REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

COMMITTEE ON DELEGATED LEGISLATION

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REPORT
ON

THE DRAFT PRIVILEGES AND IMMUNITIES (AFRICA FINANCE CORPORATION) ORDER, 2026

OCTOBER 2026

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 13 OCT 2026
DAY. TUESDAY
TABLED BY: HON. GICHIMU GITHINJI, MP (VICE CHAIRPERSON)
CLERK-AT-THE-TABLE: INZOFU MWAKE, HSC

NATIONAL ASSEMBLY
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LIST OF ABBREVIATIONS AND ACRONYMS

AFC	Africa Finance Corporation
AfCFTA	African Continental Free Trade Area
CBS	Chief of the Order of the Burning Spear
DLS	Directorate of Legislative and Procedural Services
EBS	Elder of the Order of the Burning Spear
EGH	Elder of the Order of the Golden Heart
KANU	Kenya African National Union
KRA	Kenya Revenue Authority
MP	Member of Parliament
ODM	Orange Democratic Movement
UDA	United Democratic Alliance
UDM	United Democratic Movement
UPA	United Progressive Alliance
UPIA	United Party of Independent Alliance
USD	United States Dollar
VAT	Value Added Tax
WDM-Kenya	Wiper Democratic Movement-Kenya

CHAIRPERSON'S FOREWORD

The draft Privileges and Immunities (Africa Finance Corporation) Order, 2026 is proposed to be made by the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs under section 9 of the Privileges and Immunities Act, Cap. 179. In accordance with section 17 of the Act, the Cabinet Secretary submitted the draft Order to the National Assembly for approval before it is made and published in the Gazette.

The draft Order was received by the Clerk of the National Assembly on 13th August 2026 and laid before the House on Tuesday, 18th August 2026 by the Deputy Leader of the Majority Party, after which it stood committed to the Committee on Delegated Legislation for scrutiny.

The purpose of the draft Order is to give the force of law in Kenya to the legal capacity, privileges and immunities of Africa Finance Corporation, a multilateral financial institution of which Kenya is a member State, and of its officials, in accordance with the AFC Establishment Agreement and the Host Country Agreement signed on 23rd April 2026 for the establishment of a Regional Office of the Corporation in Nairobi.

Pursuant to section 16 of the Statutory Instruments Act, Cap. 2A, the Committee met the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, H.E. (Dr.) Musalia Mudavadi, EGH, at its 47th Sitting held on Thursday, 8th October 2026. The Prime Cabinet Secretary briefed the Committee on the draft Order, and Members examined its legal and fiscal effect.

The Committee found that the draft Order is within the powers conferred by section 9 of the Act, that it confers no privilege or immunity greater than the international agreements require, and that its exclusions protect persons who transact with or are employed by the Corporation. The tax exemptions conferred constitute revenue forgone to be accounted for under Article 210 of the Constitution.

Having examined the draft Order against the Constitution, the Privileges and Immunities Act, Cap. 179, the Statutory Instruments Act, Cap. 2A and the Interpretation and General Provisions Act, Cap. 2, the Committee recommends that the House **APPROVES** the draft Order.

I thank the Speaker and the Office of the Clerk for the support accorded to the Committee, and the Members and Secretariat for their diligence in considering the draft Order.

On behalf of the Members of the Committee on Delegated Legislation and pursuant to Standing Order 210, it is my pleasure and duty to present to the House the Committee's ***Report on the Consideration of the Draft Privileges and Immunities (Africa Finance Corporation) Order, 2026.***

HON. CHEPKONG'A KIPRONO SAMUEL, CBS, M.P.
CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Committee on Delegated Legislation is established under ***Standing Order No. 210*** of the National Assembly Standing Orders and is mandated to scrutinise statutory instruments submitted to the House.
2. Pursuant to Standing Order 210 and section 13 of the Statutory Instruments Act, Cap. 2A, the Committee is mandated to consider, in respect of any statutory instrument, whether it:
    a) is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws;
    b) infringes on fundamental rights and freedoms of the public;
    c) contains a matter which, in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
    d) contains imposition of taxation;
    e) directly or indirectly bars the jurisdiction of the Courts;
    f) gives retrospective effect to any of the provisions in respect to which the Constitution or the Act does not expressly give any such power;
    g) involves expenditure from the Consolidated Fund or other public revenues;
    h) is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
    i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
    j) appears to have had an unjustifiable delay in its publication or laying before Parliament;
    k) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;
    l) makes rights, liberties or obligations unduly dependent on insufficiently defined administrative powers;
    m) inappropriately delegates legislative powers;
    n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
    o) appears for any reason to infringe on the rule of law;
    p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
    q) accords to any other reason that the Committee considers fit to examine.

1.2 Committee Membership

3. The Committee membership comprises:

Chairperson
Hon. Chepkong'a Samuel Kiprono, CBS, M.P.
Ainabkoi Constituency
UDA

Vice-Chairperson
Hon. Githinji Robert Gichimu, M.P.
Gichugu Constituency
UDA

Committee Members

Hon. Mbui Robert, CBS, M.P.
Kathiani Constituency
WDM-Kenya

Hon. Ole Sunkuli, Julius Lekakeny, EGH, EBS, M.P.
Kilgoris Constituency
KANU

Hon. Dr. Onchoke, Mamwacha Charles, M.P.
Bonchari Constituency
UPA

Hon. Waithaka, John Machua, M.P.
Kiambu Constituency
UDA

Hon. Yakub Adow Kuno, M.P.
Bura Constituency
UPIA

Hon. Mwirigi John Paul, M.P.
Igembe South Constituency
UDA

Hon. Chepkorir Linet, M.P.
Bomet County
UDA

Hon. Oluoch, Anthony Tom, M.P.
Mathare Constituency
ODM

Hon. Okoth, Moses Omondi, M.P.
Butere Constituency
ODM

Hon. Mugabe Innocent Maino, M.P.
Likuyani Constituency
ODM

Hon. (Maj) (Rtd) Dekow Barrow Mohamed, M.P.
Garissa Township Constituency
UDA

Hon. Kamene Joyce, M.P.
Machakos County
WDM-Kenya

Hon. Dr. Kimaiyo, Gideon Kipkoech, M.P.
Keiyo South Constituency
UDA

Hon. Chebor, Paul Kibet, M.P.
Rongai Constituency
UDA

Hon. (Maj) (Rtd) Abdullahi, Bashir Sheikh, M.P.
Mandera North Constituency
UDM

Hon. Odoyo, Jared Okello, M.P.
Nyando Constituency
ODM

Hon. Munyoro Joseph Kamau, M.P.
Kigumo Constituency
UDA

Hon. Lenguris Pauline, M.P.
Samburu County
UDA

Hon. Mnyazi Amina Laura, M.P.
Malindi Constituency
ODM

1.3 Committee Secretariat

4. The Secretariat facilitating the Committee comprises:

Ms. Wanjiru Mwaura
Principal Clerk Assistant I, Head of Department and Team Leader

Mr. Brian Langwech
Clerk Assistant III

Mr. Wilson Dima
Deputy Director, DLS

Mr. Peter Barasa
Legal Counsel II

Ms. Grace Odedere
Clerk Assistant III

Ms. Elsy Jerop
Legal Counsel II

Ms. Angela Musau
Legal Counsel II

Mr. Yakub Ahmed
Media Relations Officer

Ms. Brenda Michira
Research Officer III

Mr. Cosmas Akhonya
Serjeant at Arms

Mr. Rodgers Kilungya
Hansard Reporter

CHAPTER TWO

2.0 CONSIDERATION OF THE DRAFT PRIVILEGES AND IMMUNITIES (AFRICA FINANCE CORPORATION) ORDER, 2026

2.1 Introduction

5. Africa Finance Corporation (the "Corporation") is a multilateral financial institution established in 2007 by African sovereign States under the Agreement for the Establishment of the Africa Finance Corporation (the "Establishment Agreement"), to provide pragmatic solutions to Africa's infrastructure deficit and challenging operating environment and to accelerate Africa's industrialisation.

6. According to the Explanatory Memorandum, the Corporation:

   (a) has a mandate to catalyse private sector-led investments in infrastructure and industrial sectors critical to Africa's sustainable growth;

   (b) operates across at least thirty-six (36) African countries, having deployed over USD 16.5 billion in cumulative investments, including in the Republic of Kenya, in energy, transport, telecommunications, heavy industry and natural resources; and

   (c) is a market leader in developing innovative resource mobilisation solutions and capital market transactions.

7. The Republic of Kenya was invited in July 2010 to become a member of the Corporation and became a member on 7th June 2017. The National Assembly approved the ratification of the Establishment Agreement on 8th April 2025, and the instrument of ratification dated 20th May 2025 was deposited, affirming Kenya's full accession as a sovereign shareholder.

8. The Corporation seeks to formalise and strengthen its Regional Office in Nairobi in order to enhance and expand its activities in the Republic of Kenya and to better serve the broader East African region and the African continent. To enhance this cooperation and ensure the effective operation of the Corporation in Kenya, there is need to provide an enabling, requisite and appropriate legal and institutional framework.

9. The Host Country Agreement between the Government of the Republic of Kenya and Africa Finance Corporation (the "Agreement") was negotiated and signed on 23rd April 2026. It takes effect provisionally upon signature and definitively upon gazettement, and remains in force for ten (10) years, renewable by mutual agreement of the Parties.

