



A week to the African Development Bank (AfDB) Group 2011 Annual Meetings to be held in Lisbon, Portugal, on 9-10 June 2011, the African Legal Support Facility (ALSF) Acting Director, Mamoudou Deme, has made it a point to keep participants posted on the Facility's activities. He shared perspectives not only on legal support to African countries, but the role the Facility can play in meeting the Bank's agenda on "Inclusive Growth." "The ALSF has got a clean bill of health even though there is still a lot ahead of us to be done," he says.

Question: Many African countries actively support the ALSF's call for ousting Vulture Funds from the continent. What concrete actions has the Facility taken since its inception?

Answer: The creation of the Facility was officially approved by the Board of Directors of the African Development Bank (AfDB) on April 30 2008. Formally established in June 2009, the organization became operational in March 2010. One of its missions is to assist AfDB's regional member countries (RMCs) address litigation brought against them by certain investment funds, trying to explore various judicial systems to claim huge amounts of money. The support from the Facility consists of evaluating and assessing the situation with the country in terms of cases and actions brought by these "vulture funds." We select reputable international law firms to assist the country and act as its counsel.

Question: In correct terms, how can the ALSF efficiently provide support to African countries to contribute to inclusive growth? Some countries are flat broke due to vulture funds lawsuits.

Answer: As you may know, "Inclusive growth" is part of human rights to life, liberty and property. ALSF's role is important in helping RMCs meet this ultimate goal. You may also note that from the beginning the ALSF has taken strong actions to explain and discuss with many African authorities, on mechanisms and strategies used by such investments funds, to claim substantial amounts of money.

Most African governments are currently aware of the existence of the Facility and they can officially place requests for assistance in case they face such actions. Along with providing legal, technical and financial assistance to countries, the ALSF has also built up several databases such as a list of top law firms not only specialized in such litigation but also in the areas of intervention of the Facility.

Following approval of its first project on vulture funds litigation in November 2010, the Facility offered legal technical assistance to the Democratic Republic of Congo (DRC), which was facing various actions brought by an international investment funds in more than ten different jurisdictions. The ALSF has helped balance the scales in these vulture funds lawsuits while supporting the goals and missions of debt cancellation initiatives.

Through the DRC Project and our sensitization activities as well as fields missions carried to some African countries, we feel the ALSF has sent a strong message in and outside Africa that, involving lawyers before and during loans negotiations and contracts signing is key for African countries.

Question: Interventions in contract negotiations have also become part of ALSF's missions. How has the Facility been effectively assisting States in this area?

Answer: Of course, contract negotiations are one major mission of the Facility and we think it is a milestone in its activities. Since it became operational, ninety per cent of the requests sent to the Facility by States are related to assistance on contract negotiations. We have various operations in the pipeline of projects for 2011: a regional project in Sub-Saharan Africa, projects in Liberia, Burkina Faso, Burundi, Guinea in the mining sector, Niger, Rwanda in the context of an energy PPP project and Tanzania.

The fields of intervention of the Facility with respect to contract negotiations are broad and related to any "complex commercial agreements and transactions". Legal assistance is generally needed in oil, mining sectors, infrastructure and PPP, natural resources and extractive industries. We need to ensure that the financial, economic and social interests of Bank's RMCs are well protected.

Question: Are there reasons for the Facility to be optimistic? What would you respond to those who feel the Facility is a flash in the pan?

Answer: It is wrong to think ALSF is a flash in the pan. The Facility has been operational for more than twelve months and currently has a solid foundation, a sound and robust pipeline of projects. The increase in the number of members showing support to it and commitments for financial contributions from OECD countries and other institutions are also a tangible illustration that the results are positive and that we should be very optimistic for the future.

As of today, the Agreement establishing the ALSF counts forty-six signatories: forty-two countries and four international organizations (the AfDB, the Organization for the Harmonization of Business Law in Africa (OHADA), the African Union (AU) and the West African Development Bank (BOAD) who joined the ALSF in April 2011).

Question: In your views, has the Facility gained ground since its inception? What are your future plans?

Answer: There is a lot more to be done, but, just observe our activities and results on the ground. In 2010 ALSF approved and started the implementation of three projects in line with its three missions and as mentioned above, in 2011, 7 projects will be presented to the Management Board of the Facility for discussion and approval.

In addition to the projects related to contract negotiations and vulture funds litigation, the ALSF has also been active on developing legal capacity across Africa. Through a partnership with the “Pan African Lawyers' Union” (PALU), the ALSF is sponsoring the organization of 5 regional seminars around Africa focusing on international commercial contracts, dispute resolutions as well as debt and vulture funds issues.

A recent key initiative was the approval by ALSF Management Board of a grant to finance capacity building in Tunisia, as well as the appointment of an international legal counsel to assist the country to develop a legal framework for stolen assets recovery. Along with the PALU and the Tunisian capacity building projects we are planning, to organize important seminars on project finance in different regions of Africa for lawyers and legal professionals in the continent.

This will involve partnerships with reputable and well-known universities, law firms and bar associations in Africa, Europe and in United States. Also, in line with these seminars, the ALSF is putting in place a six-month training programme delivered by professors and practitioners specialized in project finance and contract negotiations. With all these, we feel the ALSF has got a clean bill of health even though there is still a lot ahead of us to be done.

Question: What are your actions regarding resources mobilization?

Answer: To smoothly fulfill its missions and the implementation of its operations, the Facility is taking strong actions to mobilize resources with regional and non-regional countries and various private foundations. Efforts undertaken in 2010 have been rewarding: France has confirmed its contributions dedicated to technical assistance and stolen assets recovery to Tunisia.

Furthermore, Belgian Cooperation has allocated funds to the Facility; and the Public-Private Infrastructure Advisory Facility (PPIAF), an instrument of the World Bank, is sponsoring the ALSF’s capacity building activities, in particular the organization of regional seminars in the African regions by PALU.

The Management of the ALSF is also currently discussing with institutions such as the European Union, the Islamic Development Bank, various Arab funds and African regional development banks for potential co-financing of specific projects and financial contributions to the Facility. Many countries have been very supportive and are showing good interest on the Facility and its missions.