THE ROLE OF THE AFRICAN LEGAL SUPPORT FACILITY

T he theme for the African Development Bank’s Annual Meetings - Achieving Climate Resilience and a Just Energy Transition for Africa - is timely. Following on the heels of the COP26 held in Glasgow in 2021 which committed to financing a just energy transition; and ahead of COP27 which will take place in November 2022 in Sharm El Sheikh, Egypt, the theme of the Annual Meetings rightly focuses on the opportunities and responsibilities of the continent in the energy transition.

The African Development Bank and other international organisations predict that climate change will lead to significant economic, social, and human development risks, and roll back development gains in many countries in Africa, especially if the continent fails to act.¹ On the other hand, applying mitigation and adaptation measures will contribute to macro-economic stability, job creation, and decreased negative impacts of climate change on development.² Thus, Africa has no choice but to act.

Supporting African countries to achieve climate resilience and a just energy transition is at the core of the work of the African Legal Support Facility (ALSF or the Facility). The knowledge and skills disparity in negotiating investment agreements, PPPs, energy, natural resources and extractives, and other complex commercial contracts that the ALSF was established to resolve, is all the more pertinent to energy transition issues. As climate change issues are still emerging, many countries are yet to fully appreciate the impacts on their socio-economic development. To this end, the ALSF supports African countries, especially transition states, to assess and determine the extent and modalities upon which environmental and climate considerations should be effectively factored into projects.

Excluding climate change events from force majeure provisions could necessitate adaptation and mitigation measures.

It is accepted that global carbon emissions must be reduced to “net zero” by 2050 to avoid the worst effects of climate change. Many countries are making commitments towards this, although sometimes these commitments do not go far enough. Developing countries risk being the worst affected by climate change if they are unable to negotiate effectively to ensure measures that preserve or enhance their economic growth and promote sustainability. "With climate change, we all lose," is an accepted mantra, but without a fair and equitable transition, African countries will lose more.

² Ibid.

Did you Know?

Ghana

- Surface Area: 238,540 km²
- Population: 31.07 million (2020)
- Population density: 137 per sq km (2020)
- Net migration: -0.3% (Statista)
- GDP per capital PPP (2020): $5744.4
- Ghana unemployment Rate: 4.7% ILO estimate (2020)
Harness the collective institutional strengths of Africa for sustained transformation
- President Nana Dankwa Akufo-Addo

The African Development Bank Group’s annual meetings officially opened on Tuesday with a ringing endorsement of the institution by the Ghanaian government and a call on member countries to back the institution as the main engine for the continent’s economic growth.

Accra is host of the group’s annual gathering, which for the first time since 2019 will see in-person sessions.

Speaking at the formal opening ceremony, Ghanaian president Nana Dankwa Akufo-Addo spoke of the continent’s ongoing fiscal and socioeconomic challenges and the importance of the African Development Bank to the continent’s development goals.

Eighteen African economies have faced credit downgrades, amid the headwinds of the impact of the Covid-19 pandemic. The combined effects of the debt situation, rising interest rates and the rising cost of living are resulting in severe macroeconomic and financial instability, the president said.

“What is clear is that the resulting damage cannot be cured so easily with the limited fiscal tools at our disposal and national policy adjustments. Therefore, I reiterate my call for an elevated role for Africa’s premier bank, the African Development Bank,” Akufo-Addo said.

He added: “The African Development Bank is in a position to drive sustained transformation in Africa. With increased financial resources, the Bank could recapitalize key African financial institutions, such as the regional development banks, Afreximbank, Africa Guarantee Fund, Africa-Reinsurance Company and Africa50.”

Ghana’s finance minister, Kenneth Ofori-Atta, who is at the end of his term as current chairman of the African Development Bank Group’s board of governors, said the stakes were high and spoke of the risk of a lost decade.

Africa’s economic growth contracted by 3.2% in 2020 and debt-to-GDP ratios edged up from 60% to 71%, Ofori-Atta noted. The minister said, however, that it was not all bad news. He pointed out: “In truth, growth prospects on the continent are not bleak, especially once Africa is provided with the requisite capital to succeed.”