2.2 Object and Purpose of the Agreement and the Draft Order

10. The Agreement grants the Corporation permission to establish a Regional Office in Nairobi and defines the legal status, privileges, immunities and obligations of the Corporation and its officials in Kenya. Its objectives are:

    (a) strengthening Kenya's position as a financial hub for Eastern Africa and across Africa;

    (b) generating direct and indirect employment opportunities for Kenyans; and

    (c) enhancing long-term cooperation between the Government of Kenya and the Corporation.

11. The draft Order is the instrument through which the legal capacity, privileges and immunities provided for under the Establishment Agreement and the Agreement acquire the force of

law in Kenya. An international agreement does not, of itself, confer immunity from the jurisdiction of Kenyan courts or exemption from taxes imposed by an Act of Parliament. Such privileges take effect in domestic law only upon the making of an order under the Privileges and Immunities Act.

2.3 Legislative Context

12. Article 94(5) of the Constitution provides that no person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by the Constitution or by legislation. Article 94(6) permits an Act of Parliament to confer such authority, and the Privileges and Immunities Act, Cap. 179 confers on the Cabinet Secretary responsible for foreign affairs the power to make orders conferring privileges and immunities.

13. Section 9(1) of the Act applies to any organisation declared by order to be an organisation of which Kenya, or the Government, and one or more foreign sovereign powers, or the governments of such powers, are members. Under section 9(2), such an order may:

    (a) confer on the organisation the privileges and immunities set out in Part I of the Fourth Schedule to the Act, and the legal capacities of a body corporate;

    (b) confer on representatives of member States, high officers of the organisation and persons on missions on its behalf the privileges and immunities set out in Part II of the Fourth Schedule; and

    (c) confer on such other classes of officers and servants of the organisation as may be specified in the order the privileges and immunities set out in Part III of the Fourth Schedule.

14. Section 9(3) of the Act provides that no order shall confer on any person any immunity or privilege greater than that which is required to give effect to any international agreement in that behalf, and that no privilege or immunity shall be conferred on any person as the representative of the Government of Kenya or as a member of the staff of such a representative. Section 9(4) empowers the Minister to publish in the Gazette a notice specifying the persons entitled to privileges and immunities under the order.

15. Section 17 of the Act provides that any order made under the Act shall, unless a draft of it has been laid before Parliament and approved by resolution before the making thereof, be laid before Parliament without unreasonable delay, and shall be void if Parliament resolves to annul it within twenty sitting days after it is laid.

16. Article 210(1) of the Constitution provides that no tax or licensing fee may be imposed, waived or varied except as provided by legislation. Article 210(2) requires that where legislation permits the waiver of any tax or licence fee, a public record of each waiver shall be maintained together with the reason for it, and each waiver and its reason shall be reported to the Auditor-General.

17. Upon being made and published, the Order will constitute a statutory instrument within the meaning of section 2 of the Statutory Instruments Act, Cap. 2A. The Committee therefore considered the draft Order against the grounds of scrutiny in section 13 of that Act.

2.4 Policy Context

18. The policy objective of the Privileges and Immunities Act, Cap. 179, is to provide immunities, privileges and capacities to international organisations and other bodies with which Kenya partners. Under the Establishment Agreement, member States undertake to accord the Corporation, in their territories, the status, immunities, exemptions and privileges necessary for the fulfilment of its functions.

19. The Agreement seeks, subject to the laws of Kenya, to grant privileges, immunities and exemptions to the Corporation and to its officials. According to the Explanatory Memorandum, the Agreement is expected to contribute to Kenya's economic development by:

    (a) enhancing infrastructure financing and attracting foreign direct investment;

    (b) strengthening public-private partnerships through knowledge transfer, technical expertise and innovative financing mechanisms;

    (c) positioning Kenya as a regional hub for infrastructure financing and promoting regional integration under the African Continental Free Trade Area (AfCFTA);

    (d) promoting sustainable infrastructure development, including investment in renewable energy; and

    (e) creating direct and indirect employment opportunities for Kenyans.

2.5 Key Provisions of the Host Country Agreement

20. According to the Explanatory Memorandum, the Agreement grants the Government's permission for the Corporation to establish a Regional Office in Nairobi, and recognises the Corporation as a multilateral financial institution with legal personality, with capacity to enter into contracts, acquire property and institute legal proceedings.

21. The Agreement provides that the property and assets of the Corporation shall be immune from legal process except where the immunity is expressly waived, and that the officials of the Corporation shall be granted tax exemptions, work permits and other privileges similar to those accorded to officials of other international organisations.

22. On fiscal arrangements, the Agreement provides tax exemptions on the official activities of the Corporation and exempts goods and services imported for its official use from customs duties and value added tax.

23. On employment, the Corporation will recruit both international and local personnel, and Kenyan citizens will be given priority and recruited across all levels where applicable. Any dispute arising from the implementation of the Agreement will be resolved through consultations between the Parties.

2.6 Summary of the Draft Order

24. The draft Order comprises seven paragraphs. Paragraph 1 provides for the citation of the Order as the Privileges and Immunities (Africa Finance Corporation) Order, 2026.

25. Paragraph 2 declares Africa Finance Corporation, being a multilateral financial institution established to provide pragmatic solutions to Africa's infrastructure deficit and challenging operating environment, catalyse private sector-led investments in infrastructure and

industrial sectors critical to Africa's sustainable growth and accelerate Africa's industrialisation, to be an organisation to which section 9 of the Act applies.

26. Paragraph 3 confers on the Corporation the legal capacity of a body corporate to enter contracts, to institute and defend legal proceedings, and to acquire, hold or dispose of movable property in accordance with the laws of the Republic of Kenya.

27. Paragraph 4 accords the Corporation the privileges and immunities specified in paragraphs 1, 2 and 3 of Part I of the Fourth Schedule to the Act. These are immunity from suit and legal process; inviolability of its official archives and of the premises occupied as its offices; and exemption from rates and taxes, other than taxes on the importation of goods, in the same manner as is accorded to a diplomatic mission.

28. Paragraph 5 provides that no privilege or immunity extends to the Corporation or its Officials with respect to claims arising out of road traffic offences and accidents, commercial transactions, civil actions arising out of the exercise of its powers to borrow money and to guarantee obligations, enforcement of an arbitration award made against the Corporation, criminal actions or omissions, and employment disputes involving a Kenyan or other national.

29. Paragraph 6 accords the Officials of the Corporation, while residing in Kenya and performing duties in the service of the Corporation, the privileges and immunities specified in paragraphs 1 to 7 of Part III of the Fourth Schedule to the Act. These are immunity from suit and legal process in respect of things done or omitted in the course of their official duties; exemption from income tax on emoluments received from the Corporation; immunity from national service obligations; immunity from immigration restrictions and alien registration; exchange facilities; repatriation facilities in time of international crisis; and exemption from duty on furniture and personal effects imported on first arrival to take up post.

30. Paragraph 7 provides that paragraphs 2 to 7 of Part III of the Fourth Schedule to the Act do not apply to a citizen of Kenya or to any person who is ordinarily resident in Kenya. A citizen employed by the Corporation therefore enjoys only immunity in respect of acts done in the course of official duties, and receives no tax, immigration, exchange or customs privilege.

2.7 Meeting with the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs

31. Pursuant to section 16 of the Statutory Instruments Act, the Committee met the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, H.E. (Dr.) Musalia Mudavadi, EGH, at its 47th Sitting held on Thursday, 8th October 2026. The Prime Cabinet Secretary was accompanied by officers of the Office of the Prime Cabinet Secretary and the State Department for Foreign Affairs, including Ms. Anne Olubendi, Advisor; Dr. Martin Owuor, Legal Services; and Amb. Daniel Tanui. Mr. Folahanmi Fagbule, Director, Africa Finance Corporation, was also in attendance.

32. The Committee was briefed on the seven paragraphs of the draft Order, covering its citation, the declaration of the Corporation, its legal capacity, the privileges and immunities conferred under Parts I and III of the Fourth Schedule to the Act, the exclusions from immunity, and the exclusion of citizens and ordinarily resident persons. In respect of

paragraph 3, the Committee was informed that the Corporation is to have capacity to acquire, hold or dispose of movable and immovable property in accordance with the laws of Kenya.

33. Upon deliberation, the Committee observed that:

    (a) the draft Order had been submitted in draft form, before being made and published in the Gazette, as required by section 17 of the Privileges and Immunities Act;

    (b) the draft Order, read with the Agreement, confers privileges and immunities including immunity from legal process, inviolability of premises and archives, and exemption from rates and taxes and from income tax on emoluments, and that the cumulative legal and fiscal effect of the exemptions required close scrutiny; and

    (c) the draft Order is accompanied by an Explanatory Memorandum setting out its purpose, legislative context, policy background and the outcome of consultations.

CHAPTER THREE

3.0 COMMITTEE OBSERVATIONS

34. Having examined the draft Order, the Explanatory Memorandum and the submissions of the Ministry, the Committee made the following observations—

3.1 Procedure and Statutory Timelines

35. The draft Order was transmitted by the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs vide letter Ref. MFA/INT/147/VOL.19 (31) dated 4th August 2026, together with an Explanatory Memorandum. It was received by the Clerk of the National Assembly on 13th August 2026 and laid before the House on Tuesday, 18th August 2026.

