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Additional Information on Proposed Adjustments to the Bank Group Operational and Resource Allocation Framework for Fragile States

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Table of Contents

Abbreviations	ii
1. Introduction	1
2. Update on the work of the High-Level Panel on Fragile States	2
3. Ongoing efforts to improve effectiveness and delivery of targeted support to fragile states	3
4. Operational aspects of the revised approach for assessing fragility and eligibility for Fragile States Facility support	4
<i>Applying qualitative measures to assess fragility</i>	4
<i>Piloting the Country Resilience and Fragility Assessment framework</i>	6
<i>Eligibility for FSF Pillar I Support under ADF-13</i>	7
<i>Pillar I duration of assistance and phase-out</i>	10
5. FSF Resource allocation and financing terms	11
<i>Enhancing the responsiveness of the FSF Pillar I resource allocation</i>	11
<i>Financing terms for FSF Pillar I</i>	15
<i>Support to the African Legal Support Facility (ALSF)</i>	16
<i>FSF Resource Requirements under ADF-13</i>	18
<i>Potential flow of ADF resources to Pillar-I eligible countries under ADF-13: Projected FSF and PBA per capita allocations</i>	19
6. Conclusions	19
 Annex I: MDB Harmonized List of Fragile Situations, FY14	 20
Annex II: Elements of the Country Resilience and Fragility Framework (CRFA)	21
Annex III: The African Legal Support Facility	25
Annex IV: FSF Pillar I Resource Allocation	27
 Boxes	
Box 1: Investing in long-term recovery through emergency infrastructure projects in Zimbabwe	15
Box 2: Key considerations in approval process of resources to ALSF.....	18
 Figures	
Figure 1: New Deal fragility assessment – preliminary results from pilot countries	5
Figure 2: Simulation of average per capita allocation	19
 Tables	
Table 1: The PSG Indictors and overlap with CRFA - preliminary mapping	7
Table 2: Preliminary Pillar I Eligibility of ADF countries based on the two-stage criteria	9
Table 3: Proposed allocation of ADF-13 resources to the FSF.....	18

Abbreviations

ADF	African Development Fund
AfDB	African Development Bank
ALSF	African Legal Support Facility
CAR	Central African Republic
CPIA	Country Policy and Institutional Assessment
CRFA	Country Resilience and Fragility Assessment
CSP	Country Strategy Paper
DSF	Debt Sustainability Framework
FSF	Fragile State Facility
GDP	Gross Domestic Product
GNI	Gross National Income
HDI	Human Development Index
HLP	High Level Panel
MDG	Millennium Development Goal
MVA	Modified Volume Approach
OSFU	Fragile State Unit
PBA	Performance-Based Allocation
PPP	Purchasing Power Parity
PSGs	Peacebuilding and Statebuilding Goals
RMC	Regional Member Country

ADDITIONAL INFORMATION ON PROPOSED ADJUSTMENT TO THE BANK GROUP FRAMEWORK OF ENGAGEMENT IN FRAGILE STATES

1. Introduction

- 1.1. This paper seeks to respond to Deputies request for additional information and clarification, building on the discussions and conclusions of the second ADF-13 Replenishment meeting.¹ During the second meeting Participants reiterated their support for the Fund's sustained and deeper engagement in Fragile States to preserve the gains made, while stressing the need for additional improvements in delivery and management of assistance. They strongly endorsed the importance given to this issue in the Bank Group's Strategy for 2013-2022 and its commitment to the New Deal for Engagement in Fragile States.
- 1.2. Deputies urged Management to enhance the effectiveness of the Bank Group's assistance to fragile states by leading innovative solutions in addressing regional implications of fragility; deepening "continuum" approaches to tackling fragility; better supporting countries in arrears; and building long-term capacity. Deputies also stressed the need for strengthening donor coordination; improving procedural efficiency and flexibilities in business processes; and deploying high-quality staff in fragile states. They requested Management to expedite the work of the High Level Panel on Fragile States (HLP)² so as to ensure that preliminary recommendations feed into the third ADF-13 replenishment meeting.
- 1.3. Deputies broadly supported Management's proposals to improve the flexibility, responsiveness and effectiveness of the ADF operational and resource allocation framework to fragile states and implementation of the Fragile State Facility (FSF).³ Specifically, Management had proposed to (i) introduce additional qualitative measures for identifying fragile states and for assessing FSF eligibility; and develop and pilot the Country Resilience and Fragility Assessment framework during the ADF-13 period; (ii) revise the FSF Pillar I first-stage eligibility criteria; (iii) enhance responsiveness of the FSF resource allocation methodology by keeping a portion of Pillar I resources as reserve; and (iv) modify the top-up multiplier and discount factors associated with the FSF Pillar I phase-out framework.
- 1.4. While Deputies broadly endorsed Management's proposals, they requested that additional clarification be provided for the third meeting on the technical and operational aspects of some of the above-mentioned proposed adjustments. In addition, Deputies requested Management to proactively manage the graduation process and support for countries being phased out of Pillar I; explore options for possible financial and operational linkages between FSF Pillar III and the African Legal Support Facility (ALSF), and consider options for adjusting the financing terms of countries' Pillar I allocations to match the loans and grants mix of their PBA allocations.
- 1.5. Following this introduction, Section 2 presents update on the work of the HLP. Section 3 highlights currently ongoing efforts to improve effectiveness and delivery of Bank's support. Section 4 discusses the operational implications of the revised approach for assessing fragility and eligibility for FSF Pillar support. Section 5 presents FSF resource allocation and financing terms, followed by Conclusions in Section 6.

¹ See *Chair Summary: ADF-13 Second Replenishment Meeting, 12-14 June, 2013*.

² The High Level Panel on Fragile States (HLP FS), established by President Kaberuka, is meant to advise the African Development Bank and the broader international development community on principles and approaches for helping African countries to escape fragility traps. The High Level Panel is led by the President of the Republic of Liberia, Her Excellency Ellen Johnson Sirleaf, and includes Ms. Sarah Cliffe, Ms. Geraldine Fraser-Moleketi, Ms. Rakiyaa Omar, Mr. Gilbert Houngbo, Dr. Greg Mills, and Prof. Callisto Modavo. These distinguished members bring with them long and diverse experience of engaging with fragile and conflict-affected states as well as a deep understanding of the development community.

³ *Proposed Adjustments to the Bank Group Framework for Engagement in Fragile States: Discussion Paper*, ADF-13 Replenishment Meeting, June 2013, Tunis. See especially paragraphs 3.3 – 3.12

2. Update on the work of the High-Level Panel on Fragile States

- 2.1. The HLP commenced its work in February 2013. So far it has met four times, has initiated country dialogues in five countries and launched a series of analytical work to guide its deliberation. The HLP was officially launched on 2 September 2013, in Monrovia (Liberia). The Panel will provide a short paper to the ADF Deputies and will make a presentation during the final ADF replenishment meeting. In the meantime, this section provides a brief update on preliminary reflections and the strategic thrust of the HLP's work.
- 2.2. The HLP on FS considers the ADF 13 Replenishment as an excellent opportunity to discuss and guide the Bank Group's engagement in fragile states along key transformative directions in a more responsive, sustainable and inclusive manner. The HLP has initiated several pieces of in-depth analytical work, led by expert authors, in key thematic areas.⁴ While the scope of the Panel's work will focus on broader issues of fragility and conflict in Africa, and opportunities for peacebuilding and statebuilding, it will also outline the Bank's comparative advantage. In this regard, the HLP will also support the efforts towards the Bank's new *Strategy for Enabling Statebuilding and Peacebuilding* by providing direction for new ideas that are critically needed.
- 2.3. Strategic areas of focus for Bank Group's engagement would include, among others, addressing regional, inter- and intra- state drivers of conflict; youth unemployment and urban poverty; gender and children in situations of conflict; climate change; and management of natural resources and extractive industries. Private sector involvement in statebuilding and peacebuilding is considered to be critical and necessary. The HLP expects to provide recommendations that go beyond the "traditional" models for private sector development by considering options which recognize the unique challenges and capacities in countries affected by conflict, with the view to promoting youth employment for sustainable economic growth and social stability. The HLP on FS will also identify partnership priorities in areas such as security and the democratic political process, that other partners can lead, and which would set the stage for the Bank to come in with the critical elements for statebuilding and inclusive growth.
- 2.4. The HLP on FS recognizes institutional capacity building as central to a statebuilding and peacebuilding process and as the major risk mitigating element for all national development and rebuilding functions. The New Deal for Engagement in Fragile States places high importance on the need to build local capacity for country ownership of the post conflict transition process. States that are at risk of conflict, or, are emerging from conflict need to build their legitimacy through visible improvements in the delivery of public goods and services. Institutional development and capacity building therefore would continue to be at heart of the AfDB's engagement in fragile and conflict-affected states.
- 2.5. Based on Bank Group's experiences, lessons and emerging international good practice, important strategic considerations for ensuring a more effective and responsive institutional capacity building support would need to include: selective and prioritized support; realistic time frames and commitment to stay engaged over the long haul; use of country systems with a higher tolerance for "learning"; flexibility of engagement; building on existing capacity and avoiding capacity substitution; and anchoring support on frameworks that promote development results and effectiveness, efficient delivery of support, and transparency and accountability. In this regard, the FSF Targeted Support Window plays an important role as it supports fragile states build their institutional and human resource capacities (see also Section 3).
- 2.6. The HLP believes that the strategic imperatives make a compelling case for the Bank Group to continue deepening its engagement in fragile and conflict-affected countries. The Panel considers the FSF as a strong mechanism to support statebuilding and peacebuilding along a continuum of situations of conflict and fragility. Therefore, the HLP FS calls to the ADF Deputies for continued support for inclusive statebuilding process for a "conflict free Africa".

⁴ The topics covered in the background papers currently under preparation include: Financing of conflict and managing aid architecture for state building and peace building; Conflict vulnerability analysis and predicting inter and intra state drivers of conflict in Africa; Building an enabling environment for post-conflict transition and peace building focusing on youth employment, urban poverty and institutional capacity building; Managing risks in fragile and post conflict situations; Promoting extractive industry for state building and sustainable peace; Civil society partnerships for post-conflict rebuilding and transition; Poverty monitoring and risk mitigation in situations; The role of Security sector in making peace sustainable; Private sector development for post-conflict countries; and Women and gender in situations of conflict.

