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Legal Partnership to Enhance Africa's Negotiating Power

Kigali, Feb 14, 2011 (The New Times/All Africa Global Media via COMTEX) -- President Paul Kagame has said that the newly created partnership between the Pan African Lawyers Union (PALU) and the **African Legal Support Facility** (ALSF) of the African Development Bank (AfDB), will enhance the continent's position when negotiating international commercial contracts.

The President was speaking at the launch of the PALU-ALSF Capacity Building Project, that will build the capacity of lawyers in both the private and public sector, to enable them undertake complex international commercial contracts and negotiations, as well as take on creditor litigation.

"This initiative has been needed for quite a long time now, because the existing capacity gap among African legal practitioners to negotiate complex international commercial transactions is a well known fact," President Kagame said.

The President Kagame described the project as a "bold and important" decision that will enable the African continent handle "unscrupulous" deals that have robbed Africans of millions of dollars, due to lack of negotiating power.

"This is most evident in the field of commercial law where, for far too long, the lack of sophistication in our legal practice has robbed Africans of significant rightful returns of investment."

The President noted that the number of cases and amount of financial resources African countries have lost in litigations instituted by unscrupulous investors and illegitimate creditors, are "staggering".

"It is estimated that in the year 2008, about US\$1.5bn worth of lawsuits were pending in 11 of the poorest countries in the world, including those from Africa," Kagame said

"These cases have often been filed by vulture funds. The losses incurred have exposed major weaknesses in negotiating international commercial contracts and handling litigations that arise from them."

President Kagame pointed out that with good legal advice and support, the project will help the continent enter into international commercial agreements, especially in large scale public-private partnership contracts, for the development and exploitation of resources.



The President cited, mining, energy, infrastructure development and agriculture as some of the areas that will benefit from the initiative.

"We must create a fair balance and avoid situations where the weak remain perpetually so and the strong continue to have the upper hand," Kagame said.

"The playing field must be levelled for African countries, international investors and creditors alike. To do this, we must build confidence in our legal systems and force accountability in them,"

The President added that most of the contracts between donors and developing countries are referred to as "standard form" contracts which would leave African countries with little room for manoeuvre, a practice that will now come to an end with the new initiative.

"The returns will be guaranteed," President Kagame said, adding that arbitration won't be set in far away capitals - as it was - but rather in Africa.

The AfBD President Dr. Donald Kaberuka reminded the lawyers that their profession is very vital today, both in Africa and at the global level, with the global economic landscape changing by the day.

He told the lawyers that their profession is strategic in today's globalized economy, and they have the tools and techniques to ensure a degree of stability and predictability into the system.

"As one looks back at the "near death" experience of the global economy in the last two and a half years, with hindsight, we now know what went wrong," Kaberuka said.

"You have heard it all before. The key lesson to be drawn is that all professions, including yours, must maintain high professional and ethical standards, as well as pay much greater attention to the welfare of society."

The AfDB president advised the body to build systemic stability through principles including regulation, supervision, sanctions and resolutions as the guiding principles.

He emphasised the urgent need to deal with the problem of "vulture funds" - entities that seek to make profit, by buying up debt on the secondary market, at rock bottom prices, and then litigating against the debtor for inflated sums at the expense of the country.

The President of PALU, Akere Muna said that the project will involve, among other things, building the capacity of both public and private sector legal counsels in complex international commercial and contractual negotiations, and also complex international commercial litigation.