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AfCFTA and Climate Action:

How Africa can achieve industrial growth without sacrificing Net Zero

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Introduction

This piece is angled from the position that platforms for cooperation & collaboration already exist for resilience sustainability in facing climate challenges for Africa. The mission is therefore to highlight some hidden pillars that need three "As"- Activation, Advocacy and Action.

The African Continental Free Trade Agreement (AfCFTA) promises are real; with a projection of significant economic growth being the world's largest free trade area by number of participating countries, connecting 1.3 billion people with a combined GDP of approximately $3.4 trillion with major industrialisation through regional continental integration larger scale mergers and increased addressable markets.[2]

> It is not difficult to see the possible increase in greenhouse gas (GHG) emissions and environmental degradation that comes with the anticipated growth that heavy industry brings – the most desirable outcomes of growth in Africa could be a threat to sustainability. Almost 'Growth versus Climate.'

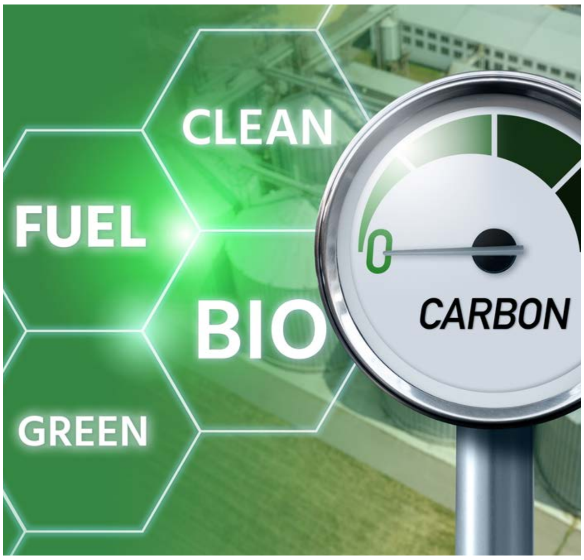
2 Brookings: The Future of African trade in the AfCFTA era (August 2024)

No doubt heavy industry and trade expansion will involve increased supply chain demands that will in turn lead to logistical demands, in rail, aviation roads and the entire transportation sector[3]. Industrial activity is the second-largest global source of energy sector CO2 emissions, accounting for around 9 Gt (gigatonnes) of CO2 in direct emissions today, or around one-quarter of total energy system emissions – including both energy-related and industrial process emissions. When indirect emissions from electricity and imported heat generation are included, this increases to around 16 Gt of CO2 or about 45% of total energy system emissions. Thus, the industrial sector has a vital contribution to make in achieving a net zero aspiration. Three key industries account for 70% of those emissions: steel, cement and chemicals production, all of which we can collectively refer to as heavy industries[4].

The materials produced by these industries form some of the fundamental inputs to buildings, infrastructure, vehicles, consumer goods, food production and many other uses that are integral to thriving economies and our daily lives. This includes meeting demand for materials required by the technologies and infrastructures crucial to delivering a net zero emission energy system, such as rail infrastructure and renewable electricity generation technologies. Society will still need these materials far into the future – even if the most ambitious efforts to pursue material efficiency, behavioural change and a circular economy are implemented. Drastically reducing emissions from real and potential heavy industries is therefore an important response to the climate challenge.

As of early 2026, the global effort to reduce emissions from heavy industry (steel, cement, chemicals) is transitioning from voluntary pledges to "proof-of impact" implementation, characterized by accelerated, though uneven, adoption of green technologies and a surge in public private partnerships. While emission intensity has begun to decline with a 3% decrease reported from 2019 to 2025, overall absolute emissions cuts face challenges from rising production in emerging economies.