3. Ongoing efforts to improve effectiveness and delivery of targeted support to fragile states

- 3.1. The FSF Targeted Support Window (Pillar III) plays an important role in supporting a broad category of fragile states in building institutional and human capacities. During the ADF 13 cycle, the Bank will emphasize, to a greater extent, building on existing indigenous capacity and ensuring that technical assistance (for example through consultants and contractors) does not remain an end in itself but critically result in transfer of knowledge and skills in the local environment; partnering with others to promote change that national stakeholders can embrace; and maximizing results through diligent monitoring and evaluation of operations.
- 3.2. Based on lessons and recommendation of the independent evaluation, Management has started implementing a number of reforms as regards Pillar III operations, and the FSF in general, with a view to promote efficiency, transparency and accountability for improved development results and impact. The reforms, more specifically, aim to address the operational challenges of getting things done, by devolving decision making to field offices, simplifying procedures and training Bank staff on core issues of fragility and building resilience throughout the project cycle.
- 3.3. Key areas of action include:
- (i) *Enhanced country presence and capacity of field offices* with the view to strengthening the quality and depth of Bank's engagement, including dialogue with clients and partnerships on the ground. This include: strengthening the staffing capacity and skills mix in all the field offices in fragile states⁵; expanding Bank presence in other fragile states through customized presence⁶, whereby Bank staff (such as country economist) would reside in the country even if the Bank does not have a field office; enabling regional resource centers to take greater responsibility for fragile states in their sub-regions, as is the case with Somalia where the country team is placed in the East Africa Resource Center; and, sharing staff time and resources among multiple field offices in executing the 2014-2016 work programme as initiated by the offices in Sierra Leone and Liberia.
 - (ii) In countries where Bank's presence has been disrupted due to insecurity (such as Central African Republic (CAR) and Guinea Bissau) temporary arrangements include reassigning staff to other field offices, where they can closely monitor developments on the ground with the view to resuming normal engagement as soon as the situation allows. In the case of CAR, the Bank is part of the international Contact Group on the CAR crisis. This group has met twice so far, in May in Brazzaville and in July in Addis Ababa. The next meeting is scheduled at the end of September in Bangui. In addition, the Bank regularly meet with other principal development partners (WB, IMF, UE) through Video Conference to coordinate views and actions in assistance.
 - (iii) *Improved internal coordination and streamlined division of labor* among various organizational departments, for instance by transferring the responsibility for day-to-day management and supervision of Pillar III activities from the OSFU to field offices and sector/regional departments. Management has instituted a regular (monthly) Video Conference meeting to improve communication and coordination, as well as to address common challenges faced by field offices. One of the key issues currently under discussion is the design of specific key performance indicators (KPIs) for field offices in fragile states. The outcome of this discussion will be reflected in the Bank Group 2014-2016 work program.
 - (iv) *Enhanced mandate and capacity of the Fragile States Unit (OSFU)*, which now has nine (9) professional staff. The OSFU's role has also been sharpened to ensure greater focus on knowledge, partnerships and advisory support on operational and policy issues. The Unit has rolled out a training program for Bank staff on application of "fragility lens" in the program/project cycle. The Unit's staff are also more closely

⁵ The Bank has field offices in 14 out of 21 countries listed in the latest (FY14) MDB harmonized list of fragile situations, which includes three new entrants (Madagascar, Malawi and Mali).

⁶ For instance, arrangements for such customized liaison presence have been finalized for Guinea. The Bank intends to resume its customized presence in Guinea Bissau as soon as the situation allows.

involved in the preparation of Country Strategy Papers (CSPs) and other programming documents to ensure the analytical underpinnings, especially in the areas of political economy, conflict and fragility analysis, are sound and targeted to addressing the root causes of fragility. As part of its role in coordinating the HLP's work and producing a revised strategy on fragile states, OSFU is leading preparation of several working papers. Such knowledge products are crucial in strengthening the Bank's internal capacity and its contribution towards building resilient states through high-quality policy dialogue and the provision of advisory support to fragile states.

- (v) *Continued focus on streamlining and simplifying business processes, especially in the area of procurement and financial management*, with the view to strengthening Bank's responsiveness, procedural efficiency and operational flexibility in fragile situations. As discussed at length during the June meeting, this is one of the key areas of focus for Management, in close consultation with the Boards of Directors, going into the ADF-13 period.

- 3.4. These and other ongoing efforts, including key outcomes from the conclusion of the ADF-13 replenishment discussions and the recommendation of the HLP, will serve as key inputs for the new strategy for Bank's engagement for fragile states and the associated operational guidelines that will be rolled out in early 2014.

4. Operational aspects of the revised approach for assessing fragility and eligibility for Fragile States Facility support

- 4.1. During the June meeting, ADF Deputies supported Management's proposal to introduce additional qualitative measures for identifying fragile states, as a complement to the current MDB harmonized approach, and for assessing eligibility for assistance from the FSF in ADF-13. They also supported the proposal to pilot a standardized assessment tool, the *Country Resilience and Fragility Assessment (CRFA)*, during ADF-13, noting that the CRFA will not be used for resource allocation purposes during the ADF-13 period. This section elaborates on the proposed adjustments in response to the request of ADF Deputies for further clarification on how the proposals in these areas would be operationalized.

Applying qualitative measures to assess fragility

- 4.2. **Approach and Rationale:** The proposed approach to include additional qualitative measures to assess fragility retains a fundamental continuity with the policy framework set out in the 2008 *Bank Group Strategy for Enhanced Engagement in Fragile States*.⁷ It responds to the diversity and complexities of challenges in fragile and conflict-affected countries; the wide variation in the nature, causes, and duration of fragility in Africa; and the recognition that there is no universally agreed definition of fragility. It is on account of these challenges and the heterogeneity of fragile and conflict-affected countries that the Bank Group opted to use the 2008 Multilateral Development Banks (MDBs)⁸ shared approach of identifying and classifying countries as fragile or conflict-affected.
- 4.3. Deputies would recall that according to the MDB harmonized list of 'Fragile Situations', a country is identified and classified as fragile or conflict-affected if it has (a) an absolute cut-off or an average (harmonized–AfDB/World Bank) Country Policy and Institutional Assessment (CPIA) rating of 3.2 or less, or (b) the presence of UN and/or regional (e.g. African Union, European Union, Organization of American States) peace-keeping or peace-building missions during the past three years. This definition is informed by the Organization for Economic Cooperation and Development's (OECD) approach for defining fragility, which considers a fragile state as a country with weak capacity to carry out the basic state functions of governing a population and its territory, and which seriously lacks the ability and/or the political will to develop a mutually

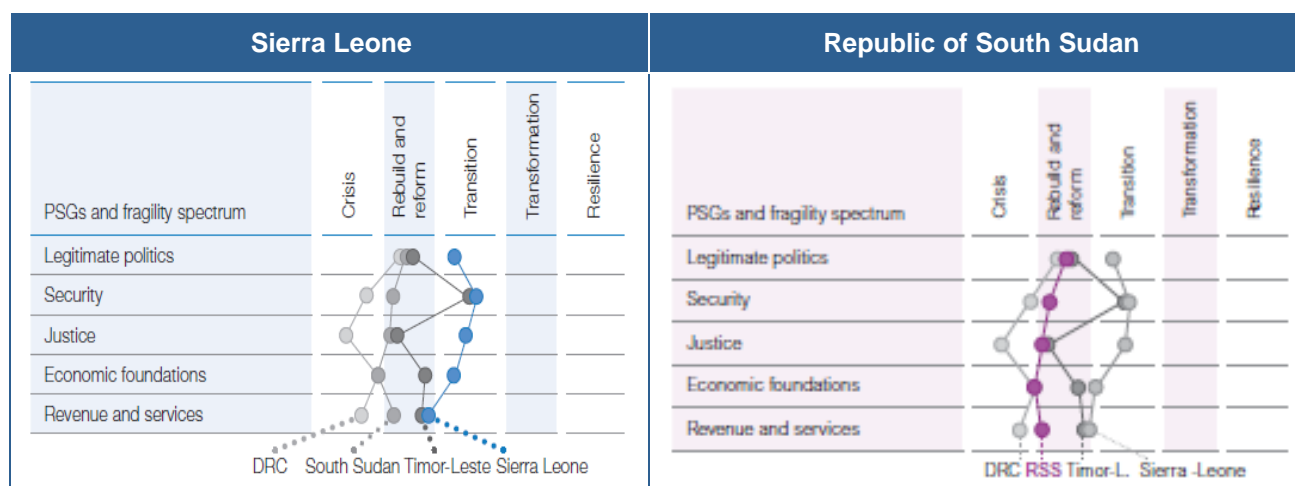
⁷ African Development Fund. 3 March 2008. *Strategy for Enhanced Engagement in Fragile States*, ADF/BD/WP/2008/10.

⁸ The MDB working Group on fragile states comprised of the African Development Bank, Asian Development Bank, Inter-American Development Bank, European Bank for Reconstruction and Development, the World Bank and the IMF.

constructive and reinforcing relationship with society.

- 4.4. **Elements of the Qualitative Assessment:** The proposed approach to introduce an additional qualitative assessment is not intended to replace the harmonized MDB approach, but rather to complement it with the view to ensuring that the Bank Group is able to respond more quickly, flexibly, and effectively to the diverse and changing contexts of fragility. It seeks to address the limitations of the current approach by focusing on those elements of fragility and risk of conflict or crisis not captured directly by the CPIA. As discussed during the previous ADF-13 meetings, various limitations have been identified with regards to the use of the CPIA to assess fragility including the fact that (i) it does not directly measure fragility or risk of fragility, missing some key dimensions (such as conflict, peace, security and justice); (ii) it is backward-looking, and is therefore limited in its ability to capture fast-moving situations; and (iii) as a country-based model, does not directly capture regional or external drivers of fragility.
- 4.5. The approach and implementation of the qualitative assessment will be in line with the requirements for the 2011 *New Deal for Engagement in Fragile States*. Under the New Deal commitment, fragility assessments shall be country-led and country-owned, shall be done with the support of other development partners, including where possible civil societies, and shall use the 2012 peace and state building goals (PSGs): Legitimate Politics; Security; Justice; Economic Foundations; and Revenues & Services. Under the New Deal's framework the country's progress towards the PSGs is mapped against a five-stage fragility spectrum (Crisis, Rebuild and reform, Transition, Transformation and Resilience). The New Deal country fragility assessment approach was rolled out in 2013 in seven pilot countries and will be refined based on the lessons learned. African countries that have implemented the pilot fragility assessments include Democratic Republic of the Congo (DRC), Liberia, Sierra Leone, and South Sudan (see example of summary results in Figure 1)—and more recently Somalia and Mali.
- 4.6. The Bank Group's effort in this regard will therefore be part of this coordinated country fragility assessment exercise. The Bank Group will bring its institutional perspectives and issues of particular interest given its areas of strategic focus, as relevant, to assess the PSGs but also complement it, focusing on other areas not assessed by the CPIA. These may include broader issues of governance, political inclusion, and accountability, including the arrangements for civil society to have effective participation in economic, social and political issues; the institutional arrangements to meet expectations of the vulnerable population in a country, including women and youth; vulnerability to exogenous factors that fuel conflicts or crises, such as regional spill-overs, climate change; and other new developments, including potential deterioration in CPIA performance since the last CPIA assessment.
- 4.7. While these considerations guide the broader orientation of the Bank's qualitative assessment approach, Management is cautious not to be too prescriptive in defining the parameters of the qualitative assessment. Such an approach would necessarily have to be flexible and dynamic if it is to respond to country or context-specific challenges and fragility drivers.