Calling the African Development Bank a “reliable partner,” Ofori-Atta said it was necessary to support the Bank in raising competitive financing for its members to tackle the continent’s greatest threats: rising food and fertilizer prices, rising fuel prices, tightening financial conditions and climate change. “We must build from our unique resilience and strengthen partnerships,” the minister stressed.

Speaking on behalf of the African Union Chairman, Deputy Chairperson of the African Union Commission, Monique Nsanzabaganwa saluted the African Development Bank Group for its commitment to the African Union’s Agenda 2063. She said the continent’s access to development building blocks, like better water, sanitation and infrastructure, was vital for its transformation. She added that transformation could only be achieved with an elevated role for the African Development Bank in mobilizing the needed resources.

The theme for the African Development Bank Group’s 2022 Annual Meetings is “Achieving Climate Resilience and a Just Energy Transition for Africa.”

Bank Group President Akinwumi Adesina said Africa suffers disproportionately from the negative impacts of climate change, including increased frequency and intensity of droughts, cyclones, floods, compounded by desertification. He said this is despite the fact that Africa contributes the least to global warming, accounting for only 4% of all carbon emissions.

Adesina said: “Climate change is shortchanging African economies. Africa suffers $7-15 billion per year in losses to climate change. These losses are projected to rise to $40 billion per year by 2030. Africa has no choice but to adapt to climate change.

“To support the continent in doing so, the African Development Bank has doubled its financing for climate to $25 billion by 2025. Without any doubt, the African Development Bank is the leader on climate adaptation in Africa, and globally. The share of our climate finance dedicated to adaptation is 67%, the highest among all multilateral development banks.”

In his welcoming remarks, Bank Group Secretary General Vincent Nmehielle said the meetings were intended to promote Africa’s resilience to climate challenges.

Mozambique President Filipe Nyusi, currently on a state visit to Ghana, and President Samia Suluhu Hassan of Tanzania also attended the opening ceremony.

The African Development Bank Group’s meetings run from the 23rd to 27th May.

President Akinwumi Adesina’s statement.
The African Development Bank has signed an agreement with Gabinete de Implementação do Projecto Hidroeléctrico de Mphanda Nkuwa, an implementing entity, to provide advisory services for the development of the $4.5 billion 1,500 MW Mphanda Nkuwa Hydro Power Project in Mozambique.

The agreement was signed Tuesday on the sidelines of the Bank’s Annual Meetings, which are taking place in Accra.

The agreement was signed by Mr Carlos Yum, Director of Gabinete de Implementação do Projecto Hidroeléctrico de Mphanda Nkuwa and Dr. Kevin Kariuki, African Development Bank Vice President for Power, Energy Climate and Green Growth.

President Filipe Nyusi of Mozambique and African Development Bank President Dr. Akinwumi Adesina witnessed the signing. Gabinete de Implementação do Projecto Hidroeléctrico de Mphanda Nkuwa is part of the Mozambique government’s Ministry of Natural Resources and Energy.

The project entails development of a hydropower plant to be located on the Zambezi River in the Marara District of the country’s Tete Province. The plant will be 60 km downstream from Cahora Bassa dam and 70 km upstream from Tete city. A transmission system comprising 1,300 km of 550kV high voltage DC transmission line between Cataxia and Maputo will also be constructed. The Mphanda Nkuwa project is expected to reach financial close by end-2024; commissioning is anticipated in 2031.

“The partnership with African Development Bank further strengthens the capacity of our implementing agency to develop the Mphanda Nkuwa project,” said Mr. Yum. “The agreement consolidates the Bank’s role as Africa’s premier development finance institution, and as a trusted partner and provider of advisory services and assistance in the development of transformative projects.”

Continued expansion of Mozambique’s generation capacity is required to meet growing domestic demand and drive economic and social development. In addition, the southern Africa region offers market opportunities that Mozambique is well placed to meet as a supplier of competitively produced energy. Mphanda Nkuwa is projected to have one of the lowest electricity production costs in the region.

