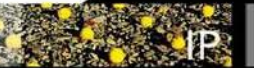




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# PALU – ALSF Capacity-building Project On International Commercial Law in Africa

PROJECT FINANCE IN SOUTHERN AFRICA



# introduction

- a practical perspective
  - the southern african context
  - the need for infrastructure development
- the established sectors
  - mining
  - telecommunications
  - energy (to some extent)



## introduction cont'd

- the emerging sectors
  - roads
  - rail
  - ports
  - energy
- project finance players
  - procurer
  - equity participants
  - debt participants



## procurer's requirements and expectations

- cost-effective
- efficient risk transfer
- value for money
- limited sovereign support
  - who pays – the public purse or the facility users
  - SOE balance sheet risk
  - state departmental interface risks



## equity's requirements and expectations

- repatriation of funds
- risk weighted return
- certainty of ownership
- enforceability of contractual obligations
- availability of currency
- non-discriminatory and transparent statutory and regulatory environment



## debt's requirements and expectations

- enforceability
- project security
- ECA cover
- DFI support
- credit support
- foreign judgments and arbitral awards



## regulatory concerns and constraints

- constraints
  - regulatory paralysis
  - need for stabilisation agreements
    - human rights issues
    - discriminatory treatment
    - enforceability
    - eroding of sovereign
  - state procurement laws
- concerns
  - perpetual uncertainty



## interface concerns and constraints

- enforceability under local law
  - conflict of laws
    - governing law and foreign law influences
    - bribery and corruption
- local industry support requirements
- customs and excise



## financeability

- project finance is no free ride
- project finance is neither quick nor easy
- excellent risk management and placement tool
- rigorous reporting and compliance
- country risk margins



## what is changing?

- winds of change
- realisation by authorities that valuable long term funding source
- better understanding of the principles of project finance
- suitable as funding tool to tap into private funds for public purposes
  - ppp's
  - refit
  - roads and rail



## what is changing? cont'd

- private power projects
- private water projects
- bringing new challenges
  - risk allocations between private parties
  - the role of the state/public sector
  - regulation of private initiatives in the context of national planning





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thank you



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