Figure 1: New Deal fragility assessment – preliminary results from pilot countries



- 4.8. Timing and frequency of assessments: the timing of the proposed Bank Group qualitative assessment will be influenced by, among others, (i) country priorities and fragility assessment commitments under the New Deal framework (where applicable); (ii) emerging events or issues, especially those related to improvements in policy space or deterioration of security, political stability, governance and economic performance (both at national or regional levels); (iii) full blown crisis, conflict or natural disaster; and (iv) declining CPIA performance trends, especially for countries that are deemed to be at the borderline of the cut-off point (3.2) for inclusion in the harmonized MDB list. While the frequency of the assessment will be determined case-by-case based on the specific context or trigger, efforts will be made to ensure timeliness and a proactive stance. An important consideration in this regard would be to create a 'watch-list' database for a closer and more frequent monitoring for countries and regions that show risk of fragility but do not necessarily meet the fragility classification criteria at the time of the assessment.
- 4.9. Review and approval process of assessment report: the assessment will be led by the Fragile States Unit (OSFU) in close collaboration with departments across the Bank including Regional Departments, Sector Departments, Field Offices, the complex of the Chief Economist (ECON) and other relevant departments. Depending on the timing of the assessment, the findings will either feed into preparations or review of country programming documents (CSPs, Interim-CSPs and Country Briefs (CBs)) or will be annexed to existing CSPs in the form of addenda. As part of the fragility assessment exercise, Staff will also undertake assessment of the country's eligibility for support from FSF Pillars I and III (see also section 4.15 - 4.20). The assessment reports will go through the Bank's standard review and approval processes, and will be presented to the Boards of Directors for their consideration.
- 4.10. Operational implications for ADF-13: the latest MDB harmonized list of fragile states (Annex I), released in July 2013, shows that three ADF countries (Madagascar, Malawi and Mali) have been added to the list as new entrants. Madagascar and Malawi are included on the list as a result of deterioration in their CPIA rating. Although Mali's harmonized CPIA rating (3.7) remains above the 3.2 cut-off point, it meets one of the other MDB criteria (i.e. the presence of peacekeeping mission). The implication of the updated list as regards FSF Pillar I eligibility is discussed in section 4.15 - 4.20.
- 4.11. The latest harmonized list also shows that one country, Guinea, has exited the list as its 2012 CPIA rating is above the 3.2 cut-off. According to AfDB data, since 2009 Guinea's CPIA performance has been steadily improving, especially in the area of economic management (Cluster A). Its Governance rating, which had remained about the same between 2008 and 2011, also improved in 2012 (from 3.0 to 3.3). Nonetheless, a number of other factors underlying Guinea's fragility, such as internal political stability and regional security risks, still remain to be addressed. Similarly, a preliminary review indicates that Niger, despite its CPIA of 3.7 above the threshold, could possibly be exposed to regional crises should they not be addressed. These two cases illustrate the need for a close monitoring (i.e. inclusion in the watch-list) and consideration by Management for a more in-depth qualitative assessment heading into ADF-13.⁹

Piloting the Country Resilience and Fragility Assessment framework

- 4.12. Objective/Rationale: At the second replenishment meeting, Deputies also supported Management's proposal to develop and pilot a standardized approach, the Country Resilience and Fragility Assessment (CRFA) framework, during the ADF-13 period. The rationale here is to help fill the current analytical and assessment gaps in a more systematic, regular and standardized manner. As a supplementary diagnostic tool to the CPIA, the CRFA will cover the current missing areas, extend the scope of the Bank Group's analytical tools and knowledge products on fragility and facilitate comparative analysis over time and among countries. The Bank's experience in piloting the CRFA and lessons will contribute to international efforts to build a common assessment framework and tools. It will build on the New Deal's commitment and common approaches for assessing challenges and opportunities as countries move across

⁹ Another potential candidate for the watch-list is the Gambia. With a harmonized CPIA rating of (3.25/3.3), the Gambia is just above the cut-off and has remained unchanged for the last three years. According to the AfDB CPIA data, the Governance (Cluster D) rating for the Gambia has stayed at 2.8 since 2009, while the ratings for Clusters A-D have remained at 3.4.

the 'fragility spectrum' which relates to five stages: Crisis, Rebuild and Reform, Transition; Transformation, and Resilience).

- 4.13. [Linkages between PSGs and CRFA](#): Similar to the qualitative assessment, the starting point for the CRFA is the New Deal's PSGs. Under the New Deal framework, it has been agreed to develop a set of simple and practical indicators to track progress towards the PSGs at the country (country-level indicators) and at the global level (common indicators). This effort is currently ongoing, and an interim list of indicators has been produced for use at country and global levels. The CRFA will also draw lessons from the IDA's Post-conflict Performance Indicator¹⁰ which includes additional clusters of questions more directly related to post-conflict recovery and peace building. Table 1 below summarizes preliminary reflection of the CRFA framework and its main components (additional details on the CRFA are provided in Annex II).

Table 1: The PSG Indictors and overlap with CRFA - preliminary mapping

Peacebuilding and Statebuilding Goals (PSGs)		CRFA dimensions and indictors aligned with PSG?
Dimensions	indicators	
PSG1 - Legitimate Politics: <i>Foster inclusive political settlements and conflict resolution</i>	<ul style="list-style-type: none"> - Representation in the Political System - Political Participation - Societal Relationship 	Yes – to include in CRFA dimension 1, but move 'Societal Relationships' to CRFA dimension 4: Economic & social inclusiveness
PSG2 – Security: <i>Establish and strengthen people's security</i>	<ul style="list-style-type: none"> - Security Conditions - Performance of Security Institutions - Capacity of Security Institutions 	Yes – to include in CRFA dimension 2
PSG3 – Justice: <i>Address injustices and increase people's access to justice</i>	<ul style="list-style-type: none"> - Performance and Independence of Justice Institutions - Capacity of Justice Institutions - Access to Justice 	Yes – to include in CRFA dimension 3
PSG4 - Economic Foundations: Generate employment and improve livelihoods	<ul style="list-style-type: none"> - Productive Resources and Prospects for Growth - Employment and livelihoods - Natural resources Management 	To be modified given strong overlap with CPIA CRFA dimension 4: Economic & social inclusiveness
PSG 5 - Revenues & Services: Manage revenue and build capacity for accountable and fair service delivery	<ul style="list-style-type: none"> - Revenue Management - Public Administration - Service delivery 	To be replaced given strong overlap with CPIA CRFA dimension 5: Exogenous factors

- 4.14. [Process and timeline for rolling out the CRFA](#): The CRFA would focus on areas directly related to fragility and country resilience and would be undertaken at a first stage for a smaller sub-set of ADF countries (including fragile states, non-fragile states and countries that recently experienced major political, economic and social crisis, or countries that have signaled a policy shift in their engagement with the international community) and then periodically on a more systematic basis. The additional questions will enrich the Bank's assessment of countries' fragility and resilience, broadening and deepening its knowledge to better anticipate the exacerbation or improvement in fragile conditions. The CRFA will not be used for the purpose of classifying countries as fragile, granting FSF eligibility or for resource allocation purposes during the ADF-13 period.

Eligibility for FSF Pillar I Support under ADF-13

- 4.15. During the June meeting, Deputies supported Management's proposal to revise the FSF Pillar I first-stage eligibility criteria, and present country-by-country eligibility assessments to the Board in due course. They also wished to see more details of how the criteria would be made operational to achieve a right balance between judgment and objectivity.

¹⁰ The PCPI assessment is undertaken only for countries eligible for IDA allocations under the exceptional post conflict and reengagement regimes. A link between IDA CPIA and IDA Post-Conflict Performance Indicator had been introduced as a reference point given that the contents of the two sets of criteria do not fully overlap.

- 4.16. **Background:** To be eligible for Pillar I support, a country has to be classified as a fragile state and in addition should meet the two-stage eligibility criteria¹¹. The first stage requires countries to demonstrate both a commitment to consolidate peace and stability and to have an exceptionally high level of unmet social and economic needs that arise from the impact and effects of prolonged conflict or crisis. In operationalizing these eligibility requirements, the Bank has relied *inter alia* on the availability of a signed peace or reconciliation agreement as evidence of a country's commitment to consolidate peace and security. To demonstrate unmet needs, the guidelines call for a combination of a score in the bottom quintile of the UN Human Development Index (HDI) and evidence of contraction of the economy by 10% or more since 1990, which is the base year of the MDGs.¹² In addition, in the second-stage criteria a country should demonstrate commitment to improve macroeconomic conditions, sound debt policies and financial management practices, and transparent public accounts.
- 4.17. **Modified first-stage eligibility criteria:** While the above-mentioned requirements would continue to be applied, it is clear that there may be cases where a country may be committed to peace and security, but the nature of the settlement of the crisis or conflict does not lend itself to a signed agreement among parties¹³. Further, the long-term social and economic impact of a crisis or conflict may not always easily be captured by the trend in a country's real gross domestic product (GDP) per capita or the HDI, especially in countries where the required data may not be readily available and in countries affected by sudden changes, the impact of which may not have been fully captured in current data.
- 4.18. The revised eligibility criteria aim to address these challenges, while ensuring policy continuity.
- To meet the **criterion of commitment to consolidate peace and security**, the Bank would continue to use the evidence of availability of a signed "comprehensive and internationally recognized peace agreement or post-crisis or reconciliation agreement" and also accept evidence of presence of UN and/or Regional peace-keeping and peace-building missions in a country. Further, the Bank would undertake a broader assessment of fragility and/or drivers of conflict. These assessments shall aim to identify the degree to which authorities in targeted countries have developed and followed through on post-conflict or crisis programs to address the roots of fragility and conflict as well the degree of international support they have garnered for these efforts.
 - This modified approach would cover, where the current framework does not, those situations where conflicts or crises were not settled with a formal agreement between parties but through other means such as broad acceptance of a political settlement that could be concluded outside of a formal peace agreement. Evidence of government's commitment in this regard may include, among others, progress towards and/or approval of new national constitution; and progress towards normalizations of relations with the international community (key regional bodies such as the AU and economic communities and/or international institutions).
 - To meet the **criterion of unmet social and economic needs**, the Bank would retain the requirement of a UNHDI score falling in the bottom quintile, as well as evidence of the contraction of real GDP per capita since 1990 – which for the case of ADF 13 relates to the period 1990 to 2010. As regards the size of the GDP per capita contraction, Management is of the view that given the longer reference period, spanning 20 years, a decline of 5% or more would be a more appropriate measure (instead of the threshold of 10% or more used in the 2008 strategy). It is also worth noting that recent analyses shows that sub-Saharan African countries would need to achieve annual GDP per capita growth of 4.39% or more to meet the poverty reduction target of the MDGs (Goal 1).¹⁴ The GDP and HDI criteria shall be complemented by a targeted assessment of the impact of recent

¹¹ Management presents a country-by-country eligibility assessment for Board consideration at the start of each ADF cycle.

¹² The rationale for choosing this threshold in the 2008 Strategy and operational guidelines was based on analytical work which suggested that "countries in Africa where the per capita GDP has contracted by more than 10% since 1990 are the furthest from reaching the MDGs"

¹³ For example, the conflict may be internal and resolved through the approval of a new constitutional and/or the holding of elections that are accepted as legitimate. Or a conflict may involve external parties that withdraw.

¹⁴ AfDB, AUC, UNECA and UNDP. 2012. *Assessing progress in Africa towards the Millennium Development Goals, 2012: Emerging perspectives from Africa on the post-2015 development agenda*.

crisis on economic and social conditions as well as the spill-over effect of conflict at the sub-national and regional levels.

Table 2: Preliminary Pillar I Eligibility of ADF countries based on the two-stage criteria

Country	First-Stage Criteria					Meets Second-stage criteria? (Yes/No)
	Peace & Security commitment (Yes/No)	GDP per capita (in 2000 constant prices)			HDI Bottom Quintile (HDI ≤ 0.495)	
		1990	2010	% Change		
1. Burundi	Yes	150.3	117	-21.9	0.355	Yes
2. Central Afr. Rep.	[TBC]	296.0	259	-12.5	0.352	[TBC]
3. Comoros	Yes	414.4	331	-20.0	0.429	Yes
4. Cote d'Ivoire*	Yes	602.1	588	-2.4	0.432	Yes
5. Dem. Rep. Congo	Yes	211.8	106	-49.8	0.304	Yes
6. Guinea Bissau	[TBC]	193.9	169	-12.7	0.364	[TBC]
7. Liberia	Yes	246.4	196	-20.6	0.388	Yes
8. Madagascar	Yes	289.4	240	-17.0	0.483	[TBC]
9. Mali*	Yes	217.1	298	37.4	0.344	[TBC]
10. Sierra Leone	Yes	352.7	270	-23.3	0.359	Yes
11. Somalia**	Yes	-	-		-	[TBC]
12. South Sudan**	Yes	-	-		-	Yes
13. Sudan*	Yes	135.2	516	281.5	0.414	[TBC]
14. Togo	Yes	321.6	265	-17.5	0.459	Yes
15. Zimbabwe	Yes	551.2	297	-46.1	0.397	[TBC]

Note: [TBC] = to be confirmed after full assessment; *2011/2012 GDP data to be considered in view of recent events in the country; **Data not available/ more detailed country assessment required; ***Requires further analysis of second-stage criteria, which may be challenging given the country's limited engagement with the international community, especially BWIs.