As we all know strong policy and nuanced legislation will always play a key role in



3 One of the standout findings in the *2026 Global Trade Report*
4 Egypt then Nigeria are Africa's Largest Cement producers with Conglomerate Dangote controlling 60% of the market https://dangotecement.com/wp-content/uploads/2022/06/new-Dangote-cement-AR2021.pdf

reducing emissions. Additionally renewable energy (particularly hydro but also solar, wind) is also a primary strategy for reducing greenhouse gas emissions to achieve net zero by 2050, as the power sector, which drives heavy industry, is the largest source of global emissions.

In fact, since 2004, the global renewable energy sector has experienced consistent and remarkable growth. Investment in the sector surged from $50 billion in 2004 to an unprecedented $1.7 trillion in 2023. By 2024, total global energy investment had exceeded $3 trillion, with clean energy technologies and infrastructure accounting for more than $2 trillion of that amount[5].

In Africa there must be a new consensus on advocation and implementing regional energy pools as proper scaled climate action these **Regional Energy Pools** like the West African Power Pool and the Eastern Africa Power Pool to share surplus renewable energy such as solar, wind, and geothermal across borders, will increase availability reduce reliance on fossils across borders drive down costs and improve local grid stability.

How then can African states, through continental cooperation, get the balance of growth with heavy industry that AfCFTA portends and achieve 'Right Decarbonisation'?

Sustainability Action

The AfCFTA State Parties have accepted obligations in global and continental multilateral legal instruments dealing with sustainable development and climate change. The United Nations (UN) adopted the Sustainable Development Goals (SDGs) which are also incorporated in the goals of African Union's (AU) Agenda 2063. The AU also adopted the Climate Change and Resilient Development Strategy and Action Plan 2022 – 2023. The overall objective is to build "the resilience of African communities, ecosystems and economies, and supporting regional adaptation"[6]. It emphasises equitable access to sustainable development and the eradication of poverty, while recognising the specific needs and special circumstances of African countries.

5 IEA Clean Energy investing is extending its lead over fossil fuels boosted by Energy Security strengths 2003

6 This objective is the central goal of the African Union Climate Change and Resilient Development Strategy and Action Plan (2022-2032)

This Strategy aims to develop resource-efficient industry and make key sectors such as agriculture and food systems, water resources, energy, infrastructure and transport more climate-resilient. It also highlights the need to build on local and indigenous knowledge, and to create safety nets so that no one is left behind in the green transition.

Investment Protocol

The AfCFTA Investment Protocol demands- by its very nature as a continental platform – cooperation and collaborations between states. The Protocol contains provisions on climate change; it stipulates for investment to contribute to sustainable development. The Investment Protocol directly ties sustainable development, and climate change stipulates that the individual State Parties have an "inherent right… to regulate in their territories and to introduce measures in order to achieve their national public policy objectives". African Countries particularly Nigeria have sustainable environment as a national policy objective in the constitution of the Republic.

The AfCFTA Investment Protocol stipulates Sustainable Development-
Related Issues. Article 24 says each State Party has a:

Right to Regulate

> *"In accordance with customary international law and other general principles of international law,* ***each State Party has the right to regulate,*** *including to take measures to ensure that investment in its territory is consistent with the goals and principles of sustainable development, and with other national environmental, health, climate action, social and economic policy objectives and essential security interests"*

Specifically, Article 26 of the Investment Protocol says each State Party **shall:**

a. **promote and facilitate investments that support actions to mitigate greenhouse gas emissions and measures to adapt to the negative impacts of climate change;**

b. promote and facilitate investments that support initiatives conducive to the financing of regional climate mitigation and adaptation programmes;

c. promote and facilitate investment of relevance for a fair and just transition in sectors such as renewable energy, low carbon technologies, and by **adopting** policy frameworks conducive to transfer and deployment of climate-friendly technologies and goods and services, taking into account socio-economic constraints, in particular those related to the transition of the workforce;

d. promote, **facilitate and encourage new investment regimes, such as low or zero carbon Special Economic Zones**;

e. encourage investments that mitigate climate change impacts on exhaustible natural resources such as fresh water and biological diversity; and

f. cooperate with the other State Parties on investment-related aspects of climate change policies and measures.

