and the Institute for Public-Private Partnerships, the International Senior Lawyers Project, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), the World Bank, the Natural Resource Governance Institute, the Columbia Center on Sustainable Investment and Agence Française de Développement. Beyond these MoUs, the Facility will continue to explore other strategic partnerships that add value to the work of ALSF.

By means of Memorandums of Understanding (MoUs) with appropriate partners and with the support of the stakeholders and strategic partnerships, the strategy shall aim to turn Africa into a privileged location for international commercial arbitration.

The ALSF has also engaged in a partnership with the African Minerals Development Centre (a unit within the United Nations Commission for Africa – [UNECA]) to jointly present capacity building programmes on contract negotiations in the extractive industry<sup>19</sup> so as to implement the African Mining Vision adopted by the African Union Heads of State and Government in 2009. The partnerships have also assisted the ALSF in terms of developing priority areas for institutional reform and working with management to implement these recommendations. A hands on approach by the donors creates additional accountability mechanisms.

A diagram illustrating the relationship between the ALSF and the stakeholders is attached as Annex 2.

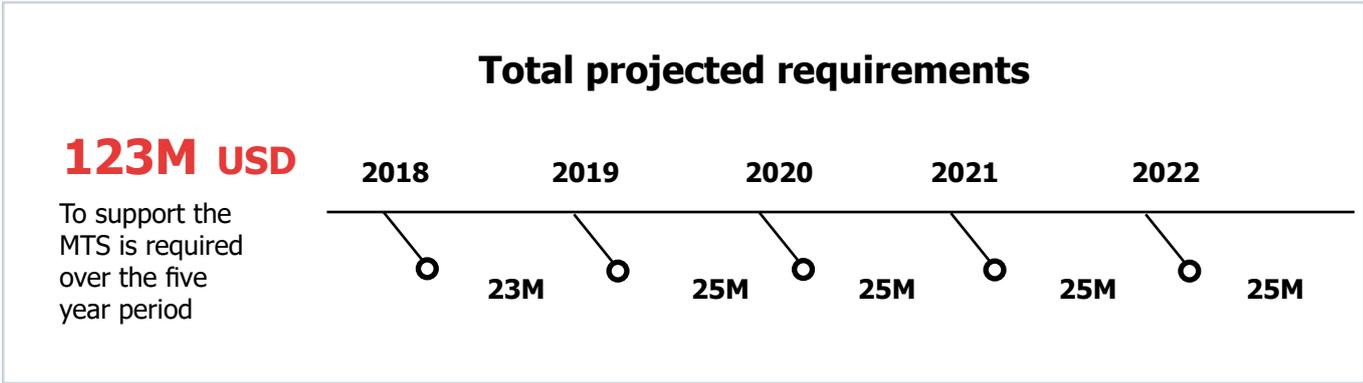
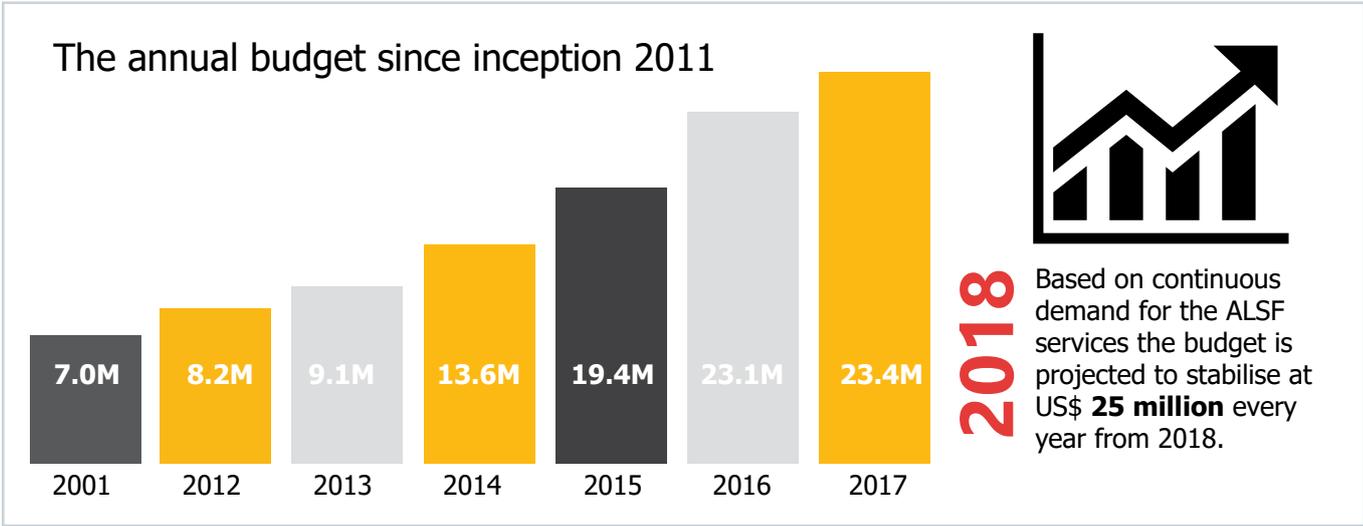
<sup>19</sup> ALSF (2014) ALSF 2014 Progress Report