- 4.19. [Operational implication for ADF-13](#): A preliminary review of the application of the proposed adjustments (Table 2) suggests that fifteen (15) countries would potentially qualify for eligibility to the FSF Pillar I in ADF 13, with the new entrants being Madagascar, Mali and Somalia. All countries will undergo detailed assessment, including social and economic impacts of more recent events in CAR (2013), Cote d'Ivoire (2011), Guinea Bissau (2012-13) Sudan (2011-13), and Madagascar and Mali as new entrants. In these countries, a tailored assessment of economic and social indicators before and after the crisis would provide a better indication. Somalia was classified as fragile state during ADF-11 and ADF-12, but did not qualify for the FSF Pillar I support due to the instability that characterized the country at the time. The lack of political order has been ongoing for more than 20 years, but a settlement appears to be in place as at June 2013. Reliable and accurate data remains a critical challenge in Somalia.¹⁵
- 4.20. Management will undertake, and present to the Board of Directors for consideration, a more detailed country-by-country assessment of countries' eligibility for FSF Pillar I support, performance under previous cycles (ADF11-12) and graduation during the ADF-13 period. It is also worth noting that with the adoption of a more flexible approach, a country could qualify for Pillar I assistance, or exit, during the course of an ADF cycle. In such cases, the relevant update or request for approval will be brought to the attention of the Board of Directors.

¹⁵ The Bank is working to address this issue through in a multi-donor initiative, *the Joint Program for Capacity Development in Statistics for Somalia*, in partnership with the Federal Government, the administrations of Somaliland and Puntland and the Somalia Development Group, under the technical leadership of the United Nations Population Fund.

- 4.21. Some Deputies had asked Management to explore the possibility of allocating FSF Pillar I resources on an annual basis, and to adjust the size of resources allocated annually according to the number of eligible countries (similar to IDA). After careful consideration of the request, Management is of the view that allocating Pillar I resources on annual basis is not an optimal approach. This is mainly due to the fact that (i) such approach would reduce predictability and availability of resources for programming, which is an important feature of the FSF greatly valued by clients; (ii) it would create additional transaction and planning cost for clients as well as Bank staff; (iii) the total Pillar I amount would need to be known during the ADF replenishment meeting (prior to the start of the cycle) given the 'bottom-up' approach to determine the size of Pillar I envelop that relies on country-by-country calculation; and (iv) the ADF's approach of setting aside resources for fragile states is markedly different from IDA's exceptional allocation regime, which is a specific consideration within the IDA PBA framework's annual exercise. Management believes that its proposed approach of keeping a proportion of Pillar I resources (10%) as reserve portion to be allocated in case of emerging needs (see section 5.1-5.7 below) would be a better option in ensuring a good balance between predictability and responsiveness.

Pillar I duration of assistance and phase-out

- 4.22. During the previous ADF-13 meetings Deputies agreed to lengthen the duration of Pillar I of support, and to modify the top-up multiplier for the supplemental support and discount factors associated to the current phase-out parameters for countries benefiting from Pillar I in the third cycle.¹⁶ They also urged Management to strive to minimize the impact of Pillar I resource reduction on countries facing the risk of slippage or reversal, and to consider how this might be achieved in practice. Deputies called for greater focus on graduation support given the 'transitional' nature of the FSF Pillar I and highlighted the importance of refining the assessment of FSF Pillar I phase-out to ensure the best responsiveness possible.
- 4.23. Deputies may recall that the phase-out framework agreed under ADF-12 had three parameters: improved CPIA rating of 3.3 or higher (on a scale of 1 (poorest) to 6 (best performance)), as indication of overall good progress; Gross National Income (GNI) per capita on a Purchasing Power Parity basis of US\$ 500 or more, as a measure of internal capacity to generate resources for economic development; and length of enhanced engagement of six years or more, as indication of sustained support by the international community and the level of supplemental support by the Bank Group. These indicators, which also have associated discount factors, have been primarily used for allocating resources during ADF-12. Nonetheless, the underlying rationale is that improvements in policy and institutional performance (CPIA) and economic performance should provide some indications (albeit partial) of the progress countries are making. It is therefore important to note that the phase-out parameters serve two purposes; (i) they provide an indication of countries' progress as regards CPIA performance and economic conditions (as these were important eligibility considerations); (ii) they are simple but useful indicators for determining and managing the Pillar I resource allocation process including application of discounts and top-up factors.
- 4.24. In response to guidance from Deputies to explore options for further refinement of the framework, Management's approach is to ensure greater coherence between the application of phase-out criteria and the overall country fragility and eligibility assessment, including qualitative aspects and emerging issues not captured in the CPIA (described in sections 4.2 - 4.11, and 4.15 - 4.20). Additional qualitative assessment will play a role both at entry and at exit, and the phase-out assessment will mirror the assessment undertaken at entry. The objective would be to ensure a more deliberate and coherent approach in supporting countries' entry into the FSF, and the duration of support and graduation, while proactively identifying and managing the risk of slippages. This would allow Management to focus on one comprehensive assessment that provides all the relevant information to be integrated in the country programming document, instead of preparing a stand-alone graduation or phase-out document. Similar to the fragility and eligibility assessments, the New Deal's country-led fragility assessments, where available, would guide the Bank's own assessment to analyze progress towards the PSGs across the five-

¹⁶ Specifically, they agreed to introduce an additional discount of 10% on the gross Pillar I country allocation for third-cycle recipients (excluding countries in arrears), and an additional 10% discount on allocations for countries whose GNI per capita (on a Purchasing Power Parity basis) is greater than US\$ 1,000, and Pillar I top-up multiplier of 1.5x for third cycle recipients excluding pre-arrears clearance and newly engaging countries

stage fragility spectrum; identify the risks, challenges faced by the country; and opportunities to change course or build on progress.

- 4.25. In sum, key quantitative indicators such as improvements in CPIA (3.3 or above) and social and economic indicators used to determine Pillar I eligibility (trends in GDP per capita and HDI) will still continue to be used to determine eligibility to and exit from the FSF. At the same time, qualitative indicators such as security, peace and social stability will be taken into account in the phase-out assessment to ensure that the Bank Group's engagement takes full account of the reality on the ground to adjust its support. Another important consideration from the Bank's own internal perspective is the status of implementation of the country program as defined in the relevant instrument (CSPs, I-CSP and CB), and in particular FSF-supported activities, portfolio performance and resource utilization. Given the transitional nature of FSF support, the Bank Group's dialogue and support throughout the duration of enhanced assistance would need to focus on proactive efforts aimed at ensuring a smooth, predictable and sustainable exit. And this tailored support should be reflected in each country's CSP, as was done in the case of Liberia (approved in July 2013) and Sierra Leone (Board approval in Sept.). With a CPIA rating of 3.3, Burundi could potentially be phased-out during the ADF-13 period, with a careful assessment of the country's progress in consolidating sustainable of peace and security. On the other hand, countries that have recently experienced significant set-backs (such as CAR and Guinea Bissau) are likely to require FSF support over a longer period.

5. FSF Resource allocation and financing terms

Enhancing the responsiveness of the FSF Pillar I resource allocation

- 5.1. During the ADF-13 discussions in June, Deputies agreed on the need to enhance the responsiveness of the resource allocation approach for fragile states, while ensuring predictability of resource availability for country programming and efficient use of ADF resources. In this regard, Deputies broadly supported Management's proposal to keep a portion of Pillar I resources unallocated, as contingency, to be used for emerging needs or changing situations during the course of a replenishment cycle. Deputies requested additional information on how this will be operationalized, in particular with regards to the size and eligibility criteria. The section below provides an overview of key considerations that will guide the implementation of this proposal, and feed into the revised strategy for Bank's engagement in fragile states and operational guidelines.

Proposal a: *Keep a portion (equivalent to 10% of the country allocations) of Pillar I resources unallocated (to a specific country) to be used for emerging needs or changing situations that might benefit from speedy intervention in countries newly eligible for FSF Pillar I (i.e. sudden changes for which FSF resources were not programmed) within the first 18 months of an ADF cycle. If the resources are not utilized, eligibility for additional resources could be opened up to existing Pillar I countries on the basis of project or programme-based selection criteria, subject to discussion at the Mid-Term Review. This possibility may also be extended to regional operations involving fragile states.*

This proposal follows a two-pronged approach in which a mix of a country-based and project/programme-based approach is pursued, while ensuring the FSF allocation framework remains simple, efficient and transparent.

- 5.2. **Size of Pillar I resource reserve:** Management is cognizant of the need to strike a balance between efficiency (resources should not be kept idle unnecessarily) and the need to have a level of resources to allow meaningful assistance. These factors have been taken into consideration in estimating the volume of Pillar I resources to be kept as a reserve for emerging needs relating to fragility. For planning purposes, the current proposal to keep an amount equivalent to 10% of the country-allocated Pillar I resources (approx. UA 50 million) is based on the following considerations: (i) reserve at least UA 25 million per country on the basis of the minimum PBA allocation (UA 15 million) + the floor of Pillar I allocation (UA 10 million); and (ii) ensure readiness to provide timely and enhanced support to at least two countries that could potentially qualify for assistance and meet the FSF Pillar I eligibility criteria during the course of

the ADF cycle.

- 5.3. **Country eligibility, review and approval:** As discussed in the previous section, Management will present for Board consideration a country-by-country eligibility assessment at the start of each ADF cycle. This report could also be used to flag countries that do not meet the eligibility criteria but should be watched closely (a 'watch list' category) taking into account emerging risks, threats and opportunities (for instance, regional spill-over, deterioration of political processes, or positive developments in policy directions and commitment to engage with the international community etc).
- 5.4. During the course of the cycle, two sources of information will be used to consider potential eligibility: (i) the harmonized MDB list of fragile situations, which is released annually at the start of the World Bank's Fiscal Year (July); and (ii) qualitative fragility assessments undertaken by the Bank (under the leadership of OSFU). Once a country is classified as 'fragile state' (which does not automatically guarantee eligibility to Pillar I), Bank staff (OSFU and the relevant Regional Department) will assess its eligibility for Pillar I on the basis of the revised two-stage eligibility criteria and additional qualitative assessment discussed earlier. The review and approval process for country eligibility during the cycle will follow the normal Bank procedures and final document will be presented for Board consideration, in the form of an addendum to country programming documents (CSP, Interim-CSP or CB).
- 5.5. **Resource allocation:** the eligibility assessment will also make a recommendation on the volume of resources to be allocated to any given country. While the principle of additionality that guides Pillar I allocation is an important consideration, it may not be possible to replicate the methodology of 2x top-up multiplier applied for standard first-cycle Pillar I allocations given the limited amount of resources to be reserved under this scheme. Staff recommendation would need to reflect sound judgment and needs assessment. Such assessments may include, inter alia, (i) the nature and magnitude of the country's need as reflected by the impact of conflict or crisis on the economy or delivery of services to populations; (ii) other potential sources of funds that could be mobilized from internal and external sources (such as trust funds, co-financing etc.); and (iii) the overall demand for Pillar I reserve resources, i.e. in situations where two or more new countries are foreseen to potentially qualify.
- 5.6. **Project eligibility:** with the view to ensuring efficient use of ADF resources during a given cycle, in the event that the reserved resources are not utilized or allocated to a country as described above at mid cycle, Management proposes to extend eligibility for the resource reserve to existing Pillar I countries that would benefit from additional resources to finance operations in their three-year rolling Indicative Operational Program for which PBA resources are not sufficiently available.
- 5.7. The eligibility assessment in this case will focus more on the content, timing and cost of the proposed operations, although country's needs and access to other sources of financing are important considerations. The approach would be similar to the Regional Operations Selection and Prioritization Framework, whereby a set of objective criteria will guide Management's decision with regards to selection, prioritization and approval of projects to be financed. The selection and prioritization criteria would include, among others,
 - **Strategic focus and country performance:** the proposed operation would need to be aligned with the country programming document (CSP, I-CSP or CB) and in the country's IOP. Projects with strong emphasis on peacebuilding and statebuilding outcomes (as defined by the country) would have greater advantage in the selection and prioritization process. The country would also need to demonstrate good progress in implementing on-going operations and resource utilization (portfolio performance), as well policy and governance commitment (for instance, as evidenced in CPIA trends).
 - **Project design and application of fragility lens:** in assessing the design of proposed operations, important elements to be taken into consideration include the quality of analytical and diagnostic underpinnings, especially with regards to the application of fragility lens in the project design; responsiveness of proposed operations to the country's priorities (especially those highlighted in country fragility assessments, where available); and operations with innovative features and/or address areas of particular importance such regional dimension of fragility and private sector participation.