36. The Committee observed that the Cabinet Secretary elected the first procedure under section 17 of the Act. The draft Order therefore requires the approval of the House by resolution before it is made, and the annulment procedure under the second limb of section 17 does not apply at this stage. As the Order has not been made or published, no question of delay in publication or laying arises under section 13(j) of the Statutory Instruments Act.

3.2 Enabling Power

37. The Committee observed that the conditions in section 9(1) of the Act are satisfied, in that the Corporation was established by the Establishment Agreement, a treaty among African sovereign States, and that Kenya has been a member of the Corporation since 7th June 2017 and ratified the Establishment Agreement on 20th May 2025 following the approval of the National Assembly.

38. The Committee further observed that:

    (a) paragraph 2 of the draft Order makes the declaration contemplated by section 9(1) of the Act;

    (b) paragraph 3 is within section 9(2)(a) of the Act, which expressly permits an order to confer on the organisation the legal capacities of a body corporate;

    (c) paragraph 4 confers privileges drawn only from Part I of the Fourth Schedule, as permitted by section 9(2)(a) of the Act;

    (d) paragraph 6 confers privileges drawn only from Part III of the Fourth Schedule on the Officials of the Corporation, being a class of officers specified in the Order, as permitted by section 9(2)(c) of the Act; and

    (e) the draft Order does not confer the diplomatic-level privileges in Part II of the Fourth Schedule on any person.

3.3 Scope of the Privileges Conferred

39. Section 9(3) of the Act limits the privileges and immunities that may be conferred to those required to give effect to the relevant international agreement. The relevant agreements are the Establishment Agreement, under which member States undertake to accord the Corporation immunity from legal action, save in respect of its operations, and exemption from taxation, and the Agreement, which provides for immunity of the property and assets

of the Corporation from legal process, tax exemptions on its official activities, and tax exemptions and other privileges for its officials.

40. The Committee observed that each privilege conferred by paragraphs 4 and 6 of the draft Order corresponds to a privilege provided for under the Establishment Agreement and the Agreement, and that the draft Order confers no privilege or immunity greater than the agreements require. The draft Order is, in two respects, narrower than the agreements. It does not confer the exemption from customs duties on goods imported for official use under paragraph 4 of Part I of the Fourth Schedule, and it confers no privilege on the Corporation's high officers under Part II. Any further privilege would require a fresh order laid before the House under section 17 of the Act.

3.4 Kenyan Citizens and Residents

41. Paragraph 7 of the draft Order excludes citizens of Kenya and persons ordinarily resident in Kenya from paragraphs 2 to 7 of Part III of the Fourth Schedule. Kenyan staff of the Corporation therefore receive no tax, immigration, exchange or customs privilege, and enjoy only immunity in respect of acts done in the course of their official duties.

42. Section 9(3) of the Act bars the conferment of privileges and immunities only on persons acting as representatives of the Government of Kenya and their staff. Unlike section 11(2) of the Act, which governs foundations and other external agencies, section 9 does not bar the conferment of privileges on citizens of Kenya. The Committee observed that the retention of functional immunity for Kenyan staff is therefore lawful, is consistent with the practice of multilateral financial institutions, and is subject to the exclusions in paragraph 5 of the draft Order.

43. The Committee further observed that, in applying paragraph 7, an internationally recruited official who resides in Kenya solely for the purpose of employment with the Corporation should not be regarded as ordinarily resident in Kenya, in order to give effect to paragraph 6 of the draft Order.

3.5 Fundamental Rights, Access to Justice and the Rule of Law

44. The immunity of the Corporation from suit and legal process, and the immunity of its officials in respect of official acts, limit the right of access to justice under Article 48 of the Constitution and engage sections 13(b) and 13(e) of the Statutory Instruments Act.

45. The Committee observed that paragraph 5 of the draft Order preserves the jurisdiction of Kenyan courts in respect of road traffic offences and accidents, commercial transactions, the borrowing and guarantee operations of the Corporation, the enforcement of arbitral awards, criminal acts or omissions, and employment disputes. These exclusions track the exceptions for lending, borrowing and arbitration found in the constitutive instruments of multilateral financial institutions, and protect Kenyan creditors, counterparties and employees. The Committee therefore found that the limitation is reasonable and justifiable within the meaning of Article 24 of the Constitution.

3.6 Fiscal Implications and Regulatory Impact

46. The draft Order exempts the Corporation from rates and taxes other than taxes on the importation of goods, and exempts its non-citizen officials from income tax on emoluments and from duty on furniture and personal effects imported on first arrival. The Committee

observed that the draft Order imposes no tax within the meaning of section 13(d) of the Statutory Instruments Act, but that the exemptions constitute revenue forgone by the Government.

47. The Committee observed that the exemptions satisfy Article 210(1) of the Constitution, being provided for by section 9 of, and the Fourth Schedule to, the Privileges and Immunities Act, and that Article 210(2) requires a public record of each waiver and its reason to be maintained and reported to the Auditor-General. The Explanatory Memorandum states that the Agreement imposes no direct financial obligation on the Government beyond facilitating the operations of the Regional Office, but does not quantify the revenue forgone.

48. The Ministry did not submit a separate regulatory impact statement. The Committee observed that the draft Order regulates the relationship between the Government and a single intergovernmental institution and is not likely to impose significant costs on the community, so that a regulatory impact statement under section 6 of the Statutory Instruments Act was not required. The Ministry further stated that the Agreement is expected to benefit the private sector through partnerships, innovation and collaboration, and the public sector through knowledge-sharing and the mobilisation of resources for investment in infrastructure and industrial sectors in Kenya.

3.7 Consultation and the Explanatory Memorandum

49. Articles 10 and 118 of the Constitution and section 5 of the Statutory Instruments Act require the regulation-making authority to undertake appropriate consultation with persons likely to be affected by a proposed statutory instrument. The Ministry stated that the views of the National Treasury and Economic Planning, the Office of the Attorney-General, the Directorate of Immigration Services and the Kenya Revenue Authority were considered in developing the Agreement.

50. The Committee observed that, as the draft Order regulates the status of a single intergovernmental institution of which Kenya is a member, consultation with the public bodies responsible for its implementation was appropriate and sufficient.

51. The Explanatory Memorandum states that the Agreement does not require ratification by Parliament under Article 2(6) of the Constitution. The Committee observed that the Establishment Agreement, the treaty under which the Corporation and its privileges are founded, was ratified with the approval of the National Assembly in 2025, that the Agreement implements it, and that Parliamentary oversight of the privileges is exercised through the approval of the draft Order under section 17 of the Act.

3.8 Duration of the Agreement

52. The Agreement takes effect provisionally upon signature and definitively upon gazettement, and remains in force for ten years, renewable by mutual agreement. The Committee observed that no privilege, immunity or exemption under the Agreement has force in Kenyan law until the Order is made and published, and that the Order should be revoked upon the expiry or termination of the Agreement.

3.9 Summary of Compliance with Section 13 of the Statutory Instruments Act

53. The Committee examined the draft Order against each of the grounds of scrutiny set out in section 13 of the Statutory Instruments Act and made the findings set out below.

54. The draft Order is in accordance with the Constitution, the Privileges and Immunities Act and other written law, as it falls within the powers conferred by section 9 of the Act and confers no privilege or immunity greater than the international agreements require, as set out in paragraphs 3.2 to 3.4. Although the immunities conferred limit the right of access to justice and the jurisdiction of the courts, the limitation is reasonable and justifiable under Article 24 of the Constitution by reason of the exclusions in paragraph 5 of the draft Order, as set out in paragraph 3.5.

55. The draft Order does not contain any matter which should more properly be dealt with in an Act of Parliament, as section 9 of the Act expressly provides for the conferment of privileges and immunities by order. It imposes no tax, and the exemptions it confers constitute revenue forgone, which is to be recorded and reported in accordance with Article 210(2) of the Constitution, as set out in paragraph 3.6.

56. The Committee did not identify any drafting defect affecting the substance or effect of the draft Order, or any unusual or unexpected use of the powers conferred by the Act. The draft Order has no retrospective effect, does not make rights dependent on non-reviewable decisions, does not confer undefined powers, does not inappropriately delegate legislative power, imposes no penalty and does not appear to infringe on the rule of law.

57. As the Order has not been made or published, no question of unjustifiable delay in its publication or laying arises, as set out in paragraph 3.1. The draft Order has not escaped Parliamentary scrutiny, having been laid before the House for approval under section 17 of the Act, and the Committee found no other reason to object to it.

CHAPTER FOUR

4.0 COMMITTEE RECOMMENDATION

58. Having examined the draft Order against the Constitution, the Interpretation and General Provisions Act, Cap. 2, the Statutory Instruments Act, Cap. 2A and the Privileges and Immunities Act, Cap. 179, the Committee recommends that the House resolves as follows:

THAT, pursuant to section 17 of the Privileges and Immunities Act, Cap. 179, this House **APPROVES** the draft Privileges and Immunities (Africa Finance Corporation) Order, 2026, laid on the Table of the House on Tuesday, 18th August 2026.

Signed.....**Date** 12/10/2026

HON. CHEPKONG'A KIPRONO SAMUEL, CBS, M.P.

CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION

THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 13 OCT 2026 | DAY. TUESDAY

TABLED BY:	HON. GICHIMU GITHINJI, MP (VICE CHAIRPERSON)
CLERK-AT THE-TABLE:	INZOFU MWAHE, HSC

MINUTES OF THE 47TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON THURSDAY, 8TH OCTOBER, 2026, IN COMMITTEE ROOM 21, 5TH FLOOR, BUNGE TOWER AT 10.00 AM

PRESENT

1. The Hon. Samuel Kiprono Chepkong'a, CBS, M.P. – Chairperson
2. The Hon. Robert Gichimu Githinji, M.P. - Vice-Chairperson
3. The Hon. Robert Mbui, CBS, M.P
4. The Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P
5. The Hon. Anthony Oluoch, M.P.
6. The Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, M.P.
7. The Hon. Lenguris Pauline, M.P
8. The Hon. Innocent Mugabe, M.P.
9. The Hon. (Dr.) Mamwacha Onchoke Charles, M.P
10. The Hon. Joseph Kamau Munyoro, M.P.
11. The Hon. Waithaka John Machua, M.P.
12. The Hon. Odoyo, Jared Okello, M.P
13. The Hon. Mwirigi, John Paul, M.P
14. The Hon. Maj. (Rtd) Dekow Barrow Mohamed, M.P
15. The Hon. Chepkorir, Linet, M.P
16. The Hon. Laura Amina Mnyazi, M.P

APOLOGIES

1. The Hon. (Dr) Kimaiyo, Gideon Kipkoech, M.P
2. The Hon. Yakub Adow Kuno, M.P.
3. The Hon. Paul Chebor, M.P
4. The Hon. Kamene Joyce, M.P
5. The Hon. Omondi, Moses Okoth, M.P

IN ATTENDANCE
SECRETARIAT

1.	Ms. Wanjiru Mwaura	-	Principal Clerk Assistant I/HOD SC
2.	Mr. Brian Langwech	-	Clerk Assistant III
3.	Ms. Grace Odedere	-	Clerk Assistant III
4.	Ms. Angela Musau	-	Legal Counsel II
5.	Ms. Brendah Michira	-	Research Officer III
6.	Mr. Yaku Ahmed	-	Media Relations Officer
7.	Mr. Rodgers Kilungya	-	Hansard Officer II
8.	Mr. Cosmas Akhonya	-	Sergeant at Arms
9.	Mr. Victor Mutahi	-	Intern

MINISTRY OF FOREIGN AND DIASPORA AFFAIRS

1. H.E. (Dr.) Musalia Mudavadi	-	PCS, MFA
2. Ms. Anne Olubendi	-	Advisor, OPCS
3. Dr. Martin Owuor	-	General Legal, DFA
4. Amb. Daniel Tanui	-	DDGPC, DFA
5. Mr. Idris A. Hassan	-	DDCS, MFA\SDFA
6. Mr. Folahanmi Fagbule	-	Director, AFC
7. Mr. Nehemiah Moronge	-	PPAO, OPCS
8. Mr. Lenin Lumumba	-	Communication, Ford Foundation (FF)
9. Ms. Margaret Mliwa	-	Regional Director, FF
10. Ms. Susan Wanjohi	-	Operations Director, FF
11. Ms. Eddah Mogake	-	SSC, MFDA
12. Mr. Michael Ndegwa	-	FSO, MFDA
13. Ms. Jebet Koga	-	FSO, MFDA
14. Mr. Muliro Nasang'o	-	SRP. MFDA
15. Mr. Isaac N. Nyiye	-	Parliamentary Affairs. OPCS
16. Mr. James Juma	-	Parliamentary Afffairs, OPCS
17. Mr. Jacob Ng'etich	-	DPS, OPCS
18. Mr. Kiprop Mommei	-	DPA, OPCS
19. Mr. Mwakunde B. Glonar	-	PFSO, SDFA
20. Mr. Bantu Kinama	-	FSO-1, SDFA

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Matters arising
6. **Meeting with the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs regarding the following the draft Orders;**
   I. **The Privileges and Immunities (Africa Finance Corporation) Order, 2026, and**
   II. **The Privileges and Immunities (Ford Foundation) Order, 2026**
7. **Meeting with the Cabinet Secretary, National Treasury and Economic Planning regarding the Virtual Asset Service Providers Regulations, 2026**
8. Any Other Business; and
9. Adjournment.

MIN. DAA&GPC/CDL/234/2026: PRELIMINARIES

The Chairperson called the meeting to order at 10.14 a.m. after which he said a word of prayer. He then welcomed all to the meeting followed by a round of introductions.

MIN. DAA&GPC/CDL/235/2026: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted, having been proposed by the Hon. (Dr.) Mamwacha Onchoke Charles, M.P and seconded by the Hon. Joseph Kamau Munyoro, M.P.

MIN. DAA&GPC/CDL/236/2026: CONFIRMATION OF MINUTES

The Minutes of the 46th sitting held on Tuesday, 6th October, 2026 were confirmed as a true record of the proceedings, having been proposed by the Hon. Innocent Mugabe, M.P. and seconded by the Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P

MIN. DAA&GPC/CDL/237/2026: MATTERS ARISING

The Committee resolved to make a decision on the Privileges and Immunities (Ford Foundation) Order, 2026 in its next meeting on Thursday, 8th October, 2026

MIN.DAA&GPC/CDL/238/2026: MEETING WITH THE PRIME CABINET SECRETARY AND CABINET SECRETARY FOR FOREIGN AND DIASPORA AFFAIRS REGARDING THE PRIVILEGES AND IMMUNITIES (AFRICA FINANCE CORPORATION) ORDER, 2026, AND THE PRIVILEGES AND IMMUNITIES (FORD FOUNDATION) ORDER, 2026

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, H.E. Dr. Musalia Mudavadi, EGH appeared before the Committee and briefed on the Privileges and Immunities (Africa Finance Corporation) Order, 2026, and the Privileges and Immunities (Ford Foundation) Order, 2026 as follows;

I. THE PRIVILEGES AND IMMUNITIES (AFRICA FINANCE CORPORATION) ORDER, 2026

The Order comprises seven (7) paragraphs as follows: —

1. **Paragraph 1** provides for the citation of the Order as the Privileges and Immunities (Africa Finance Corporation) Order, 2026.
2. **Paragraph 2** declares Africa Finance Corporation, being a multilateral financial institution established to provide pragmatic solutions to Africa's infrastructure deficit and challenging operating environment, catalyse private sector-led investments in infrastructure and industrial sectors critical to Africa's sustainable growth and accelerate Africa's industrialisation, to be an organisation to which section 9 of the Act applies.
3. **Paragraph 3** confers on the Corporation the legal capacity of a body corporate to enter into contracts, to institute and defend legal proceedings, and to acquire, hold or

dispose of movable and immovable property in accordance with the laws of the Republic of Kenya.

4. **Paragraph 4** accords the Corporation the privileges and immunities specified in paragraphs 1, 2 and 3 of Part I of the Fourth Schedule to the Act.
5. **Paragraph 5** provides that no privilege or immunity extends to the Corporation or its Officials with respect to claims arising out of road traffic offences and accidents, commercial transactions, civil actions arising out of the exercise of its powers to borrow money and to guarantee obligations, enforcement of an arbitration award made against the Corporation, criminal actions or omissions, and employment disputes involving a Kenyan or other national.
6. **Paragraph 6** accords the Officials of the Corporation, while residing in Kenya and performing duties in the service of the Corporation, the privileges and immunities specified in paragraphs 1, 2, 3, 4, 5, 6 and 7 of Part III of the Fourth Schedule to the Act.
7. **Paragraph 7** provides that paragraphs 2, 3, 4, 5, 6 and 7 of Part III of the Fourth Schedule to the Act do not apply to a citizen of Kenya or to any person who is ordinarily resident in Kenya.
8. Upon deliberations, the committee observed that;
    i. The Order was submitted in draft form, before being made and published in the Gazette, by the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs vide letter Ref. MFA/NGO/31/VOL. I (22) dated 25th May 2026 as required by Section 17 of the Privileges and Immunities Act, Cap. 179.
    ii. The Order grants privileges and immunities, including immunity from search and requisition, immunity from legal process, exemption from taxation including land rates and rents, exemption from value added tax and income tax, and the duty-free importation of two motor vehicles. It was noted that cumulative legal and fiscal effect of the proposed exemptions requires close scrutiny.
    iii. The Order is accompanied by a detailed Explanatory Memorandum which provides for the purpose of the Order, legislative context, policy background, public consultation outcome.
9. **In view of the above findings, the Committee resolved to approve the draft Privileges and Immunities (Africa Finance Corporation) Order, 2026 having been proposed by the Hon. (Dr.) Mamwacha Onchoke Charles, M.P., and seconded by the Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P.**

II. THE PRIVILEGES AND IMMUNITIES (FORD FOUNDATION) ORDER, 2026

1. **Paragraph 1** provides for the citation of the Order as the Privileges and Immunities (Ford Foundation) Order, 2026.
2. **Paragraph 2** declares the Foundation, being a non-profit organisation established to advance human welfare, reduce poverty and injustice, strengthen democratic values, promote international co-operation and advance human achievement.