The advocacy of focused initiatives must be intentionally pursued such as regional Low or zero carbon Special Economic Zones (SEZs) while SEZs are in use all over the continent the special feature of concentrated balancing of economic incentives while in an ecosystem dedicated to best climate practices must be encouraged in industrial development.

For this reason, the Investment protocol can be referred to as the climate friendly protocol or the environmental[7]. However, I recommend here that a dedicated Protocol must now emerge as the responsive and responsible necessary framework, to deepen the intensity and scope of state's obligations a sustainable climate environment including decarbonisation measures such as internal statutory regulation.

But more importantly Article 26 of the Investment protocol can be seen as actually a treaty obligation for African states to establish obligatory mandatory regulation of decarbonisation by stipulating the taking of "**actions to mitigate greenhouse gas emissions"**[8]. It is no longer to be advanced as a 'nice to have' framework. Nigeria has taken the tentative positive direction towards this with its Decarbonisation Bill 2026[9] which when passed into law will not only be a market stimulant and a sustainability measure, but a true measure of the AfCFTA treaty obligation. The bill incidentally promises at paragraph 6 to: "establish and operate the national MRV (measurement reporting and verification) registry and ensure transparency and public access to non-confidential data"

We also recommend regional cross border actions for scale and greater effectiveness creating **Cross-Border Ecosystems** by Protecting shared natural resources through continental

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7 AfCFTA does not have a single, standalone "Protocol on Sustainability" adopted yet, it deeply integrates sustainability through the **Protocol on Investment (PoI)**

8 See `article 26 (a) of the Investment Protocol

9 A proposed Nigerian Mandatory National Decarbonisation Bill, advancing through the House of Representatives as of early 2026, aims to establish a legal framework to drive a low-carbon economy. It seeks to create a National Decarbonisation Authority (NDA) to harmonize climate policies, regulate carbon markets, and enforce mandatory emission-reduction targets across sectors complementing the Climate Change Act 2021

mandates, such as the African Union's *Great Green Wall* initiative[10], which combats desertification, restores degraded land, and supports local livelihoods across multiple countries.

International Law and the *'Obligation of States in respect of Climate Change' (Advisory Opinion) (General List No. 187, 23 July 2025)*

The *Obligation of States in respect of Climate Change* case is a decision of the International Court of Justice (ICJ) delivered in 2025. It is the most important decision today under Treaty and customary international law, directing as a matter of law that states must act with due diligence and do their utmost to mitigate climate change which necessarily includes decarbonisation. The small Island state of Vanuatu launched as part of a diplomatic campaign canvassed at the United Nations General Assembly (UNGA) measures to compel UNGA to request an Advisory Opinion (AO) from the ICJ, under Article 96 (2) of the UN Charter. The campaign was successful and by its wordings, the AO elevated the maintenance of emissions at 1.5C from a mere proposal to a binding legal obligation. It also expressly provides that the continuous issuance of licences for fossil fuel exploration, may constitute a breach of that obligation. Where there is a breach of an obligation in international law, what ensues is an internationally wrongful act attributable to a State, which triggers State Responsibility under the Draft Articles of State Responsibility (ARSIWA). This is a ticking time-bomb for Nigeria and all OPEC states.