- **Results/development outcome:** similar to all ADF- projects, a robust results logical framework would be required as an integral part of the as well as selection and prioritization assessment. Greater emphasis will be placed on the expected out come and impact of the proposed operation in supporting the country's transition out of fragility; focus on affected or vulnerable populations and households; benefits to women and youth; and contribution to promotion of regional stability and integration as well as or private sector.
- **Readiness and cost of financing:** the timing of the Call for Proposals for Pillar I funding, i.e. after the Mid-Term Review of the ADF cycle, necessitates that operations submitted for considerations are fully prepared and ready for further processing. The readiness of projects is thus a very important consideration given that the window for processing and Board approval is unlikely to exceed 12-14 months period. This would also mean that that the project cost and financing structure is fully fleshed out, and where applicable, co-financing arrangements agreed (at least in principle), at the time of the submission of the proposal.

5.8. The review and approval process of selected projects will follow the normal Bank Group procedures and they will be presented for Board consideration during the last 18 months of the ADF cycle. A more detailed guidance on eligibility criteria, selection and prioritization methodology and review and approval process will be elaborated in the forthcoming revised FSF operational guidelines.

Proposal b. allow exceptional access to a country's PBA resources that may otherwise remain unutilized, for countries experiencing sudden changes and where there is an opportunity to provide assistance with other development partners. This provision would apply to countries that do not have Pillar I allocations and whose access to PBA resources have been suspended under policies that apply to normal ADF operations due to an onset of a crisis, and where the Bank Group is placed to provide critical assistance to affected populations (for instance through non-sovereign institutions).

5.9. Several Deputies had expressed concern with regard to this proposal. The key issue they highlighted was the potential for contravening the Bank Group's Sanctions Policy as well as the issue of moral hazard. It is therefore important to first highlight the flexibility that already exists in the current strategy and FSF Operational Guidelines.

- **Related provisions in 2008 Strategy and Operational Guidelines:** Under ADF-10 and in the 2008 strategy, a provision for exceptional eligibility allows countries in protracted arrears to access up to 50% of their PBA-determined grant allocation for priority capacity building and technical assistance projects.¹⁷ This provision was used in 2007 for Sudan to finance the *Institutional Capacity Building for Poverty reduction and Good Governance project (UA 9.62 million)*¹⁸, and is currently under consideration in the case of Somalia and Zimbabwe for capacity building support in the area of public financial management.
- The 2008 strategy also highlighted the issue of potential moral hazard, and that this will be addressed by (i) limiting the scope of the eligibility criteria and linking support to sound macroeconomic and debt management performance; (ii) the demonstrated commitment and the active participation of the country towards the agreed (arrears clearance) program, and involvement of other development partners (especially BWIs) in the process.

¹⁷ According to the 2008 Strategy and FSF Guidelines, operational support through Pillar I and up to 50% of PBA allocations would be allowed to precede arrears clearance, on an exceptional basis, when countries show firm commitments vis-a-vis debt regularization. Such commitment may include a country: (i) concluding an agreement with the Bank regarding its arrears clearance program; (ii) making token arrears clearance payments; and (iii) having a coordinated arrears clearance program with other partners. The strategy also states that new commitments from the PBA-derived allocation would be consistent with Bank's policy. See *2008 Strategy for Enhanced Engagement in Fragile States* (para 4.3) and FSF Operational (paragraphs 3.1.11-3.1.13).

¹⁸ This project financed the Sudan Household Survey in 2009, the first of its kind in 30 years, which provided critical analytical inputs for various policy papers by the governments of Sudan, South Sudan and development partners, as well as fed into the preparation of the Sudan Interim Poverty Reduction Strategy Paper in 2012 (which was also supported by the Bank Group).

- 5.10. The current proposal to allow exceptional PBA access (Proposal b) builds on the concept and principle underlying the 2008 provision for exceptional eligibility to up to 50% PBA-determined grant allocation. As such, it should be viewed as an amendment to existing rule – by modifying the scope. It should also be noted that ‘PBA resources’ in this context refers to resources already allocated to the country, and not the overall PBA envelop. The overriding objective is to provide additional ‘responsiveness capacity’, and ensure the Fund has the ability to stay engaged, or intervene quickly, in the context of fast-moving changes or situations of fragility that offer an opportunity for action. This second layer of contingency, which is likely to be used rarely, would be useful in situations where the Pillar I reserve has been fully exhausted, but the country in question has unused PBA allocations. As such, the proposed approach has the advantage of enabling the ADF to make a more efficient use of existing resources to respond to unanticipated situations or needs (such as emergencies).
- 5.11. Two categories of countries may benefit from this approach: (i) countries that are already eligible for exceptional PBA access (as indicated in paragraph 5.9) but are limited in the use of resources due to the restriction of the type of operations that could be financed (currently limited to TA and capacity building); and (ii) countries that have not yet fallen into protracted arrears, but are unable to continue accessing PBA resources or implementing normal ADF operations due to sudden deterioration in security and political stability or leadership crisis. In the case of the latter, the provision for exceptional access to the PBA would apply only in situation where
- there is an opportunity for the Fund to deliver the needed assistance in concert with other development partners, pending a full-fledged normalization of relations;
 - there is sufficient level of security and stability, and government commitment, to allow the implementation of the program; and
 - the intended intervention is in compliance with related provisions of the Presidential Directive No.[03]/2010 “Concerning Continuity of Operations and Engagement with *De Facto* Governments in Regional Member Countries” (especially those related to undertaking new operations, as highlighted in paragraphs 13-14 in the Directive)¹⁹.
- 5.12. Modifying the scope of the 2008 provision for exceptional PBA eligibility, in line with the above proposal, would allow the Fund to deploy the limited ADF resources where they are needed the most. For instance, in countries such as Somalia, Sudan and Zimbabwe, it would enable the ADF to go beyond TA/Capacity building and provide support critical investments that protect livelihoods, and respond better to countries’ priorities and needs. In countries that are newly experiencing fragility, and where Pillar I resources are not available, it would provide source of financing (albeit a limited one) and allow the Fund to respond in a timely manner. Such assistance will be carefully designed and delivered in concert with other development partners and under the purview of the ADF Board of Directors. A detailed guidance on triggers, eligibility and approval process would be elaborated in the revised operational guidelines.²⁰
- 5.13. Enhancing FSF responsiveness vs. the role of the ADF in situations of crisis: Several Deputies had expressed concern on the risk of turning the FSF into a crisis-response instrument, and that the Fund should stay firmly rooted on its mandate of financing long-term development projects. This is indeed in line with the Bank Group’s thinking. It is however important to underscore that crisis response does not always, or necessarily, need to be viewed as short-term humanitarian response. Crisis situations present opportunities to address long-term development needs, as well as to contribute to peacebuilding and statebuilding priorities. While the concept of integrating development perspective into disaster risk management and crisis response has been common practice in disaster-prone regions in Asia and the Caribbean, the humanitarian-development distinction has been much sharper in Africa, both in terms of donor financing (resource allocation) and institutional mandate. Development institutions such as the AfDB have important roles to play in protecting and improving livelihoods at times of crisis.

¹⁹ AfDB. Presidential Directive N° [03]/2010, *Concerning Continuity of Operations and Engagement with De Facto Governments in Regional Member Countries*. 20 October 2010. .

²⁰ This would build on the current provision for exceptional eligibility and would include guidance related to issues such as the size or ceiling of PBA resources to be used for such intervention; and whether such resources would need to be transferred from the PBA to the FSF given the latter’s operational flexibility.

- 5.14. The Bank Group's experience in the Horn of Africa (*Horn of Africa Drought Resilience and Sustainable Livelihoods Project*), Sudan (*Darfur Water Project*) and Zimbabwe (*Urgent Water Supply and Sanitation Project* and *Emergency Power infrastructure Rehabilitation Project*, Box 1) shows the importance of long-term investments in addressing underlying issues of humanitarian emergencies. This is all the more important when considering the move towards a more comprehensive approach for assessing and understanding fragility, which could be triggered by exogenous shocks such as natural disasters and regional spill-overs of conflict.

Box 1: Investing in long-term recovery through emergency infrastructure projects in Zimbabwe

Description: The Zimbabwe Urgent Water Supply and Sanitation Project (USD 29.65 million) and the Emergency Power infrastructure Rehabilitation Project (USD 35 million) were approved by the AfDB boards of Directors in April 2011 and July 2011, respectively. The projects are financed with resources from the Zimbabwe Multi-donor Trust Fund (Zim-Fund).

Both projects respond to the Short Term Emergency Recovery Program (STERP) established by the Government of Zimbabwe (GOZ) in the framework of its Three Year Macro-Economic Policy and Budgetary Framework (MEPBF) (2010-12). The STERP prioritized efforts to restore functioning infrastructure as one of the critical factors for resuscitating the economy in addition to ensuring the safety and wellbeing of the citizens of Zimbabwe. Priority areas of Bank group's support, through the Zim-Fund, in this regard included (i) improving water supply and sanitation (WSS) services, especially following the 2008/09 cholera outbreak in the country which resulted in 4,300 deaths and more than 98,000 reported cases; and (ii) rehabilitation of dilapidated generation and transmission infrastructure to restore electricity generation capacity and supply reliability.

Expected Impact: the water and sanitation project aims to contribute to improved public health (reduced morbidity and mortality) by providing clean and reliable water supply to 2.4 million residents in six cities. The emergency power project will provide access to affordable and reliable electricity at competitive cost to the entire population of Zimbabwe, and in particular the population of Greater Harare Metropolitan. Both projects are progressing well and due for completion during the first quarter of 2014.

Financing terms for FSF Pillar I

- 5.15. Expressing concern on the overall share of grants in ADF financing, some Deputies asked Management to consider adjusting the financing terms of countries' Pillar I allocations, which are currently fully provided as grants, to match the loans and grants mix of their PBA allocations, which are determined by a Debt Sustainability Analysis.
- 5.16. Although the 2008 strategy had initially foreseen that FSF supplemental resources be committed in line with countries' Debt Sustainability Framework (DSF) classifications, it was eventually decided that Pillar I resources will be provided fully in the form of grants. Thus under ADF-11 and ADF-12, Pillar I resources have not been subject to the discount associated with the DSF Modified Volume Approach (MVA) used in the PBA allocation process²¹, nor to the financing terms (loans and grants mix) applied to the PBA allocations of Pillar-I eligible countries.
- 5.17. Impact of DSF application on FSF Pillar allocations: Staff analysis shows that:
- If the regular PBA financing terms and the MVA are applied to FSF Pillar I resources, the ADF-13 Pillar I country allocations (UA 531.16 million) would be divided into UA 284.58 million of grants (53.6%) and UA 196.36 million in loans (37.0%); UA 50.22 million (9.5%) would revert to the ADF to cover forgone charges. As a group, the 15 Pillar I eligible countries would receive UA 50.22 million less than what they would receive under the existing FSF terms. Seven (7) red-light countries (high risk of debt distress) would receive 15% (UA 35 million) less than the projected Pillar I allocation, while 6 yellow-light (moderate risk of debt distress) countries would receive 7.5% less; and two countries

²¹ The Modified Volume Approach entails a 20% volume discount applied to PBA grant allocations. This upfront deduction has been fixed in order to cover the costs to the ADF of forgone loan charges, to help address issues of moral hazard associated with the provision of grants instead of (concessional) loans, and to reinforce performance incentives. Under ADF-13 the discount will be composed of a 15% charges-related portion and a 5% performance-related portion. Only the charges-related portion is applied to the PBA grant allocations of fragile states.