“The project reinforces our efforts to combat climate change in a region that is desperately short of power but equally in need of transformation and a just energy transition. It is also a great privilege to lead the Bank’s team that will be executing this advisory mandate. We are honoured to be chosen by Mozambique to partner on this important project,” said Dr. Kariuki.

The project builds on earlier success in attracting private investment into the country, including several independent power producers (IPPs). These include the 175 MW Central Térmica de Ressano Garcia, the 120 MW Central Térmica de Gigawatt, the 40 MW Mocuba solar plant, the 40 MW Metoro solar plant and, most recently, the 450 MW Temane Power Project.

Mphanda Nkuwa project is included in Mozambique’s National Energy Sector Master Plan 2018–2043 as a national priority, as well as a priority investment for the Southern Africa Power Pool Plan. The project enhances private sector competitiveness through infrastructure development and regional energy trading. It is also aligned with the Bank’s 10-Year Strategy, as well as the “Light Up and Power Africa High-5” strategic priority.
GOVERNORS’ POINTS OF VIEW

ALGERIA
Abderrahmane Raouya

"It is important that developed countries honour their commitment to provide the financial resources to help developing countries mitigate and adapt to climate change. The African private sector should also play a greater role in implementing climate action and environmentally-sustainable investment."

ARGENTINA
Leandro Gorgal

"For many countries, climate action is key to achieving sustained development and investment is heavily influenced by the availability of financial and technical support. The centrality of the role of the African Development Bank thus becomes evident."

AUSTRIA
Magnus Brunner

"Austria is already putting its water expertise at the disposal of the African Development Bank Group, most prominently through our partnership with the African Water Facility."

BENIN
Romuald Wadagni

"The digitalization of the economy is a key ally in this quest. While investment returns are high in Africa, improving the business climate and the macroeconomic framework is essential for attracting foreign investors."

BURKINA FASO
Seglaro Abel Somé

"In 2021, in the context of the relaunch of global economic activity on the back of vaccination campaigns and reduced Covid barrier measures, the Burkinabe economy grew by 6.9%."

CABO VERDE
Olavo Correia

"Some measures to highlight include a focus on the circular water economy and the promotion of fair access to water for the entire population along with its sustainable use, fewer water distribution losses and the promotion of desalination."

CAMEROON
Alamine Ousmane Mey

"The transnational and cross-cutting nature of the issue requires an integrated, holistic approach and the support of development partners, including the African Development Bank Group. In this regard, deepening regional integration is an essential lever for facilitating climate change adaptation."

CÔTE D’IVOIRE
Nialé Kaba

"Côte d’Ivoire has just revised its NDCs, providing for a reduction of 30.41% in its greenhouse gas (GHG) emissions by 2030."

EGYPT
Tarek Amer

"Egypt seeks to mediate opposing views to reach positive outcomes on pressing topics of the international climate agenda."
Africa Day

25 MAY
The opening ceremony on Tuesday officially kicked off the Bank’s 2022 Annual Meetings at the Accra International Conference Center.

A short debrief on Monday between President Akinwumi Adesina and Vice Presidents Kevin Kariuki and Kevin Urama, before the press breakfast.

On D-Day, journalists were among the first to rush to the front desk to pick up their badges.

Smiles and reunions at the Welcome Cocktail on Monday night. After two years of virtual meetings due to Covid-19, it is good to meet again... in the flesh.

On the first day of the Meetings, many were already immersed in the work. Here, during the Dialogue on Tax Efficiency for Domestic Resource Mobilization in Africa.

The Kempinski Hotel hosted the Welcome Cocktail on the evening of the first day of the 2022 Annual Meetings.
An opening show took place during the cocktail event.

It’s hard to miss the giant hashtag for the Annual Meetings of the Bank in front of the AICC in the heart of Accra. Check out Twitter and social media to keep up with us!!

To warm up the dance floor, it always takes a few brave people to set the pace...

... But you can also just admire the show.
Like any great host, you must be able to welcome your guests and other visitors.

