



Monthly News Roundup

December 1, 2016

Dear Reader,

It is with great pleasure that we update you about our activities here at the African Legal Support Facility (ALSF). This issue focuses on the Energy sector and includes highlights of projects where we have provided assistance to African governments to confront challenges related to the negotiation of complex commercial transactions in this sector. The African Development Bank, under the leadership of President Dr. Akinwumi Adesina, is spearheading the New Deal for Energy in Africa and the Facility as an institution hosted by the Bank, complements the Strategy through facilitating interactions between investors and Governments so as to conclude fair and lasting deals.

After successfully implementing the first Medium Term Strategy (MTS) which comes to an end in 2017, we successfully convened our inaugural stakeholder round-table held from 21 - 22 November 2016 to deliberate about ways in which we can enhance our contribution to strengthening commercial legal practice in Africa under the second MTS.

Finally, we hope that this update will be informative and we welcome your comments and suggestions with respect to our work.

Yours sincerely,

Stephen Karangizi
Director, ALSF

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In Focus:

[African Energy Projects: Sovereign Guarantee Or No Sovereign Guarantee? A Choice With A Long-Lasting Impact](#)

By Gadi Taj Ndahumba

It is well known that energy projects in Africa are often hard to finance and that to reassure potential lenders, their legal structure will require more security instruments than in developed countries. To address this requirement, independent power producers (IPP) will commonly seek the issuance of a sovereign guarantee by the host government. However, the question as to whether a government should accept to guarantee the offtaker's obligations is not to be taken lightly, especially in the time of increasing African government debt burdens.

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[Development Initiatives For Energy Projects In Africa](#)

By Habibou Hadi Malam MAHAMAN

Introduction

In an increasingly globalised economy, competition for access to energy sources and raw materials has become an unavoidable geopolitical issue. Proof that this issue is of tremendous importance is seen in the fact that the United Nations (UN) has defined access to energy as one of the sustainable development objectives^[1] (adopted in September 2015). In particular, Sustainable Development Goal no. 7 (SDG 7) aims to “ensure access to affordable, reliable, sustainable and modern energy for all”^[2] and the African Development Bank (AfDB) through its “New Deal on Energy for Africa, a transformative partnership-driven effort seeks to light up and power Africa by 2025”^[3]. Promoting renewables will guarantee a level of protection of the environment and will allow the implementation of the Paris Agreement^[4] on climate change which was concluded in December 2015. African countries are striving for the signature of an inclusive and ambitious agreement. The Paris Agreement will be beneficial for Africa because it has six elements that are important for the countries on the African continent: mitigation (i.e. reduction) of greenhouse gases; adaptation to the adverse effects of climate change; financial means for implementation; development and transfer of technologies; capacity building; and transparency. The aim of the Paris Agreement is to evaluate the actions of every party in the fight against global warming and to ensure that resources are provided by developed countries to developing countries.

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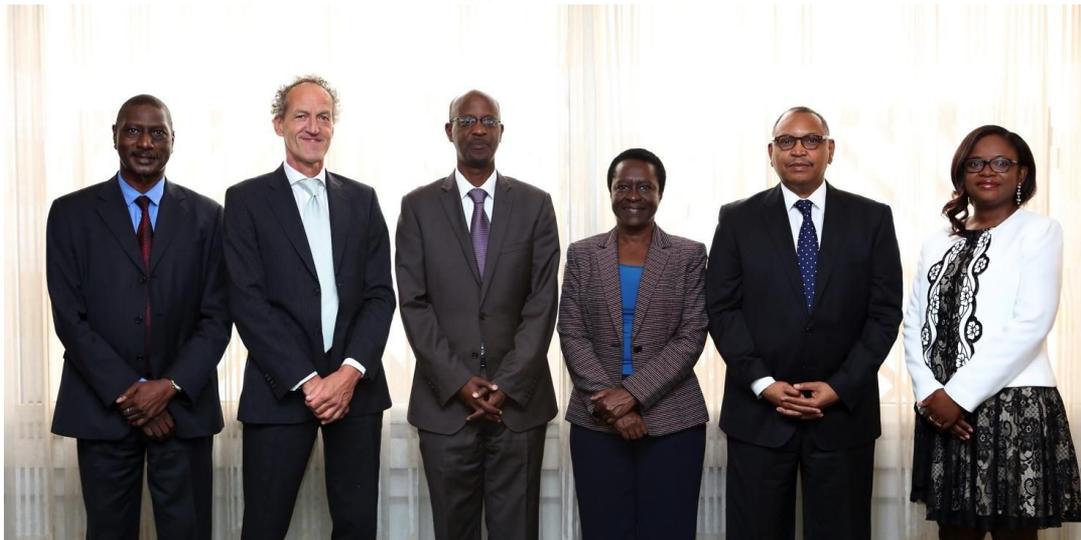
[African Legal Support Facility – Power Africa Partnership](#)