(Liberia and Madagascar) would receive the full amount of Pillar I allocation in the form of loans.

- The introduction of standard PBA financing terms and application of the MVA therefore would result in overall reduction of the total volume of Pillar I resources going to all but two eligible countries, and significant reduction at country level for red light countries. On the other hand, more resources would be available for ADF allocations through higher ACC (by about UA 50.22 million--although this may change depending on final adjustments of the other assumptions underlying the ACC model). However, the impact of the slight increase in the ACC at the level of country allocation would be minimal given the large pool of ADF countries to benefit from these resources. If only the financing terms (mix of loans and grants) of the Pillar I allocations were adjusted but the MVA were not applied, the reduction in volume would not be an issue.

- 5.18. Therefore, as suggested by some Deputies, Management agrees that the financing terms of Pillar I allocations could be adjusted to the loans and grants mix of the countries' PBA allocations²², but that Pillar I allocations should continue to be exempt from the MVA. As regards the implication of the new ADF lending-term to be introduced in ADF-13, it is worth recalling that loan-eligible FSF Pillar I countries will always be eligible to the most concessional ("Regular") ADF lending terms.²³

Support to the African Legal Support Facility (ALSF)

- 5.19. Deputies requested Management to explore possible options for operational and resource allocation linkages between FSF Pillar III and the African Legal Support Facility. Some Deputies had also suggested the possibility of earmarking FSF resources to finance ALSF operations.
- 5.20. The ALSF was established in 2008 and became operational in 2010. Its vision is to achieve sustainable legal capacity for Africa, and its Mission is to provide legal advice and capacity building to African countries on vulture fund litigation, complex commercial negotiations (extractive resources, debt, infrastructure, and PPPs), and related sovereign transactions. The ALSF grants and advances funds to RMCs for legal advice to address the asymmetric negotiating capacities of African governments with private sector investors. (Annex III provides a summary of the ALSF's medium-term strategy and examples of on-going and planned operations).
- 5.21. Management is increasingly making use of other instruments of the Bank Group to leverage Pillar III resources for greater impact of capacity building and advisory support. In this regard, a closer coordination and greater alignment of the support provided by the FSF and the ALSF is important in building capacity of fragile states for improving the governance of natural resources and the extractive sector. Current efforts include co-financing of capacity building projects, especially in the area of contract negotiations and disclosure, for example in the oil and energy sectors of Sao Tome and Principe. The Sierra Leone Field Office of the Bank has also expressed interest in leveraging Pillar III resources with ALSF for country programs as well as in Bank assistance to the Mano River Union, one of three (3) regional organization to which Pillar III resources have been allocated in ADF 12. Nonetheless, Management recognizes that more can be done to strengthen the operational and resource allocation linkages between the ALSF and FSF, and welcomes the constructive suggestions offered by deputies during the second ADF-13 replenishment meeting
- 5.22. Following Deputies guidance to explore options for greater synergy between the ALSF and FSF, especially Pillar III, discussions were held between Bank and ALSF staff. The objective would be to identify options for scaling up the level of FSF resources that could support ALSF-led advisory and capacity building activities while minimizing administrative burden and duplication of approval procedures, given that the ALSF and AfDB have separate decision making

²² In reaching this conclusion, Management notes that the shift in aligning Pillar I financing terms with that of the PBA poses limited risk to yellow and green light countries due to (i) the high level of concessionality of ADF lending terms; and (ii) the fact that the DSF is the primary point of reference in assessing ADF countries' risk of debt distress and the appropriate decisions as regards financing terms. As a country-tailored forward-looking (20-year horizon) diagnostic tool, the DSF takes into account a number of factors beyond economic indicators, including trends in the country's CPIA, and alternative scenarios (based on stress tests).

²³ See ADF-13 paper, *ADF-13 Financing Framework and Capacity*, discussed June 2013.

processes (Box 2).

- 5.23. In this regard, **Management proposes a programmatic approach to allocate resources from FSF Pillar III to ALSF**. This would involve designing a single program supporting several countries that would be implemented over the ADF-13 cycle (similar to regional programs currently supported by FSF Pillar III). While the scope of the program would be limited to fragile states eligible for Pillar III, it still fits well with the first strategic priority of the ALSF in assisting fragile states. As compared to an alternative like country-by-country projects, the proposed approach is more efficient and reduces transaction costs associated with processing and approval procedures by ALSF and AfDB; provides more predictability for the purpose of program and budget planning (both for ALSF and FSF); and has room for greater flexibility and responsiveness. Other options considered by Management include ADF set-aside, country allocation (through FSF Pillar III) and a regional operation approach.²⁴
- 5.24. *Financing Needs*: The ALSF predicts that it will require between USD 47-57 million to meet the expected demand from AfDB RMCs over the next three years (2014-2016). For 2013, the ALSF is on track to fully utilize its budget of USD 9 million. The ALSF's projected budget is USD 12 million for 2014; USD 15-20 million for 2015; and USD 20-25 million for 2016. Since the inception of the Facility, 43% of ALSF projects have been in fragile states, or in regional programs involving fragile states. The ALSF experienced increased demand for its services every year approving, three projects in 2010, three in 2011, eleven in 2012 and is projected to approve twenty projects in 2013.
- 5.25. *Approval and implementation*: a full-fledged appraisal of the proposed program will be prepared and presented for Board approval at the start of the ADF-13 cycle. The preparation and submission of the appraisal will be led by a Bank department in accordance with Bank rules and procedures. For instance, in 2010, the Legal Department submitted the request for UA 10 million Net Income allocation from the Bank to the ALSF. The ALSF will be responsible for the implementation and monitoring of the program over the ADF-13 period, and will provide an update on implementation status during the ADF-13 Mid-Term Review (mid-2015).
- 5.26. *Expected impact*: In the last 3 years the ALSF has committed USD 17 million in 19 countries (28 projects) which has resulted in the provision of legal advice on over USD 12 billion worth of transactions. As part of these projects, the ALSF has trained lawyers from over 45 RMCs. For every dollar spent on legal advice, over 700 USD worth of projects is impacted.

²⁴ The first option advanced by the ALSF was for a one-time set-aside from ADF, which would the ALSF to support all ADF countries with high degree of flexibility. The ADF, however, is trying to limit the number of set-asides. The second option, country allocation (through FSF Pillar III), would be where individual countries request a portion of their Pillar III allocation to be used for ALSF services. The downside of this option is that it would require multiple duplicative approval processes (AfDB and ALSF) and requires eligible countries to each submit two requests for assistance. The final option advanced was to classify the ALSF program as a Regional Public Good that could be financed by the RO envelope with the ALSF as the implementing agency. The drawback of this approach is that the program would have to go through the RO Selection and Prioritization process, which may cause delays to delivery of the assistance.

Box 2: Key considerations in approval process of resources to ALSF

Given that the ALSF is an independent entity, a number of issues were considered in weighing the options listed above including:

- *Independence:* ALSF independence from the Bank is important, as it allows the ALSF to build trust and make independent decisions in a quick and responsive manner. The ALSF's current processing time for projects is now being measured in weeks, and they are trying to shorten the time frame even more to respond quickly to RMC needs.
- *Conflicts of Interest:* In some cases (especially IPPs and PPPs) the lenders (which may include the Bank) often have direct agreements with the governments. The Facility provides governments assistance in negotiating these agreements. This is why the ALSF has a separate Management Board and Governing Council.
- *Administrative Burden/Duplication:* The ALSF structure is lean, and the preference would be to minimize duplication of approval process at the Bank and ALSF Board levels. In terms of resource and budget management, it would not be practical for the ALSF to budget on a per country basis.
- *Procurement:* ALSF procurement rules differ slightly from the AfDB's procurement rules, they are much lighter since the ALSF is primarily procuring legal services (for procurement of non-project related things, the ALSF closely follows the AfDB rules). Also, in the current structure the ALSF only deploys funds to the advisors (not to the countries) and the ALSF maintains a roster of experts that it procures from to respond quickly. The existing procurement rules for the Bank may raise the same issues that the World Bank is facing with the Africa Department's Extractives Negotiation Fund.
- *Strategic Focus:* ALSF projects, similar to FSF Pillar III, are demand-driven based on country need and the fit with the Facility's strategic priority. The ALSF Medium Term Strategy outlines that its first priority is assistance to Fragile States. Priority is then given to extractive industry contracts, infrastructure related contracts, debt contracts and vulture fund litigation.

FSF Resource Requirements under ADF-13

- 5.27. Applying the methodology for determining the size of FSF Pillar I resources as discussed and agreed with Deputies during the second meeting, the allocations for the 15 countries that Management deems eligible for Pillar I under ADF-13 amount to UA 531.16 million (see Annex IV for more detail on the calculation of country allocations). Adding 10% of this for the unallocated reserve would imply a total of UA 584.28 million for FSF Pillar I. However, Management proposes to apply the resources expected to be carried over from Pillar I under ADF-12, UA 12.51 million, towards this amount²⁵. The ADF-13 resource requirement for Pillar I would therefore come to UA 571.77 million.
- 5.28. Management maintains its proposal to allocate UA 179.83 million of ADF-13 resources to FSF Pillar II. Concerning Pillar III, as set out above, Management proposes to contribute UA 16 million to the ALSF in addition to the UA 44 million discussed at the second replenishment meeting, thereby bringing resource requirements for Pillar III to UA 60 million. Table 4 shows the revised proposal of ADF-13 resources to be allocated to the FSF.

Table 3: Proposed allocation of ADF-13 resources to the FSF

(UA million)

Pillar I	
country-allocated	531.2
unallocated (10% - 12.51m)	40.6
Pillar II (3 countries)	
AfDB Arrears (gap)	179.8
Pillar III (all eligible FS)	
fixed amount	60.0
Total FSF envelope	811.60

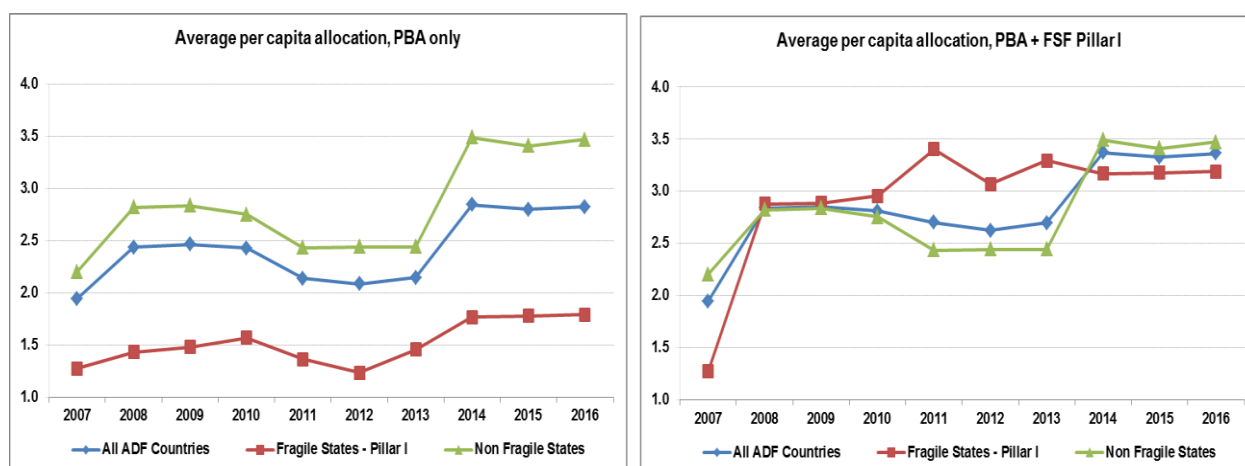
²⁵ See Revised ADF-13 Replenishment and Resource Allocation Scenarios