3. **Paragraph 3** confers on the Foundation the legal capacity of a body corporate, including the capacity to enter into contracts, to institute and defend legal proceedings, and to acquire, hold and dispose of movable and immovable property in accordance with the laws of Kenya.
4. **Paragraph 4** accords the Foundation the privileges and immunities specified in paragraphs 3 and 4 of Part I of the Fourth Schedule to the Act.
5. **Paragraph 5** accords the director, officials and staff of the Foundation, while residing in Kenya and performing duties in the service of the Foundation, the privileges and immunities specified in paragraphs 1, 2, 3, 4, 5, 6 and 7 of Part III of the Fourth Schedule to the Act.
6. **Paragraph 6** provides that paragraph 5 does not apply to citizens of Kenya or to persons ordinarily resident in Kenya, except solely for the purpose of being an employee of, and working exclusively for, the Foundation.
7. Upon deliberations, the committee observed that;
    i. Section 17 of the Privileges and Immunities Act, Cap. 179 provides that any order made under the Act shall, unless a draft of it has been laid before Parliament and approved by resolution before it is laid before Parliament without unreasonable delay, and shall be void if Parliament resolves to annul it within twenty sitting days after it is laid.
    ii. The Order was submitted in draft form, before being made and published in the Gazette, by the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.
    iii. The Order was transmitted vide letter Ref. MFA/INT/147/VOL.19 (31) dated 4th August 2026, pursuant to section 17 of the Privileges and Immunities Act, Cap. 179 and section 11 of the Statutory Instruments Act, Cap. 2A, together with an Explanatory Memorandum.
    iv. The Order is accompanied by a detailed Explanatory Memorandum which provides for the purpose of the Order, legislative context, policy background, public consultation outcome.
8. **In view of the above findings, the Committee resolved to approve the draft Privileges and Immunities (Ford Foundation) Order, 2026 having been proposed by the Hon. Innocent Mugabe, M.P., and seconded by the Hon. Joseph Kamau Munyoro, M.P.**

MIN.DAA&GPC/CDL/239/2026: MEETING WITH THE CABINET SECRETARY, NATIONAL TREASURY AND ECONOMIC PLANNING REGARDING THE VIRTUAL ASSET SERVICE PROVIDERS REGULATIONS, 2026

The Cabinet Secretary for the National Treasury and Economic Planning was scheduled to appear before the Committee to present the Virtual Asset Service Providers Regulations, 2026. However, vide a letter referenced **TNT/CONF 268/019 'TY' (91),** dated 8th October, 2026, the Ministry requested that the meeting be rescheduled due to the exigencies of the Cabinet Secretary's prior arranged official duties.

The Committee considered and acceded to the request and resolved to invite the Cabinet Secretary to appear before it on Thursday, 15th October, 2026.

MIN. DAA&GPC/CDL/240/2026: ADJOURNMENT

The meeting was adjourned at 12.15pm. The next meeting will be held on Tuesday, 13th October, 2026.

SIGNED: .....DATE..13/10/2026.....

THE HON. SAMUEL CHEPKONG'A, CBS, M.P.
CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION.

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026
DIRECTORATE OF AUDIT, APPROPRIATIONS & GENERAL-PURPOSE COMMITTEES
COMMITTEE ON DELEGATED LEGISLATION

ADOPTION LIST

Date: 8th October 2026. **Venue:** Comm Room 21, Burge Tower, 5th Floor
Time Started: 10:20 am **Time ended:** 12:46 p.m.
Agenda: Consideration of the Draft Prisileges and Immunities (Africa Finance Corporation) Order 2026.

NO.	NAME	SIGNATURE
1.	**The Hon. Chepkong'a Kiprono Samuel, CBS, M.P, Chairperson**	
2.	**The Hon. Githinji, Robert Gichumi, M.P. Vice-Chairperson**	
3.	The Hon. Mbui, Robert, CBS, M.P.	
4.	The Hon. Sunkuli Julius Lekakeny, EGH, EBS, MP	
5.	The Hon. Maj. (Rtd) Abdullahi Bashir Sheikh, M.P.	
6.	The Hon. Mwirigi, John Paul, M.P.	
7.	The Hon. Kamene, Joyce, M.P.	
8.	The Hon. Omondi, Moses Okoth M.P.	
9.	The Hon. Odoyo, Jared Okello, M.P.	
10.	The Hon. Anthony, Oluoch, M.P.	
11.	The Hon. Maj. (Rtd.) Dekow Barrow Mohamed, M.P.	
12.	The Hon. Munyoro, Joseph Kamau, M.P.	
13.	The Hon. (Dr.) Kimaiyo, Gideon Kipkoech, M.P.	
14.	The Hon. Waithaka, John Machua, M.P.	

NO.	NAME	SIGNATURE
15.	The Hon. Chepkorir, Linet, M.P.	
16.	The Hon. Chebor, Paul, M.P.	
17.	The Hon. Lenguris, Pauline, M.P.	
18.	The Hon. (Dr.) Mamwacha Onchoke Charles, M.P.	
19.	The Hon. Yakub, Adow Kuno, M.P.	
20.	The Hon. Mnyazi, Amina Laura, M.P.	
21.	The Hon. Mugabe, Innocent Maino, M.P.	

EXPLANATORY MEMORANDUM ON THE HOST COUNTRY AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND AFRICA FINANCE CORPORATION FOR THE ESTABLISHMENT OF A REGIONAL OFFICE IN NAIROBI, KENYA

PART 1

Name of the Statutory Instrument: Host Country Agreement Between the Government of the Republic of Kenya and Africa Finance Corporation on the Establishment of its Regional Office in Nairobi

Name of the Parent Act: Privileges and Immunities Act, CAP 179.

Enacted Pursuant to: Section 9 of the Privileges and Immunities Act

Name of the Ministry/Department: Ministry of Foreign and Diaspora Affairs

Gazette on: .....

Tabled on .....

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 18 AUG 2026
DAY.
Tuesday
TABLED BY: Hon. Owen Yaa Baya
Deputy Majority Leader
CLERK-AT THE-TABLE: Modo

PART II

1. Purpose of the Host Country Agreement between the Government of the Republic of Kenya and Africa Finance Corporation on the Establishment of Africa Finance Corporation Regional Office in Nairobi

INTRODUCTION

1.1 Africa Finance Corporation (AFC) is a multilateral financial institution, established by African Sovereign States to provide pragmatic solutions to Africa's infrastructure deficit and challenging operating environment and accelerate Africa's Industrialization.

1.2 Established in 2007, AFC's mandate is to catalyse private sector-led investments in infrastructure and industrial sectors critical to Africa's sustainable growth. The Corporation operates across at least 36 African countries and continues to expand its regional footprint.

1.3 AFC has over USD 16.5 billion cumulative investments deployed across 36 African countries including the Republic of Kenya with a focus on delivering transformative, economically viable, and developmentally impactful infrastructure projects in energy, transport, telecommunications, heavy industry, and natural resources. It is also a market leader in developing innovative resource mobilization solutions and capital market transactions.

1.4 In July 2010, the Republic of Kenya was invited to become a member of the Africa Finance Corporation. The invitation was accepted and the Republic of Kenya became a member on the 7th June 2017.

1.5 The National Assembly's approval of the ratification of the AFC Establishment Agreement on 8th April 2025 and the depositing of the instrument of ratification dated 20th May 2025, marked a new phase of collaboration, affirming Kenya's full accession as a sovereign shareholder.

1.6 AFC has been implementing programs directly and through its affiliates and partners, supporting the Private Sector and the Government of Kenya's effort through the National Treasury.

1.7 AFC is desirous of formalizing and strengthening its Regional Office in Nairobi to enhance and expand its activities in the Republic of Kenya and to better serve the broader East Africa region (Kenya, Uganda, and Tanzania) and the African continent.

1.8 There is need to provide an enabling, requisite and appropriate legal and institutional framework in order to enhance the cooperation and ensure

effective operations by Africa Finance Corporation within the Republic of Kenya.

1.9 The Government of the Republic of Kenya agrees to the establishment of a regional office of Africa Finance Corporation for purposes of carrying out its activities in the Republic of Kenya and elsewhere in the African region.

1.10 This Explanatory Memorandum provides a detailed justification and explanation of the Host Country Agreement (HCA) between the Government of Kenya and Africa Finance Corporation. The Agreement establishes Africa Finance Corporation Regional Office in Nairobi, Kenya, to enhance Kenya's position as a regional and leading economic hub for infrastructure finance in Eastern Africa and across Africa.

1.11 The Agreement aims to facilitate the establishment and operations of Africa Finance Corporation in Nairobi. It defines the legal status, privileges, immunities, and obligations of Africa Finance Corporation and its officials within Kenya. The primary objectives include:

a) Strengthening Kenya's position as a financial hub for Eastern Africa and across Africa;

b) Generate direct and indirect employment opportunities for Kenyans; and

c) Enhancing long-term cooperation between the Government of Kenya and Africa Finance Corporation.

2. LEGISLATIVE CONTEXT

2.1 The Agreement is entered into pursuant to Kenya's international commitments on sustainable development, human rights, and good governance, including relevant national policies.

2.2 The Agreement does not require ratification by Parliament in accordance with Article 2(6) of the Constitution of Kenya, which integrates international agreements into national law.

2.3 Pursuant to section 9 of the Privileges and Immunities Act, the Government recognizes AFC as a multilateral financial institution with legal personality and full capacity to perform its functions and achieve its objectives.

