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LEGAL ALERT

KEY HIGHLIGHTS FROM THE UNITED
NATIONS CLIMATE CHANGE CONFERENCE
(COP27) - FINANCE DAY



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The United Nations Climate Change Conference 2022 (COP27) closed on 20th November 2022 with various key breakthroughs that are expected to impact climate change significantly. Of particular note are deliberations and resolutions passed on the 'Finance Day'. Finance plays a key role in implementing climate actions and scaling up ambition and hence was at the heart of COP27's discussions.

COP27's Finance Day featured discussions on innovative financial instruments, blended finance, tools and policies to scale up and enhance access to climate finance for instance, debt for environment swaps and reducing the cost of green borrowing. Finance Day also saw the launch of the "Sharm El-Sheikh Guidebook for Just Financing", a guidebook that captures opportunities to leverage and catalyse the needed finance and investment to support climate action. Some key areas discussed on Finance Day at COP27 include:

1. Reducing the Cost of Green Borrowing:

Liquidity and Sustainability Facilities

Liquidity and Sustainability Facilities (LSFs) seek to lower the cost of borrowing and increase the demand of sovereign bonds offered by countries. The reduced cost of borrowing is expected to free up resources for development and to stimulate investment and demand in an economy. This would pave the way for private investors to exchange African bonds for liquid cash from various institutions as they are anticipated to be more secure due to their increased liquidity and to attract the private sector to participate with the reduced

borrowing costs and consequently increased private capital to close the funding gap.

LSFs are also intended to occasion the channelling of investor funds that are not only risk-adjusted and designed to deliver attractive returns, which are environmentally friendly and sustainable, and serving as vehicles for debt management and fiscal sustainability.

Sustainability Sovereign Debt Hubs

Sustainability Sovereign Debt Hubs are hubs established with the aim of providing facilitation for sovereign debt issuances which have been aligned with key green finance policies and publications. These hubs assist to scale performance-linked sovereign debt by reducing the cost of capital, supporting ambitious action on climate resilience, and making sovereign debt responsive to climate change, sustainable development, and nature restoration.

Harmonization of ESG Standards

This entails the establishment of adequate green finance architecture such as policy, standards, and regulation. The International Sustainability Standard Board (ISSB) is working to introduce a global baseline of sustainability disclosures to meet needs of capital markets such as transparency, accountability, efficiency and comparability across the markets. The harmonization of ESG Framework could facilitate access to performance-based green, blue and sustainable financial instruments and the development of innovative financing mechanisms.

Development of Capacity in Green, Social and Sustainability Bonds

Green Social and Sustainability (GSS) bonds are bonds that are issued and listed on national stock exchanges that create the opportunity for public and private sector issuers to access lower-cost capital to finance sustainable projects. The limited information and capacity on GSS bonds are a major hinderance with respect to their access and issuance. As such, capacity should be built to ensure the growth and development of climate finance in the private sector.

Guarantees from Multilateral Development Bonds

Multilateral Development Bonds (MDBs) play a key role in mobilization of external finance. As such, MDBs can guarantee debt instruments to allow for an improvement of the issuer's debt profile thereby occasioning higher credit rating and lowering the cost of borrowing. These guarantees are instrumental in lowering the cost of green borrowing and climate finance in general.

2. Introduction of Climate Resilient Debt Instruments

During COP27's Finance Day session, the United Kingdom announced the publication of key design principles which will underpin Climate Resilient Debt Clauses (CRDCs) for use in private sector lending, other bilateral lenders and the international financial institutions. Additionally, there was the development and publication of a 'model term sheet' which will include CRDCs.

Some key clauses that have been introduced in for climate resilient debt instruments include: the deferral of capital and interest repayments; the length of deferral of capital and/or interest repayment; repayment modalities for deferred debt; number of deferrals subject to negotiations between the parties and the length of the debt instrument; trigger mechanisms for debt deferral; seniority of instruments including CRDCs; taxation and pricing.

3. The Sharm El-Sheikh Guidebook for Just Financing

The Sharm El-Sheikh Guidebook for Just Financing (the Guidebook) provides a unique actionable framework for enabling access to equitable and inclusive financing for climate action and providing policy recommendations to support Just Financing decision-making. The Guidebook also spells out the various types of climate finance and climate-related finance such as low carbon finance, climate finance, green finance, and sustainable finance and their use in the private sector. The Guidebook also offers insight on a governance structure for just climate finance including principles relevant to climate finance governance, information/reporting systems and domestic and international governance.

Conclusion

The just concluded COP27 discussions sees countries and players in the private sector make key considerations with respect to sustainable financial instruments and modes of sustainable finance.

We are keen to see the implementation of some of these recommendations within the private sector and the growth of sustainable finance in general.

Disclaimer

This alert is for informational purposes only and should not be taken to be or construed as a legal opinion. If you have any queries or need clarifications, please do not hesitate to contact Pamella Ager, Managing Partner, (pamella@oraro.co.ke), and Anna Kandu, Associate, (anna@oraro.co.ke) or your usual contact at our firm, for legal advice.



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