# 6. RESOURCE REQUIREMENTS

The resource requirements of the Facility are based on the experiences of the Facility over the past six years in relation to the demand for its services and the actual projects approved in each year as well as the disbursements. The annual budget for the Facility continued to rise from an amount of US\$ 7 million in 2011 to US\$ 23 million in 2016.

**23M USD**  
2016 Annual Budget

**+16M USD** since 2011



The ALSF will seek to commit about **ninety percent** of the resources towards costs arising from or associated with implementation of the three key results areas. About ten percent of the resources would be utilized to manage the programme. The bulk of the resources would be committed towards Key Result Area 1 which is targeted at supporting “fair commercial negotiations and agreements for African governments”.



## 7. CONCLUSION

In the next MTS, the Facility will increase its service offerings to meet the increased demand from RMCs based on the lessons learned from the previous operations of the ALSF.

The wider service offering that the ALSF will provide during and after the second MTS period will include supporting additional areas of focus. These services will also expand to cover topical issues inclusive of sovereign debt, IFFs, and contract management. The ALSF will also increase its focus on developing skills for African business lawyers.

ALSF will therefore continue to offer advice and mitigating borrowing costs for RMCs beyond the initial duration by building capacity for State Equity Participation, partnership with African Law Associations, research and knowledge instruments, and advocacy on key issues.

ALSF's MTS 2018 – 2022 sets an ambitious and relevant roadmap to ensure that well before the initially set period, a review will be undertaken to evaluate the possibility of the ALSF to continue contributing to building commercial law issues in Africa.

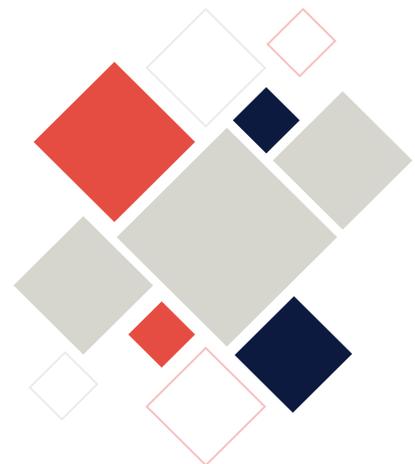
In terms of the Facility's logic model, the achievement of the sustainable legal capacity for Africa will make a significant contribution to the continent's quest for a prosperous Africa.

Looking ahead, resource mobilization will remain an important undertaking and to this regard, the Facility will continue to expand the pool of international cooperating partners that will support the planned interventions. ALSF will build on its experience of encouraging African States to make voluntary contributions as a way of ensuring the sustainability of future operations that will assist in the achievement of sustainable legal capacities in Africa which will positively impact on the continent's pursuit of poverty eradication, equitable and inclusive economic growth translating into better lives for all, including women and youth.

The ALSF will continue to explore various options and approaches to encourage RMCs to contribute to its finances. These options will include reimbursable grants where the Facility will cover costs upfront and then claim such costs from the concerned RMC. Other recovery forms may also be based on the success and savings actually recorded for example 5% or 10% of savings as the success based fee structure for ALSF services.