The African Legal Support Facility receives 5 million euro from KfW



The African Legal Support Facility (ALSF) and the KfW Development Bank on Tuesday signed a Memorandum of Understanding (MoU), which provides modalities for cooperation between them, including a € 5-million KfW grant to support ALSF activities. [Read more...](#)

ALSF Management Board approves work plan and budget for 2017



The African Legal Support Facility (ALSF) Management Board met in Abidjan, Côte d'Ivoire to provide strategic guidance for the ALSF's planned future direction and operations. The meeting was held under the leadership of the new Chairman, Seward Cooper, and focused on a number of items, namely the ALSF's financial statements as of September 2016, the work plan and budget for 2017, the report on the review of the Medium Term Strategy (MTS) 2013–2017 as well as progress on the implementation of projects. [Read more...](#)



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Commercial legal practice in Africa: ALSF concludes Stakeholder Forum

Stakeholders working in development and law met in Abidjan, Côte d'Ivoire, from November 21-22, 2016 to discuss the role of the African Legal Support Facility (ALSF) within the context of the broader development agenda; and, in particular the linkages between Africa's development priorities and commercial legal practice. [Read more...](#)

Towards enhancing the legal capacity of African government officials

"The challenges many African governments face in negotiations are made worse by the interdependent nature of government systems which requires targeted skills in specified sectors complemented by better coordination when it comes to negotiating transactions for governments. Also, some governments are in a difficult position because they are stuck with poorly negotiated contracts. How should governments deal with agreements that have no spillover effects on investment? A negotiating strategy which provides a framework within which governments can look for common elements and models that can be used to their advantage is important." stated Falou Samb, Special Advisor to the President Senegal on Trade and Investments in Senegal.

[Read more...](#)

Launch of the "Understanding Power Project Financing" handbook

In collaboration with the U.S. Department of Commerce's Commercial Law Development Program, ("CLDP") and USAID's Power Africa, the ALSF has launched a series of handbooks with the objective of creating a common lexicon for power contract negotiations.

Over 15,000 copies of the first handbook entitled "[Understanding Power Purchase Agreement \(PPA\)](#)" have been distributed. The book breaks down the main clauses in a power purchase agreement (PPA) into a digestible user-friendly narrative. The book is often utilized by government officials as a reference point during negotiations.

The second handbook entitled "[Understanding Power Project Financing](#)" handbook simplifies and translates the concepts and language relating to financing power projects in Africa. This second companion handbook focuses exclusively on power project financing and the best practices for private financing of power projects in Africa.

One of the major stumbling blocks in contract negotiations in the Power Sector concern sovereign guarantees and credit enhancements, more generally. The book examines the various types of credit enhancements and their suitability to projects in different markets. It aims to give insight into the thought processes and objectives of the parties when considering financing, with a view towards helping countries meet their energy needs through attracting private investment.

The book was initially launched in June 2016 at the African Energy Forum. The book has now been translated into French. The French version was launched on October 17, 2016 as part of a two-day



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training workshop in Dakar, Senegal. The book was written by contributing authors from the ALSF, Power Africa, the African Development Bank, African government officials, private law firms and financiers.

ALSF supports Rwanda in project development for Bugesera airport

The ALSF provided assistance to the Government of Rwanda through the provision of legal advisers who supported the government in negotiations between project partners in an agreement for the construction and development of the new [Bugesera International Airport](#). The team working in coordination with the government were instrumental in ensuring the successful negotiations that resulted in the signing of a Project Development Agreement and Joint-Venture Agreement between the government and the investor; a significant step in the progress of the long-anticipated development of the new Bugesera International Airport.

Forthcoming Events

Regional Workshop - Preparing Public Private Partnerships (Energy) 23 - 27 January, 2017, Nairobi, Kenya.

Contract Negotiations Workshop - Mining Sector, 12 - 16 December 2017, Lilongwe, Malawi