African Development Bank Group Secretary General being interviewed by SABC.
The ADF’s 50th anniversary presents the perfect opportunity to take stock of achievements and to re-evaluate the Fund’s pertinence to the new aid landscape, particularly in the ever-evolving context of its clients and the dynamics of traditional and emerging competitors.

The ADF can be proud of its achievements. Since its creation in 1972, it has been an important source of funding, a capacity builder, and a catalytic financier to its clients. Since its inauguration, it has evolved in size and scope. From a quarter of a billion UA in ADF-I, it has grown to a volume of UA 5.4 billion in ADF-15.

Collectively, ADF countries represent nearly 640 million inhabitants, of whom over 75% still live on less than $2.50 a day. ADF countries clearly require special assistance. Many are fragile and conflict-affected, with weak state capacity and vulnerability to a range of shocks. ADF contributes to their poverty reduction and economic and social development by providing funding for projects and programs, technical assistance for studies, and capacity-building activities. The ADF boasts a track record of delivering transformative development impacts in Africa’s low-income and transition states, having cumulatively invested UA 37.0 billion ($51.5 billion) over 48 years of operationalization on the continent and 2,771 projects.

ACHIEVEMENTS. The ADF innovates. It has demonstrated agility and flexibility by adapting its operations and processes to respond to emerging issues of global health pandemics, climate change, fragility, vulnerability, and indebtedness. The creation of a regional operations envelope and a transition support facility to address fragility and build resilience solidified the Fund’s pioneering reputation and its ability to deploy innovative solutions to complex, challenging problems. The regional operations envelope recognizes that the integration of small fragmented markets is an important requirement for national and regional growth, and the transition support facility support balances needs and performance for countries weathering difficult political or economic situations. Within the overarching framework of the Heavily Indebted Poor Countries and Multilateral Debt Relief Initiative (MDRI), ADF played an important role in addressing the debt trap into which most ADF countries fall. By adopting risk mitigation instruments and a credit enhance-

---

3 Center for Global Development. $19 trillion and No Money for the Multilateral Development Banks? Available at: https://www.cgdev.org/blog/19-trillion-and-no-money-multilateral-development-banks
ment facility, the Fund can contribute to the development of the private sector in ADF countries. To mobilize resources, it integrated concessional donor loans and bridge loans into its financial framework. ADF also finances the African Legal Support Facility, which assists governments in negotiating operations primarily in the natural resources sector and supports them against creditor litigation and inequitable commercial agreements. By the end of 2021, the facility had cumulatively approved over $62 million for more than 130 operations in 21 transition states.

ADF is a clear leader in regional integration. Across recent ADF cycles, the Bank has positioned itself as the continent’s leading financier for regional transport corridors, regional energy pools, cross-border industrial and agricultural value chains, and joint management of cross-border resources, such as forests and river basins. From 2011-21, ADF injected close to $9 billion in multinational projects (UA 6.4 billion). Of that amount, 55% went to infrastructure projects, another area where ADF leads. The Fund uses its unique regional operations envelope cost-sharing mechanism to incentivize ADF countries to work together and overcome common regional bottlenecks through dialogue and investments. The same mechanism allows it to attract co-financing from partners to take on transformational development operations on a scale that individual ADF countries could not. ADF’s financial additionality is even more valid in low-income countries where there is no available private finance on favourable terms. Through its private sector facility, it shares risk in ways that make public-private transactions viable and attractive.

ADF stood by Africa’s poorest countries through the 2008-09 global financial crisis, the 2014 Ebola outbreak in West Africa, and more recently, the Covid-19 pandemic, which proved unprecedented in scale and impact. ADF demonstrated its ability to respond rapidly and at scale, reprioritizing its operations and putting in place an agile, targeted program to mitigate the impacts of the pandemic through the Covid-19 Response Facility. Of the $3.6 billion that the Bank spent on its Covid-19 response, $13 billion came from ADF with 36 operations approved between May-November 2020 to help those most in need.