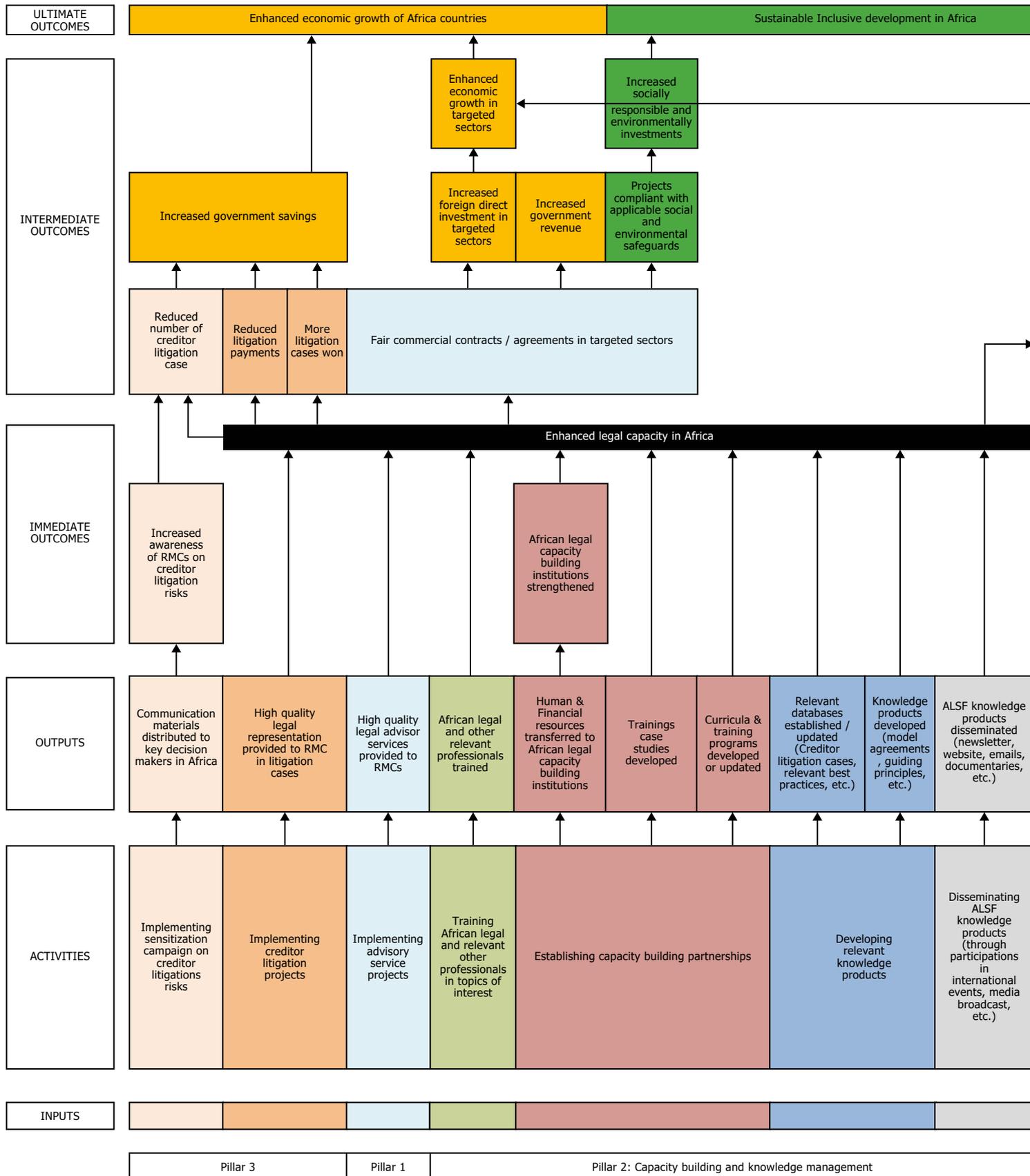
# 8. ANNEXURES

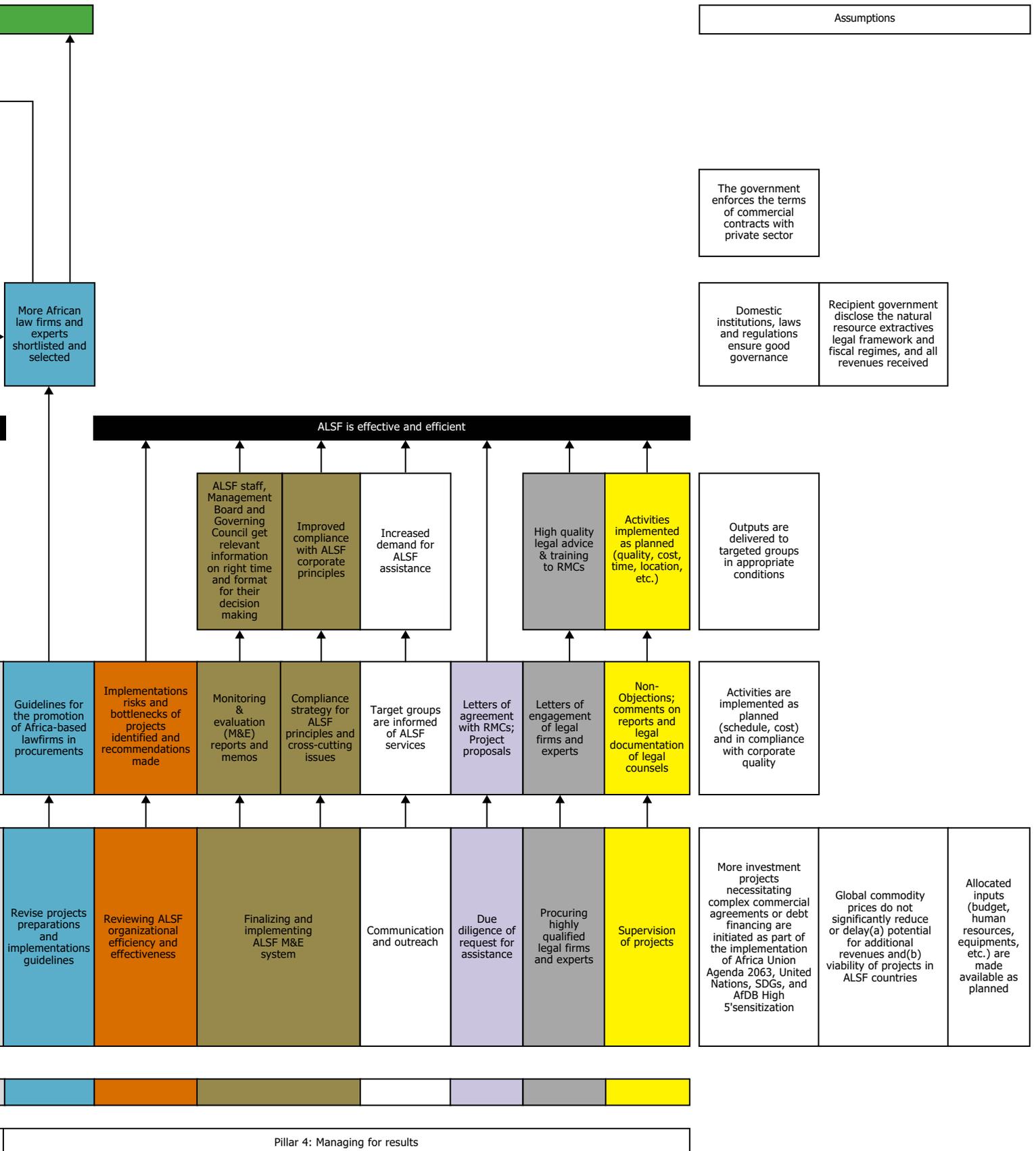




# Annex 1

## Logic Model of ALSF Strategy 2018-2022





## Annex 2

### The ALSF and the Stakeholders

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





Detailed information

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