2.4 Africa Finance Corporation has capacity to;

a. acquire, hold and dispose of movable and immovable property solely for the purposes of performing its official functions; and

b. institute and defend legal proceedings.

c. contract; and or enter into agreements with states, individuals, or other entities

3. POLICY BACKGROUND

3.1 The policy objective of the Privileges and Immunities Act is to provide immunities, privileges and capacities to international organizations and foundations with which Kenya partners.

3.2 The HCA in furtherance of the policy objective seeks, subject to the laws of Kenya to:

a. Grant privileges, Immunities and exemptions to AFC; and

b. Grant Exemptions and privileges to officials of AFC

4. KEY PROVISIONS OF THE AGREEMENT

(a) Establishment of the Regional Office

The Government of Kenya grants permission for AFC to establish a Regional Office in Nairobi.

(b) Legal Status and Functions of AFC

AFC is recognized as multilateral financial institution with legal personality. It can enter into contracts, acquire property, and institute legal proceedings.

(c) Privileges and Immunities

AFC's property and assets will be immune from legal processes except where immunity is expressly waived. Officials of AFC will be granted tax exemptions, work permits, and other privileges similar to those of other international organizations.

(d) Tax Exemptions and Fiscal Arrangements

The Agreement provides tax exemptions on official AFC activities. Goods and services imported for official use will be exempt from customs duties and VAT.

(e) Employment Conditions

AFC will recruit both international and local personnel. Kenyan citizens will be given priority and recruited across all levels where applicable.

(f) Dispute Resolution

Any disputes arising from the implementation of the Agreement will be resolved through consultations.

(g) Entry into Force and Duration

The Agreement takes effect provisionally upon signature and definitively upon gazettement and will remain in force for ten (10) years, renewable by mutual agreement between of the Parties.

5. BENEFITS TO KENYA

The Host Country Agreement with AFC is a strategic initiative aligned with Kenya's development agenda on accelerating infrastructure development, strengthening investment flows, and reinforcing the country's position as a leading economic and financial hub in the region.

Additionally, it will yield economic, strategic, and developmental benefits as follows:

a. Economic Growth: Enhanced infrastructure financing is expected to attract foreign direct investments and create thousands of jobs in construction and related sectors, boost GDP by 1-2% annually through project multipliers;

b. Knowledge Transfer and Strengthening Public–Private Partnerships: AFC's presence would help address existing barriers to private sector participation by providing technical expertise, risk mitigation, and innovative financing structures. This is critical for unlocking private capital and bridging Kenya's infrastructure financing gap;

c. Scaling Investment and Regional Influence: Establishing a regional office in Kenya would enable AFC to scale up its operations, attract additional financing, and fast-track project implementation. It would also position Kenya as a regional hub for infrastructure finance in Eastern Africa, enhancing its leadership role in driving regional integration and development;

d. Regional Leadership: Positioning Kenya as a financial hub for Eastern Africa, fostering trade and integration within the African Continental Free Trade Area (AfCFTA);

e. Sustainability: Promotion of green projects aligning with Kenya's climate goals, such as renewable energy expansion;

f. Employment Opportunities: generates direct and indirect employment opportunities for Kenyans;

g. Increases foreign currency inflows through programme expenditure and staff emoluments.

6. IMPACT

The Impact on Fundamental Rights and Freedoms

The HCA is not anticipated to have any negative impact or violate fundamental rights and freedoms of any person subject to it.

The Impact on the Private Sector

It is expected that the HCA will create a positive impact on the private sector through partnerships, innovation, and collaboration on development solutions.

The Impact on the Public Sector

The HCA will facilitate knowledge-sharing and learning, guide and enable the implementation of solutions, and mobilize resources for investments in infrastructure and industrial sectors in Kenya

7. FINANCIAL IMPLICATIONS

The Agreement does not impose any direct financial obligations on the Gove of Kenya beyond facilitating the operations of the Regional Office. The bene in terms of technical expertise, grant funding, and capacity-building outweigh any potential costs.

8. PUBLIC CONSULTATIONS

The Agreement has considered the views of key stakeholders such as the National Treasury and Economic Planning, Office of the Attorney General, Directorate of Immigration and the Kenya Revenue Authority.

9. CONTACT PERSON

The contact person at the Ministry of Foreign and Diaspora Affairs is:

The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, H.E. Dr. Musalia Mudavadi, E.G.H; or

The Principal Secretary, State Department for Foreign Affairs, Dr. Korir A. Singoei. Email: ps@mfa.go.ke

Disclaimer
These notes act only as a guideline and as such they are not exhaustive and for clarity proper reference should be made to the main body of the Act and HCA.

Date.....4th August.....2026

LEGAL NOTICE NO. .....

THE PRIVILEGES AND IMMUNITIES ACT
(Cap. 179)

IN EXERCISE of the powers conferred by section 9 of the Privileges and Immunities Act, the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs makes the following Order—

THE PRIVILEGES AND IMMUNITIES (AFRICA FINANCE CORPORATION) ORDER, 2026

1. This Order may be cited as the Privileges and Immunities (Africa Finance Corporation) Order, 2026.

2. Africa Finance Corporation, in this Order referred to as "the Corporation", being a multilateral financial institution established with the aim of providing pragmatic solutions to Africa's infrastructure deficit and challenging operating environment, catalyze private sector-led investments in infrastructure and industrial sectors critical to Africa's sustainable growth and accelerate Africa's industrialization and with which the Government of Kenya has entered into an agreement for cooperation, is hereby declared to be an organisation to which section 9 of the Act shall apply.

3. The Corporation shall have the legal capacity of a body corporate to—

(a) enter contracts;

(b) institute and defend legal proceedings; and

(c) acquire, hold or dispose of movable property in accordance with the laws of the Republic of Kenya.

4. The Corporation has the privileges and immunities specified in paragraph 1, 2 and 3 of Part I of the Fourth Schedule to the Act.

5. No privilege or immunity shall extend to the Corporation or its Officials with respect to claims arising out of road traffic offences and accidents,

commercial transactions, civil actions arising out of the exercise of its powers to borrow money and to guarantee obligations, enforcement of an arbitration award made against the Corporation, criminal actions or omissions and employment disputes involving a Kenyan or other national.

6. The Officials of the Corporation shall, while residing in Kenya and performing duties in the service of the Organisation, have the privileges and immunities specified in paragraphs 1, 2, 3, 4, 5, 6 and 7 of Part III of the Fourth Schedule to the Act.

7. Paragraphs 2, 3, 4, 5, 6 and 7 of Part III of the Fourth Schedule to the Act shall not apply to a citizen of Kenya or to any person who is ordinarily resident in Kenya.

Made on the.....2026

MUSALIA MUDAVADI,

Cabinet Secretary for Foreign and Diaspora Affairs

HOST COUNTRY AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF KENYA

AND

AFRICA FINANCE CORPORATION

RELATING TO THE

THE ESTABLISHMENT OF
THE AFRICA FINANCE CORPORATION
REGIONAL OFFICE
IN
KENYA

ARTICLE 1
DEFINITIONS

In this Agreement, unless the context otherwise requires:

Africa Finance Corporation means the Africa Finance Corporation established pursuant to the Establishment Agreement dated 28th May 2007 and shall include any subsidiary, branch, or representative office established in accordance with the Establishment Agreement and the Charter.

"**Agreement**" means this Host Country Agreement between the Government and the Corporation;

"**Establishment Agreement**" means the Agreement for the establishment of the Africa Finance Corporation dated 28th May 2007, including the AFC Charter and any amendments that may be made from time to time.

"Appropriate Kenyan Authorities" means such governmental, national, county, municipal, local or other authorities in the Republic of Kenya as may be appropriate in the context and in accordance with the laws and regulations applicable in the Republic of Kenya;

"Archives of the Corporation" includes but not limited to, all the books, records, correspondences, documents, data, databases, manuscripts, still and motion pictures, films and sound recordings, electronic records, files, and other materials belonging to, or held by, the Corporation in furtherance of its official functions as per the constitutive documents;

"Board of Directors" means the Board of Directors appointed in accordance with the Establishment Agreement.

"Corporation Personnel" means all officers of the Corporation including the President and Directors, experts on mission, consultants and individuals performing missions or services for the Corporation, including any other personnel designated by the Corporation to perform official duties.

"Communications" means all official correspondence, transmissions and exchanges of information made by or on behalf of the Corporation in connection with its official functions, whether by mail, courier, telephone, electronic mail, satellite transmission, encrypted digital platforms, or any other means of communication. Communications shall include communications between the Corporation and its headquarters, Offices, representatives, employees, consultants, agents, contractors, member states, or other counterparties.

"Dependants" means the spouse and biological and/or adopted children under the age of eighteen (18) years or school going children up to the age of twenty-three (23) of an Official of the Regional Office. A child with special needs who is beyond the age of 23 years and is primarily dependent on such Official of the Regional Office may be considered as dependant for the purposes of this Agreement.

"**Head of Regional Office**" means the duly appointed representative of the Corporation responsible for the direction, administration and operation of the Regional Office in the Republic of Kenya, and for representing the Corporation in its official dealings with the Host Government and other public authorities in the Host Country.

"Host Government" means the Government of the Republic of Kenya.

"Internationally recruited staff" means professional staff from any nationality recruited by the Corporation through a competitive international recruitment process.

"Laws of Kenya" includes the Constitution of the Republic of Kenya and all legislative acts, regulations, decrees and orders issued by or under the authority of the Government or any Appropriate Kenyan Authorities.