CHALLENGES AND OPPORTUNITIES. The challenges facing Africa today are of a new order of magnitude and complexity. The pandemic has eroded decades of hard-won progress, and existing challenges have been magnified. Government revenues are falling, and debt vulnerabilities are rising; risks of fragility, conflict, and instability are on the rise. ADF countries are uniquely exposed to the accelerating impacts of climate change, and least equipped to deal with its consequences. Add to this the surging global wheat prices and rising fuel prices resulting from the war in Ukraine that seriously threaten Africa’s food security.

In this bleak scenario, there are also unique opportunities for ADF countries. Most the world’s unused arable land is located in Africa, which offers a huge potential to expand its production of food staples. With the right investment in rural infrastructure and agricultural productivity, African can not only be food secure, but can also become the world’s breadbasket and a key player in global food supplies. The new African Continental Free Trade Agreement offers an opportunity that must be taken to drive the development of agricultural value chains, creating opportunities for the rural poor and engineering inclusive growth.

THE NEXT 50 YEARS: A BOLDER VISION FOR AFRICA. For 50 years, the ADF has lived up to its mandate of providing concessional resources to Africa’s poorest countries. The value addition of ADF resources comes from its combination of concessional financing, technical assistance, and convening power. Often understated is the quality of ADF assistance. Borrowing from the private sector and non-concessional official bilateral lenders’ impose no conditions on key issues such as environmental/social safeguards, gender and procurement rules; conditions that have been introduced to build a better, more sustainable, more inclusive Africa. Choosing the non-concessional path invariably re-creates a form of development that has been detrimental to the continent and its people. For this reason and given the financing needs facing Africa, the ADF must remain relevant in an evolving aid architecture with larger traditional and new financiers.

The next 50 years need to fit within a bolder vision for Africa and for ADF. This starts with a historical ADF-16 replenishment to ensure that ADF countries build back better and stronger. To mark the 50th anniversary, we aim to mobilize $50 billion in resources for ADF countries over the next eight years to deliver transformational impact. Internally, we will press ahead with an ambitious program of institutional reforms to ensure continuous improvement in the quality of support to our clients.
AFRICAN DEVELOPMENT BANK 2021 CLIMATE FINANCE

$2.426 Billion
41% of all Bank approvals

BY SECTOR

AGRICULTURE 24%
ENERGY-POWER 21%
TRANSPORT 16%
WATER 12%
MULTI-SECTOR 12%
FINANCE 7%
ENVIRONMENT 4%
INDUSTRY 2%
SOCIAL 1%
URBAN DEVELOPMENT 1%
In 2017, 32-year-old Hamsa Hamidou of Simiri in southwest Niger’s Tillabéry region, was given a cow. Three years later, he sold it and used the money to buy a sheep and ewe. “I fattened them and then sold them. I continued this way and three years later, I had four ewes, three sheep, and a cow,” he says.

Supported by the Programme for Strengthening Resilience to Food and Nutrition Insecurity in the Sahel (P2RS), Hamidou’s small-scale enterprise has allowed him to be financially independent and to meet his family’s needs.

Launched in 2015 and completed this year, the programme was financed by the African Development Fund, the concessional window of the African Development Bank Group, through a grant and a loan of $22.79 million each.

Forty-year-old Ibrahim Bako also benefited from programme. A resident of Nakwana, in southern Niger’s Maradi region, Bako got help to fight the drifting sand dunes, a major agricultural hazard in the region. “The dunes bury our fields and wells. We mobilized our young people and used whatever means we had to address the problem,” he explained. “We stabilized 10 hectares to begin with, and then 30 hectares the second year. It was so successful that we not only secured the dunes but were also given funding to seed herbaceous plants and 12,000 seedlings. Today, the site is rich in biodiversity thanks to the return of wildlife and plant species.”
A 10-person management committee has been set up to protect the site from wandering animals. The committee has set a tax on owners whose animals are found on the site and puts the money that is collected into its account to replace destroyed or dead plants.

The programme has also set up a "goat kit" that has enabled women in four municipalities to expand their production of goat milk. They have sold over 8,070 litres for a turnover of $4,400. A large part of the milk was used to improve household nutrition, particularly for children and babies. People in these communities also sold 38 animals for $1,150 to cover vital social needs such as medicine, food, and paying for marriages. Donations and personal consumption, for example for the Tabaski sacrifice and baptisms, accounted for about 80 goats, worth nearly $1700.