Potential flow of ADF resources to Pillar-I eligible countries under ADF-13: Projected FSF and PBA per capita allocations

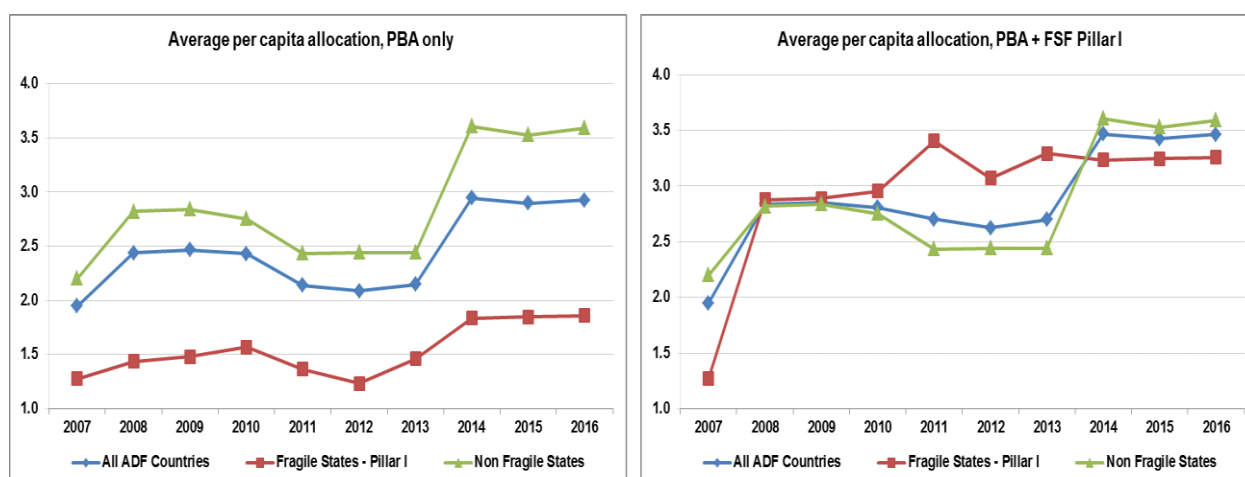
- 5.29. Simulation of resource allocation under the two ADF-13 replenishment scenarios demonstrate that without the FSF Pillar I allocations, flow of ADF resources to countries that need concessional resources the most would be significantly lower with annual per capita allocation of UA 1.8 for Pillar I-eligible fragile states compared to UA 3.5 for other (non-fragile) ADF countries. With the proposed PBA adjustments and Pillar I allocations for the 15 countries, the projections show a more balanced distribution of per capita allocations for both Pillar I eligible fragile (approx. UA 3.3) and non-fragile states (UA 3.6).

Figure 2: Simulation of average per capita allocation

ADF-13 Replenishment Scenario 1: 0% nominal growth in donors' subscription



ADF-13 Replenishment Scenario 2: 0% real growth in donors' subscription



6. Conclusions

- 6.1. This paper has presented in detail additional explanations on the proposed adjustments discussed during the June meeting. It has also provided updates on Pillar I eligibility and resources allocation, and proposed options for a stronger collaboration between the ALSF and FSF. Deputies are invited to take note of the paper and provide their views.

Annex I: MDB Harmonized List of Fragile Situations, FY14

Table I-1: African countries identified in the FY14 harmonized list

Country	AfDB / World Bank Harmonized CPIA (FY14)	Presence of Political and Peace- building Missions (P) / Peace-Keeping Missions (Pk)
ADF countries		
1. Burundi	3.3	Yes (P)
2. CAR	2.8	Yes (P)
3. Chad	2.9	
4. Comoros	2.6	
5. Congo, Republic	3.2	
6. Cote d'Ivoire	3.1	Yes (Pk)
7. DRC	3.0	Yes (Pk)
8. Eritrea	2.0	
9. Guinea-Bissau	2.7	Yes (P)
10. Liberia	3.4	Yes (Pk)
11. Madagascar	3.1	
12. Malawi	3.2	
13. Mali	3.7	Yes (Pk)
14. Sierra Leone	3.3	Yes (P)
15. Somalia	1.2	Yes (P)
16. South Sudan	2.2	Yes (Pk)
17. Sudan	2.5	Yes (Pk)
18. Togo	3.1	
19. Zimbabwe	2.2	
ADB countries		
20. Angola	2.7	
21. Libya	-	Yes (P)

Source: MDB Harmonized list of fragile situations F14

Note: Two countries, Guinea and Niger, are not in the harmonized list but would merit a qualitative assessment. Guinea was removed from latest MDB harmonized list on account of marginal improvement in CPIA rating. Niger has high CPIA rating (3.7) but the country faces several challenges that may contribute to fragility including regional security risks and very poor socio economic indicators (e.g. lowest-ranked in 2012 HDI).

Annex II: Elements of the Country Resilience and Fragility Framework (CRFA)

The main components the CRFA framework would be the following (Table I-1):

- CRFA Criteria 1, 2 and 3 would be in line with PSG 1 (Legitimate Politics), 2 (Security) and 3 (Justice), but the indicators will be narrowed down to ensure simplicity and data availability
- Given the strong overlap between PSG4 (economic foundation) and the current CPIA (clusters A-C), the third dimension of the CRFA would be designed to capture information on how economic dynamic can generate opportunities for people (“economic and social inclusiveness”). This would enable assessment of (i) quality of growth and Government strategy to create economic opportunities for its population including Employment policies, microfinance development; (ii) natural resources management and benefits for population; (iii) inequalities and access to basic services including spatial inequalities, basic services access; and (iv) social inclusion focusing on the PSGs indicator on Societal relationships”. The content and indicators will draw from the Bank’s current work on inclusive growth (e.g. Inclusive Growth Index).
- Finally, the CRFA will introduce a specific dimension on exogenous factors that contribute to fragility at state or regional level. Such factors may include, among others, external economic shocks, environmental pressure and natural disaster, regional pressure or effect of conflict spillover from neighboring countries that could jeopardize Country resilience. The objective would be to identify and assess sources of exogenous shocks, the country’s vulnerability and capacity to manage the shocks.

Table II-1- Preliminary draft of CRFA framework assessment criteria

Dimension	Assessment criteria	Description
I. Legitimate Politics	Representation in the political system (Government and public institutions)	This sub-criterion may assess whether elected and appointed officials in Government, key State institutions and decision-making bodies are representative of the population while measuring also perception of representation by the population. It may include indicators that measure political settlement and intend to assess its legitimacy.
	Political Participation	This sub-criterion may assess the existence of electoral process and existing measures to strengthen it. It may include a measure of electoral participation and public satisfaction with the electoral process (by gender, region and social group when appropriate and possible). As well as an assessment of civic engagement and political process at different levels (national and local).
II. Security	Strategy and policy to address security	This sub-criterion may cover the extent to which the Government takes into account security conditions in its planning documents and is accountable for it.
	Capacity of Security Institutions	This sub-criterion may cover the extent to which appropriate resources are provided to ensure security throughout its territory.
	Security conditions: access to security and perception from population	This sub-criterion may measure security conditions i.e.; access to security and its perception by the population (by gender, region and social group when possible).
III. Justice	Independence and effectiveness of Justice Institutions	This sub-criterion may cover the extent to which the Government takes into account and favor independence of justice in its planning documents and is accountable for it.
	Capacity of Justice Institutions	This sub-criterion may cover the extent to which appropriate resources are provided to ensure independent justice throughout its territory.
	Access to justice and perception from population	This sub-criterion may measure justice conditions i.e.; access to security and its perception by the population (by gender, region and social group when possible).

IV. Economic And Social inclusion	Quality of growth	This sub-criterion may measure Government strategy to create economic opportunities for its population including Employment policies, microfinance development...
	Natural Resources Management and Benefits for Population	This sub-criterion may measure Government efforts to ensure effective natural resource management and maximum benefits for its population.
	Inequalities and access to basic services	This sub-criterion may measure Inequalities including spatial inequalities, basic services access inequalities. It may measure Government efforts to enhance human development and strengthen social service toward equitable distribution between regions and social groups.
	Social Inclusion	This sub-criterion will cover degree of societal relationships and commitment to fostering constructive state-society relations. It may assess risk that could jeopardize social cohesion and societal resilience.
V. Assessment of Externalities	Political pressure: Regional Focus & cross-border drivers of fragility or conflict.	This sub-criterion may assess the risk of spreading some security threat or social/ethnic tensions from neighboring countries
	Environmental pressure and vulnerability to natural disasters	This sub-criterion may assess the risk of being jeopardized by environment or natural stresses.
	Vulnerability to economic shocks	This sub-criterion may assess the risk of being jeopardized by economic shocks.

Table II-2: Mapping of the standard CPIA clusters and sub-criteria against PSGs



Criterion/Sub-Criterion partially/totally in line with PSGs but could be revised; tailored or re-gathered to better assess fragility and resilience.

CPIA Cluster	#	CPIA Criterion/Sub-Criterion	Weight	Potential areas to be assessed: PSGs oriented criteria and social inclusion criteria				
				Legitimate Politics	Security	Justice	Eco. Found.	Revenue & Services
A - ECONOMIC MANAGEMENT	1	Monetary Policy	1					
		a. Monetary Policy	1					
	2	Fiscal Policy	1					
		a. Fiscal Policy	1					
	3	Debt Policy	1					
		a. Debt Policy	1					
B -STRUCTURAL POLICIES	4	Ec. Cooperation, Reg. Int. & Trade	1					
		a. Regional Int. and Ec. Cooperation	0,5					
		b. Trade restrictiveness	0,375					
		c. Customs/trade facilitation	0,125					
	5	Financial Development	1					
		a. Financial stability	0,33					
		b. Sector's efficiency, depth, and resource mobilization strength	0,33					
		c. Access to financial services	0,33					
	6	Business Regulatory Environment	1					
		a. Regulations affecting entry, exit, and competition	0,33					
		b. Regulations of ongoing business operations	0,33					

		c. Regulations of factor markets (labor and land)	0,33					
	7	Gender Equality	1					
C - POLICIES FOR SOCIAL INCLUSION/ EQUITY		a. Promotion of equal access for men and women to human capital development opportunities	0,33					
		b. Promotion of equal access for men and women to productive and economic resources	0,33					
		c. Men/women equal status/protection under the law	0,33					
	8	Equity of Public Resource Use	1					
		a. Public Expenditures: Measurement	0,33					
		b. Public Expenditures: Priorities and strategies	0,33					
		c. Revenue Collection	0,33					
	9	Building Human Resources	1					
		a. Health and nutrition services	0,33					
		b. Education, ECD, training and literacy programs	0,33					
		c. Prevention/treatment HIV/AIDS, tuberculosis/malaria	0,33					
	10	Social Protection and Labor	1					
		a. Social safety net programs	0,2					
		b. Protection of basic labor standards	0,2					
		c. Labor market regulations	0,2					
		d. Community driven initiatives	0,2					
		e. Pension and old age savings programs	0,2					
	11	Environmental Policies and Regulations	1					
		a. Environmental Policies and Regulations	1					
	12	Property Rights and Rule-based Governance	1					
		a. Legal basis for secure property and contract rights	0,25					
		b. Predictability/transparency/impartiality of laws affecting economic activity	0,25					
		c. Difficulty in obtaining business licenses	0,25					
		d. Crime and violence as an impediment to economic activity	0,25					
	13	Quality of Budgetary and Financial Management	1					
		a. Comprehensive and credible budget	0,25					
		b. Effective financial management systems	0,25					
		c. Timely and accurate fiscal reporting	0,25					
		d. Clear and balanced assignment of expenditures and revenues to each level of government	0,25					
	14	Efficiency of Revenue Mobilization	1					
		a. Tax policy	0,5					
D - PUBLIC SECTOR MANAGEMENT AND INSTITUTIONS								

		b. Tax administration	0,5					
	15	Quality of Public Administration						
		a. Policy coordination and responsiveness	0,25					
		b. Service delivery and operational efficiency	0,25					
		c. Merit and ethics	0,25					
		d. Pay adequacy and management of the wage bill	0,25					
	16	Transparency, Accountability and Corruption in the Public Sector	1					
		a. Accountability of the executive to oversight institutions	0,33					
		b. Access of civil society to information on public affairs	0,33					
		c. State captured by narrow vested interests	0,33					

Annex III: The African Legal Support Facility

Background

The African Legal Support Facility, hosted by the African Development Bank, has been supporting African governments in the negotiation of complex commercial transactions since 2010. The Facility was established to address the asymmetric negotiating capacity of African governments when dealing with deep-pocketed international investors. The ALSF is an organization dedicated solely to providing legal advice and technical assistance to African countries.