"Local Staff" means employees who are Kenyan Nationals recruited by the Corporation through a national recruitment process.

"**Meetings of the Corporation**" means the General Meeting of shareholders of the Corporation, the meetings of the Board of Directors or any of their Committees or sub-groups or any other official meeting convened by the Corporation.

"**Official Activities of the Corporation**" includes all activities undertaken by the Regional Office pursuant to the Establishment Agreement.

"**Officials of the Regional Office**" means the Head of Regional Office, all internationally recruited staff, and Kenyan nationals recruited locally, based at the Regional Office in Kenya, provided that persons employed on an hourly basis shall not be considered as officials of the Corporation.

"**President and CEO**" means the President and Chief Executive Officer of the Corporation appointed by the Board of Directors.

"**Premises of the Office**" **(Premises)** means the building and parts of buildings, land, installations and facilities made available to the Corporation, or parts thereof occupied permanently or temporarily by the Corporation for the performance of the Official Activities of the Corporation in the Host Government.

"Property and Assets of the Corporation" means all moveable and /or immovable property and assets owned, held or administered by the Corporation, including funds, deposits and other financial resources entrusted to or managed by the Corporation in the ordinary course of its business.

Regional Office" means the AFC Regional office established in the Republic of Kenya, and shall include any subsidiary, branch or representative office established in Kenya in accordance with the Establishment Agreement including its Premises, staff, property and facilities, through which the Corporation carries out its mandate and exercises its rights and functions under the Establishment Agreement

"Spouse" means husband or wife as recognized by the laws of Kenya.

ARTICLE 2
ESTABLISHMENT OF THE REGIONAL OFFICE

1. The Government hereby authorizes the Corporation to establish a Regional Office in the Republic of Kenya,

2. The Regional Office shall be headed by a Head of Regional Office appointed by the Corporation.

3. The staffing, structure and operations of the Regional Office shall be at sole discretion of the Corporation.

ARTICLE 3
LEGAL STATUS OF THE CORPORATION AND THE REGIONAL OFFICE

1. The Government recognizes the international legal personality of the Corporation and its capacity to operate within the territory of the Republic of Kenya in accordance with the Establishment Agreement.

2. The Regional Office shall not have a legal personality separate from that of the Corporation. All acts undertaken by the Regional Office within the territory of the Republic of Kenya shall be deemed as acts of the Corporation and shall be exercised in furtherance of its mandate under the Establishment Agreement.

3. The Corporation and the Regional Office shall possess full juridical personality and, in particular, the full legal capacity:

   a) To enter into contracts;

b) to acquire, hold, and dispose of, immovable and movable property;

c) to institute legal proceedings and be a party in judicial, legal, and administrative proceeding; and

d) to take such other action as may be necessary or incidental for its purpose and activities.

4. The Corporation and the Regional Office shall not be required to incorporate or register as a legal entity under the Laws of Kenya in order to exercise its functions pursuant to this Agreement.

ARTICLE 4
PREMISES OF THE REGIONAL OFFICE

1. The Host Government may, at the request of the Corporation, facilitate the Corporation's acquisition and/or development of suitable Premises, for the permanent and exclusive use of the Regional Office. All costs associated with the acquisition, development, establishment, and use of such premises shall be borne solely by the Corporation.

2. The Premises of the Regional Office shall be under the control and authority of the Corporation. The Corporation may establish and enforce regulations necessary for the proper functioning, administration and security of the Premises.

3. The Host Government, including the Appropriate Kenyan Authorities, shall take all appropriate measures and / or actions necessary to ensure that the Corporation shall not be dispossessed of all or any part of the Premises of the Regional Office.

4. The Corporation shall have the right to display its name, flag and emblem at the Premises, on its official vehicles, publications and communications. The Host Government shall take reasonable efforts to protect the Corporation's names, flag and emblem against misuse, misrepresentation or unauthorized commercial use in Kenya and shall implement arrangements to suppress in a timely and effective way any unauthorized use of the Corporation's names, flag and emblem.

5. Any transfer of the Premises temporarily to another place within Kenya shall not constitute a removal of the permanent Premises, unless there is an express decision by the Corporation to that effect.

ARTICLE 5
PRIVILEGES AND IMMUNITIES OF THE REGIONAL OFFICE

1. The Offices, Premises, records, funds and official communication of the Regional Office wherever located and by whomsoever held shall be inviolable and shall be under the exclusive control and authority of the Corporation. No officer or official or any other representatives or agent of the Republic of Kenya, be they administrative, judicial, or military or police or other person exercising public authority within the Republic of Kenya shall enter the Premises of the Regional Office to perform any duties therein except with the express written authorization of the Regional Office. Such authorization and consent shall be deemed to have been granted in the case of fire, flood, earthquake or other emergencies that require immediate access.

2. The Property and Assets of the Regional Office, wherever located and by whomsoever held, shall be immune from any form of search, attachment, seizure, requisition, confiscation, expropriation, moratoria and sequestration and any other form of interference, whether by executive, administrative, judicial, or legislative action; except, pursuant to a final judgment, or in so far as in any particular case, the Corporation shall have expressly waived its immunity.

3. Without prejudice to the provisions of this Agreement, the Corporation shall prevent the Premises from becoming a refuge for persons who are avoiding arrest under any law of the Republic of Kenya or who are required by the Government for extradition to another country or who are endeavoring to avoid service of legal process.

4. The Corporation and the Regional Office shall have the right in the Republic of Kenya to use codes and to dispatch and receive official correspondence and other communications either by courier or in sealed bags, which shall have immunities and privileges no less favorable than those accorded to couriers and bags of similarly privileged international organizations.

5. Without Prejudice to the provisions of this Agreement, the Corporation shall have the power to make rules and regulations applicable within the Premises and to establish means for the application and enforcement of such rules and regulations.

ARTICLE 6
INVIOLABILITY OF THE PREMISES, PROPERTY, ASSETS AND ARCHIVES

1. The Premises of the Regional Office, Property and Assets of the Corporation wherever located in the Republic of Kenya shall be inviolable and shall be under the exclusive control and authority of the Corporation.

2. No official or agent of the Government shall enter without express written authorization and consent or on the express request of Corporation.

3. The service of legal process on the Premises of the Regional Office shall take place only with the consent of the Corporation and in a manner consistent with the privileges and immunities accorded to the Corporation under the Establishment Agreement and this Agreement. No attachment, seizure, execution or other enforcement measure shall be levied against the Property or Assets of the Corporation or the Regional Office, whether prior to or following judgment, except pursuant to a final judgment or subject to any express waiver of immunity by the Corporation.

4. The Archives of the Corporation and all documents belonging to or held by the Corporation for its official functions shall be inviolable at any time and wherever located in Kenya. This immunity shall, however, not extend to documents required to be produced in the course of judicial or arbitral proceedings instituted by the Corporation.

5. The Premises shall be accorded the same protection as that accorded to similarly privileged international organizations in the Republic of Kenya. The Government shall take appropriate measures whenever the need arises to provide security, prevent any disturbance of law and order and to restore order in the vicinity of the Premises of the Corporation or remove offenders as may be necessary.

ARTICLE 7
PUBLIC UTILITIES AND SERVICES IN THE PREMISES OF THE REGIONAL OFFICE

1. The Host Government including Appropriate Kenyan Authorities shall, to the extent requested by the Corporation or the Regional Office, facilitate the Premises with the necessary public utilities and services, including electricity, water, sewage, gas, postal services, telephone, internet and other electronic communications, drainage, refuse collection, fire protection. All costs, charges, and fees associated with the provision,

installation, connection, and use of such utilities and services shall be borne solely by the Corporation.

2. Such public utilities and services shall be supplied on terms no less favourable than those applicable to diplomatic missions or other international organizations. In case of any interruption or threatened interruption of any of such services, the Host Government shall consider the needs of the Corporation as being of equal importance with those of essential agencies of the Government and shall take steps accordingly to ensure that the operations of the Regional Office are not prejudiced.

3. Representatives of public utilities and services duly authorized by the Regional Office in writing may enter the premises of the Regional Office to inspect and repair, maintain, reconstruct, and relocate utilities, conduits, mains, sewers or any building structures, under conditions which shall not unreasonably disturb the carrying out of functions of the Corporation.

ARTICLE 8
IMMUNITY FROM JUDICIAL PROCEEDINGS

1. Within the scope of its official activities the Corporation shall enjoy immunity from legal process, except that the immunity shall not apply:

   (i) To the extent that the Corporation shall have expressly waived any such immunity in any particular case or in any written document;

   (ii) In respect of civil action arising out of the exercise of its powers to borrow money, to guarantee obligations and to buy or sell or underwrite the sale of any securities;

   (iii) In respect of a civil action by a third party for damage arising from a road traffic accident caused by personnel of the Corporation acting on behalf of the Corporation;

   (iv) In respect of a civil action relating to death or personal injury caused by an act or omission by personnel of the Corporation in the Republic of Kenya;

   (v) In respect of the enforcement of an arbitration award made against the Corporation as a result of an express submission to arbitration by or on behalf of the Corporation or;

(vi) In respect of any counter-claim directly connected with court proceedings initiated by the Corporation.