The programme has also invested in water control. Small-scale irrigation work has made 650 hectares cultivable, boosting agricultural production (food and cash crops) for 6,500 households or nearly 45,500 beneficiaries. Additional production, which mainly benefits women, totalled 13,261 tonnes during the last growing season.

The programme has shown that these investments can be profitable and can significantly improve the well-being of farmers, and diversify their sources of income.

Twenty-six water points (boreholes, pumping stations and wells) have been built and are meeting the needs of about 12,000 people and 20,914 livestock. Construction of 16 village and urban hydraulic systems, including six manual pumps and seven small-scale drinking water supplies, have provided water to more than 50,000 people and 19,981 tropical livestock through multi-village connections.

"The project, which began in 2015, was carried out in 25 municipalities spread over seven of Niger’s eight regions. It focused on the municipalities most exposed to climate change, where populations are particularly vulnerable," explains Allachi Boukar, the national coordinator of the P2RS programme in Niger. "We have developed an innovative approach including the establishment of “farmer field schools” with technical management. People see the positive changes for themselves, which helps to change mind-sets and agricultural practices.”
The African Development Bank’s plan to feed the continent

African Development Bank Group President Dr. Akinwumi Adesina on Monday 23 May outlined the Bank’s plans to address the looming food crisis threatening Africa as a result of the war between Ukraine and Russia.

“I’m optimistic. Africa will not experience a food crisis. We have the means to overcome this challenge!” Adesina said. He was briefing journalists from 41 countries in Africa and around the world at a media breakfast held to mark the start of the African Development Bank Group’s Annual Meetings, being held in Accra from 23 to 27 May. “Africa needs only to produce its own food. It should not have to be begging for food. There is no dignity in begging for food,” he added.

The President explained all the efforts made and results achieved in terms of resilient agriculture in East Africa, thanks to the Bank, especially in Sudan and Ethiopia, which have been able to avoid importing wheat thanks to record production of 650,000 tonnes. He highlighted the importance of the Technologies for African Agricultural Transformation (TAAT) program for African producers’ resilience.

Dr. Adesina pointed out that the Bank Group’s Board of Directors had on Friday approved the $1.5 billion African Emergency Food Production Facility, developed by the institution to address the food crisis looming over Africa due to the Russia-Ukraine conflict.

The facility will provide agricultural seeds to 20 million African producers. The varieties include wheat, maize, rice and soybeans. The objective is to produce an additional 38 million tonnes of food and to generate $12 billion in value over the next two years. “In agriculture, we know what we’re doing. Africa must be a solution for the world in respect of food, and so it shall be. Sixty-five per cent of African land is arable, and the use that Africa makes of this land will determine the future of the entire planet,” Adesina said.

Moving towards stable energy systems

The other challenge facing the continent is climate change. “Climate change is a threat to the continent. Its effects are devastating. When I look at what happened in South Africa – where floods led to nearly 500 deaths and a lot of damage – or in Mozambique, Madagascar, or the Horn of Africa, land has been swallowed up,” Adesina said. Africa is suffering annual losses from the effects of climate change in the range of $7 billion to $15 billion and this figure will stand at $50 billion by 2040. It will, therefore, take $16 trillion between 2020 and 2030 to combat the effects of climate change in Africa. However, the continent does not receive enough funding to cover its needs. African receives only 3% of global climate funding.

“We will no longer finance coal,” the President said. This is the Bank’s adopted position, forming part of our policies in the fight against climate change. Also, renewable energy alone cannot meet Africa’s needs. We also need stable energy systems. Natural gas must remain a stable energy system in Africa,” he insisted.

President Adesina said it was time for the continent to prosper. “Our people deserve this. And so, they should have stable energy systems. We are committed to investing $25 billion for adaptation in Africa. But our efforts will not suffice on their own. At COP15, in Copenhagen, developed countries promised $100 billion a year. They must act now; it is time,” he said.