The Facility was established in response to African Ministers of Finance for assistance in three key areas: (1) commercial creditor litigation; (2) negotiation of complex commercial transactions; and (3) capacity building.

The Facility provides technical legal assistance to African countries to strengthen their legal expertise and negotiating capacity in matters pertaining to: 1) debt management and litigation; 2) natural resources and extractive industries management and contracting; 3) investment agreements; and 4) related commercial and business transactions. The ALSF grants and advances funds to African countries for legal advice from the top legal counsel in these areas. The ALSF's goal is to ensure fair and balanced negotiations.

Rationale

Originally established to assist countries in vulture fund litigation, the Ministers of Finance recognized that one of the underlying reasons for vulture fund litigation was poorly negotiated and drafted contracts and concessions. The reason for the poor contracts was related to improper legal representation and a lack of local capacity.



Activities

The Facility is currently assisting African states on 26 projects. Almost 70% of the projects are related to advisory services work to either directly assist with contract negotiation or to build the legal foundations required to properly negotiate contracts. The areas that the Facility has received the most requests for assistance relate to (1) extractive resources contracts; (2) PPP negotiations; (3) commercial creditor litigation; and (4) debt negotiations. Approximately 43% of the Facility's interventions involve fragile states.

The Facility is experiencing significant interest in its activities from RMCs. In 2011 and 2012, the Facility was averaging about one request per month. In the last 2 months, the average has been one request per week.

Figure III-1: ALSF request and approvals

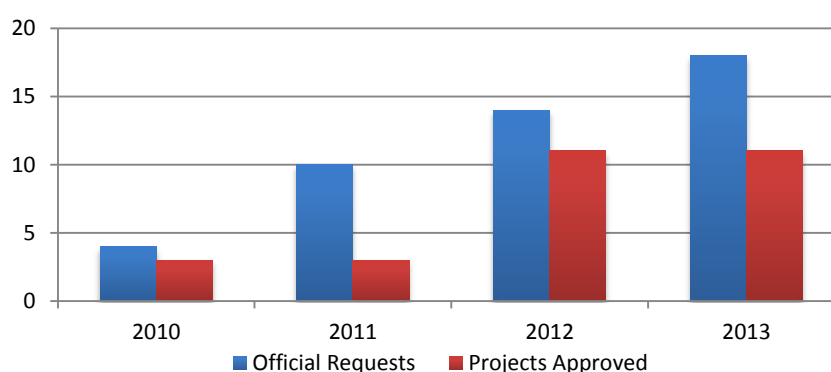
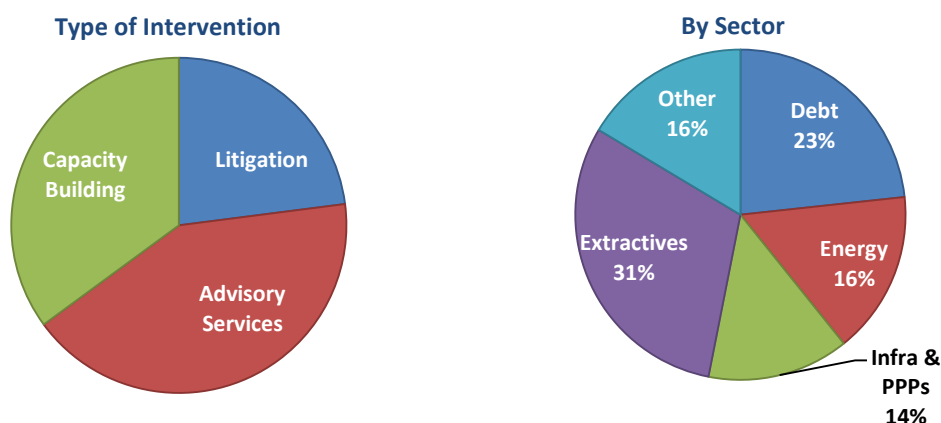
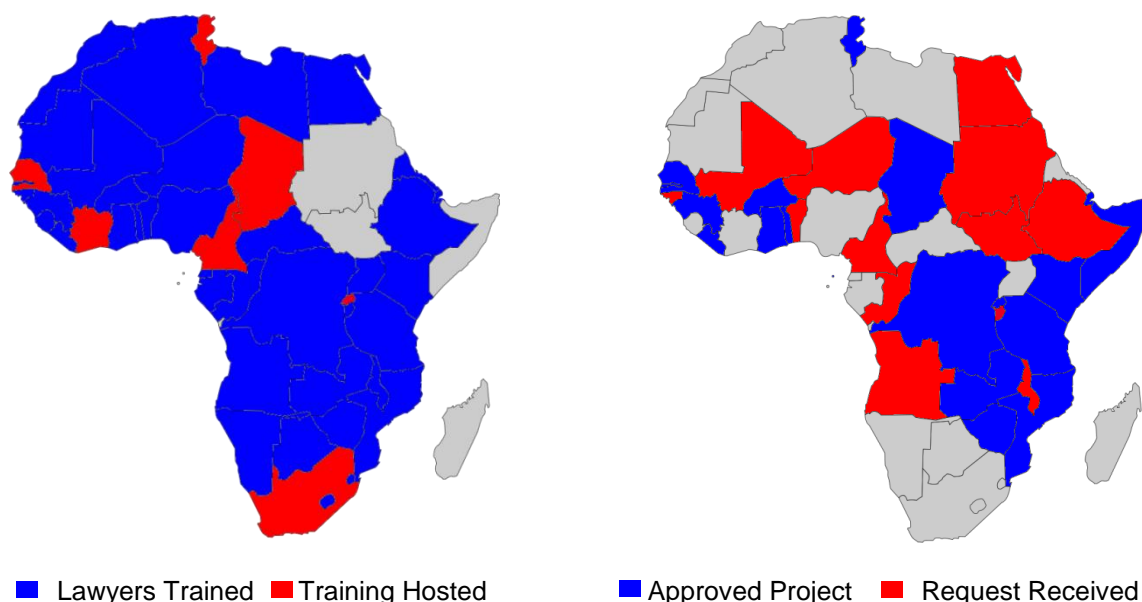


Figure III-2: Activities of the ALSF by type of intervention and by sector



The activities of the Facility have a broad geographic reach. The Facility has trained lawyers in 48 African countries. It has approved projects in 19 countries and currently has requests pending from an additional 14 countries. An additional 23 projects are currently under evaluation.

Figure III-3: Activities of the ALSF on the continent



According to the ALSF 2013-2017 Medium Term Strategy, the Facility will give priority to the following areas: (i) Fragile States; (ii) commercial creditor claims relating to the HIPC arrears clearance process and the Millennium Development Goals; (iii) advisory services relating to extractive resources, infrastructure, and debt; (iv) knowledge transfer to national lawyers.

Membership

Membership in the ALSF is open to all sovereign nations and international organizations. Currently, there are 52 members of the Facility including 47 member countries and 5 international organizations. The ALSF is actively recruiting additional members and support for its operations.

For more information, please contact us at www.aflsf.org or alsf@afdb.org.

Annex IV: FSF Pillar I Resource Allocation

Table IV-1: Pillar I envelop under ADF-13, applying revised discount and top-up factors*

	PBA	Revised Discount							Top-up Multiplier		FSF Pillar I Allocation	
Country	"High 2" ADF-12 Basic Allocation	2012 CPIA (AfDB/WB harmonized) greater than 3.30	Applied discount (10%)	GNI per capita, PPP (current international \$) 2011	Applied discount	Year of re-engagement (enhanced support): Length in 2014 greater	Applied discount	Total Applied Discount (%)	Applied top-up factor X2 & X1.5	Allocation with top-up factor, X2 & X1.5	After discount	Final Allocation (floor = UA10m; ceiling = UA60m)
Burundi	42.36	3.30	10	586.67	20	2004	30	60	1.5	63.55	25.42	25.42
Central African Republic	19.78	2.80	0	783.33	20	2006	30	50	1.5	29.67	14.84	14.84
Comoros	6.01	2.55	0	1,096.67	30	2007	30	60	1.5	9.02	3.61	10.00
Congo DRC	216.86	3.00	0	280.00	0	2004	30	30	1.5	325.29	227.71	60.00
Cote d'Ivoire	76.26	3.10	0	1,760.00	30	2009	0	30	1.5	114.39	80.07	60.00
Guinea-Bissau**	11.1	2.70	0	1,216.67	20	2004	20	40	2.0	22.19	13.32	13.32
Liberia	38.92	3.40	10	483.33	0	2007	30	40	1.5	58.38	35.03	35.03
Sierra Leone	32.94	3.33	10	1,056.67	30	2004	30	70	1.5	49.42	14.83	14.83
South Sudan***	10.97	2.20	0		0	2012	0	0	2.0	21.94	21.94	21.94
Sudan	78.81	2.48	0	2,050.00	0	N/A	0	0	2.0	157.63	157.63	60.00
Togo	33.06	3.10	0	1,000.00	20	2008	0	20	1.5	49.59	39.68	39.68
Zimbabwe	22.46	2.16	0		0	N/A	0	0	2.0	44.91	44.91	44.91
Total current eligibility list	589.55									945.99	678.97	399.96
Somalia	5.6	1.20	0		0	N/A	0	0	2.0	11.2	11.2	11.2
Mali	152.99	3.70	0	1,013.33	0	2014	0	0	2.0	305.98	305.98	60.00
Madagascar	72.95	3.10	0	940.00	0	2014	0	0	2.0	145.91	145.91	60.00
Revised list - Total	821.09									1,409.08	1,142.06	531.16

Notes: *As agreed during the second ADF-13 meeting, revised discount and top-up factors have been applied to calculate Pillar I allocations. Specifically, (i) an additional discount of 10% on the gross Pillar I country allocation for third-cycle recipients (excluding countries in arrears), and an additional 10% discount on allocations for countries whose GNI per capita (on a Purchasing Power Parity basis) is greater than US\$ 1,000; and (ii) Pillar I top-up multiplier of 1.5x for third cycle recipients excluding pre-arrears clearance and newly engaging countries.

**Guinea-Bissau is treated as second cycle recipient due to suspension of Bank operations following the application of de facto gov't status in 2012-2013, (i.e. "lost years"). So 20% discount on length of engagement (-2 years), no additional 10% discount on GNI > 1000, and top-up factor of 2.

***For Sudan, no phase-out discount applied because situation has not been normalized yet.