Although the court's opinions are often said to be non-binding but advisory, however and more importantly they clarify and therefore create binding international law. While the ultimate ICJ decision recognizes that key global mitigation duties arise from the Paris Agreement in obligations to maintain Nationally Determined Contributions (NDCs)[11] to international mitigating levels. The decision also requires "states to be proactive and **procure measures** that are reasonably capable of achieving their NDCs[12]"

The court also found that "adverse effects of climate change may impair the effective enjoyment of human rights[13]" and that states must give due account to protection of human rights in their **climate standards and legislation and in the**

10 Launched in 2007 by the African Union, the Great Green Wall Initiative (GGWI) is an 8,000 km pan-African project aiming to restore 100 million hectares of degraded land in the Sahel. It fights desertification and climate change, while striving to sequester 250 million tons of carbon and create 10 million green jobs by 2030

11 An NDC (Nationally Determined Contribution) is a country's self-defined national climate action plan under the Paris Agreement

12 *Obligations of States in respect of Climate Change* (paras 251-254)

13 Ibid (para 386)

regulation of private activities[14]. Finally, the court recognised the first principle of sustainability as a legal obligation in the state's duty to "reconcile economic development with protection of the environment[15]"

So, we see that like the rest of the world, Africa including Nigeria have international law duties to take such measures as the Decarbonisation Bill as responsible member of the comity of nations.

The Constitution & National Legislation:

The Constitution of Nigeria addresses the environment primarily through Section 20, which falls under the Fundamental Objectives and Directive Principles of State Policy. It mandates that "The State shall protect and improve the environment and safeguard the water, air and land, forest and wildlife of Nigeria. Thereby creating a national obligation to implement protection of the climate through, I suggest, measures including regulatory policies such decarbonisation legislation amongst others. With meaningful global trends towards industrial decarbonization, African states must shift from setting long term voluntary goals to immediate verifiable action *including mandatory legislation* like the Nigeria Decarbonisation Bill. And to shift away from fanciful pilot projects towards scaling proven mitigation technologies like green hydrogen and carbon capture.

North Versus South Approaches to Industrial Decarbonisation

There is an undeniable, accelerating global shift from voluntary sustainability goals to strictly enforced, mandatory Decarbonization and climate disclosure legislation. Governments and regional bodies are enacting sweeping legal frameworks to institutionalize greenhouse gas (GHG) reporting and emissions reductions.

Pursuing Industrialisation – Sustainably

As most global south countries are yet to fully achieve - much needed -industrialisation, this drives an argument for continued industrial utilisation of brown resources, *which needs to be intentional and mandatorily controlled by legislation.*

Phased and Conditional Decarbonisation

Global south countries should seek a more focused, intentional and regulated decarbonisation policy as development and heavy industries increase as anticipated now is the time to act *principally through mandatory legislation.*

14 Ibid (para 403)

15 Ibid (para 147) see the principle from *Gabcikovo-Nagymaros project case (Hungary/Slovakia) (Merits)(1997) ICJ Rep 7,78 para 140*

CONCLUSIONS

The African Union's adopted the Climate Change and Resilient Development Strategy and Action Plan 2022 – 2023 creates treaty obligations along with AfCFTA.

AfCFTA in having the multiplier effect in development and industry will challenge our climate change policies and readiness. In tandem with global trends, we must look towards compliance through regulation in emission reduction.

> Fortunately, there is a linkage between the Article 26 AFCFTA obligations and global climate change action and states like Nigeria with a Decarbonisation Bill 2026 in progress will not only follow best policy but meet treaty obligations in doing so. Making the case for the Bill more compelling.

In the face of growing global trends, voluntary compliance will not achieve international targets for GHG reductions. There is a clear urgent case for mandatory sensible sustainable Decarbonisation policies in Africa particularly growing economies such as Nigeria. This is supported by law. The constitution of Nigeria at section 20 makes the non-justiciable obligation clear. A Decarbonisation legislation will meet this obligation.

A U T H O R

OLASUPO SHASORE SAN

PARTNER

T: +234 201 700 2572
E: oshasore@alp.company

ALP | NG & Co.

CONTACT US:

Lagos
15, Military Street, Onikan, Lagos

+234 201 700 2570-9

Abuja
3, Lobito Crescent, Wuse 2, Abuja

+234 209 700 2570-9

www.alp.company

alp@alp.company

ALP NG & Co

alpng.co

ALPNigeria