ARTICLE 9
FREEDOM OF ASSETS, PROPERTY AND OPERATIONS FROM RESTRICTIONS

As provided in Article 10 of the Establishment Agreement:

1. To the extent necessary to implement the purpose of the Corporation and carry out is functions, each Member State shall waive, and refrain from imposing, any administrative financial or other regulatory restrictions that are likely to hinder in any manner the smooth functioning of the Corporation or impair its operations.

2. To this end, the Corporation, its property, assets, operations and activities shall be free from restrictions, regulations, supervision or controls, moratoria and other legislative executive, administrative, fiscal and monetary restrictions of any nature.

ARTICLE 10
EXEMPTIONS FROM TAXATION OF THE REGIONAL OFFICE

The implementation of the exemptions under this Agreement shall be in accordance with the applicable laws and administrative procedures of the Republic of Kenya:

a. The Corporation, its Property, assets, income, operations and transactions authorized under the Establishment Agreement shall be exempt from taxation within the Republic of Kenya. Such exemption shall not, however, extend to levies and user charges for public utility services.

b. The Corporation and its receiving, fiscal and paying agents shall be exempt from any obligation relating to the payment or collection of any tax or duty out of funds owned by or otherwise appertaining to the Corporation.

c. The Corporation shall be exempt from all national, or municipal dues and taxes in respect of the Premises, whether owned or leased, other than such as represent payment for specific services rendered.

d. The Corporation shall be exempt from all forms of transaction taxes including stamp duty.

e. Goods and services imported or purchased locally by the Corporation for official use or purpose shall be exempt from Customs duties, Value Added Tax (VAT), excise duty, fees and levies within the Republic of Kenya, provided that in the case

of imported goods, they shall be cleared through Customs prior to importation. Such exemptions shall be in compliance with the applicable tax laws in the Republic of Kenya.

f. In the event of any such exempted items being sold in the Republic of Kenya to a person or organization that is not similarly privileged, duties and taxes shall be payable thereon.

ARTICLE 11
FISCAL EXEMPTIONS AND FINANCIAL FACILITIES

1. Within the Republic of Kenya, the Corporation shall have the right to:

   (i) Purchase, or receive, hold, and dispose of any funds, financial instruments, convertible currencies, securities, bills of exchange, negotiable instruments;

   (ii) Operate accounts in any currency;

   (iii) Freely transfer its fund, financial instruments and securities, convertible currencies, bills of exchange, negotiable instruments to or from Kenya or within Kenya or convert any currencies held by it into any other currency, and undertake any other foreign exchange operation in furtherance of its objectives;

   (iv) Raise funds and lend in the national currency or any other currency.

2. The Host Government shall facilitate the operations of the Regional Office and shall accord it treatment no less favorable than that granted to other international financial institutions in Kenya with respect to exchange rates, banking commissions, regulations, and similar financial matters.

3. In exercising its rights under this Article, the Regional Office shall pay due regard to any representation made by the Government and shall give effect to such representation so far as possible, while safeguarding the interest of the Regional Office.

ARTICLE 12
COMMUNICATIONS

1. The Regional Office shall have freedom to display its logo on its premises, assets, and publications, and also have unrestricted access to the internet, the world wide web, and other emerging media.

2. The Host Government shall ensure that the Regional Office communications are not subject to any censorship or other interference. For the avoidance of doubt, the Regional Office may transmit any form of communication, including video, voice and data, and virtual private network ("VPN") traffic, over such communication networks without any restrictions.

3. The Regional Office shall have the right to use codes and encryption and to dispatch and receive official correspondence, publications, documents and other materials, including electronic media, by courier or in sealed envelopes or bags. Such couriers and sealed envelopes of packages shall be inviolable and shall enjoy privileges and immunities not less favorable than those accorded to diplomatic couriers and diplomatic bags in the Republic of Kenya.

4. Official communications of the Regional Office shall be accorded by the Host Government the same treatment that it accords to the official communications of any other privileged international organization.

5. The Regional Office shall have access to appropriate communication networks and equipment of Kenya and may also use their own communication equipment, including satellite, mobile and other communication equipment. Where applicable, the necessary permits, licenses or other authorizations related to such communication networks or equipment shall be provided by the Host Government without restrictions.

6. In consultation with the Host Government, the Regional Office may publish and disseminate information within Kenya in the fulfilment of its purpose.

ARTICLE 13
ENTRY, WORK PERMITS, RESIDENCE, AND TRANSIT

1. The Government undertakes, subject to Establishment Agreement and the Laws of the Republic of Kenya to:

i. Issue diplomatic identity cards for Officials of the Regional Office, their Dependents, which shall serve to identify the holder to the Appropriate Kenyan Authorities.

ii. Facilitate entry into, sojourn, transit, and departure from Kenya of Officials of the Regional Office and their Dependents and experts of the Corporation performing missions for the Corporation;

iii. Upon application in the prescribed manner and meeting the requirements, issue the relevant permits, passes and electronic Travel Authorization (eTA) to Officials of the Regional Office and their Dependents;

iv. Facilitate entry, transit and departure from Kenya, persons invited to attend the Meetings of the Corporation upon request.

2. Officials of the Regional Office and their Dependants are exempt from the requirements of obtaining work permits and passes respectively.

3. The Regional Office shall communicate the names of persons officially invited to the Regional Office in connection with official activities, indicating the duration of their stay to the Ministry of Foreign Affairs prior to their visit as is required of other similarly privileged international organizations based in Kenya. The Host Government shall facilitate their entry into and exit from the country as appropriate.

4. The Head of Regional Office or his / her designate shall promptly notify the Host Government of the names of Officials of the Regional Office and their Dependents, and names of persons forming their households, their arrival, and final departure or termination of their engagements with the Regional Office.

ARTICLE 14

PRIVILEGES AND IMMUNITIES OF THE OFFICIALS OF THE REGIONAL OFFICE

The Officials of the Regional Office shall, subject to the laws of the Republic of Kenya for the time being in force:

1) Be exempt from Income Tax in respect of income, emoluments, and allowances paid to them by the Corporation.

2) Be exempt from payment of Customs duties, VAT, excise duty, fees and levies within the Republic of Kenya in respect of new or used household and personal effects, including registration of one motor vehicle for the Official and another for the spouse imported or purchased prior to clearance through customs by entitled personnel within ninety (90) days of their first arrival in Kenya, or such longer period not exceeding three hundred and sixty (360) days from the date of arrival as may be approved by the Commissioner of Customs and Border Control.

3) Replacement of such motor vehicle may be done free of duty and VAT upon expiry of four (4) years. **PROVIDED THAT** exemption from customs duty, VAT, excise duty, fees and levies within the Republic of Kenya shall be granted in respect of a motor vehicle which the Ministry responsible for Foreign Affairs is satisfied as having been imported as a replacement for one originally imported under the above provision and which has been written off due to fire, theft and or accident. Duties shall be payable at the appropriate rate if the motor vehicle has been written off or disposed of locally. If any goods or materials imported under this Sub-Article, are disposed of in Kenya other than to a person or organization similarly privileged, duties and taxes shall be payable thereon.

4) Officials of the Regional Office who are neither Kenyan citizens nor permanent residents shall also be exempt from any mandatory social security schemes established by the Host Government or thereof, including national pension schemes, levies or health insurance plans. The Host Government shall not require the Officials to participate in or contribute to any such statutory schemes.

5. Be exempt from national service obligations.

PROVIDED THAT, *Clause 1 sub-articles (1) (2) (3) and (5) shall not apply to Kenyan citizens and permanent residents.*

ARTICLE 15
POLICIES AND EMPLOYMENT CONDITIONS

1. The Regional Office shall establish employment policies and terms and conditions for its staff and ensure that the remuneration for internationally recruited officials is uniform for the same scale regardless of their nationality.

2. No Official of the Regional Office shall be disadvantaged or subjected to discrimination including in matters related to remuneration, allowances, or benefits payable to by the Regional Office.

ARTICLE 16
UNDERTAKINGS OF THE REGIONAL OFFICE

The Regional Office hereby undertakes to:

1) Annually submit the names, address, dates of employment of all its employees in Kenya and their rank, to the Ministry responsible for Foreign Affairs and a copy to Department of Immigration. The first submission shall be done within six (6) months of signing this Agreement and thereafter annually, but not later than 31st day of December every year.

2) Ensure where the recruitment is being undertaken, Kenyans who applied and possess the requisite skills and competence are duly considered at all levels.

3) Take all reasonable steps to ensure that its operations and functions, the Corporation Personnel and Officials of the Regional Office, respects the laws governing the Republic of Kenya in the course of their work and stay in the country, and do not engage in activities that are incompatible with the aims and objectives of the Corporation.

4) Always cooperate with the Appropriate Kenyan Authorities to facilitate the proper administration of justice, adherence to the laws of Kenya, and the provisions of this Agreement, and shall refrain from abusing the privileges and facilities accorded to the Regional Office and its Officials under this Agreement.

ARTICLE 17
WAIVER OF IMMUNITIES AND PRIVILEGES

The privileges and immunities accorded under this Agreement are granted in the interests of the Regional Office and not for the benefit of the persons involved.

1. The Regional Office shall have the duty to waive the privileges and immunities of any person when requested to do so by the Government in cases where privileges and immunities are abused or would impede the course of justice and can be waived without prejudice to the interests of the Regional Office.

2. Where there is abuse of privileges or impediment of the cause of justice by the Regional Office or any official of the Regional Office under this Agreement, the Government shall engage the Regional Office/Corporation to remedy the abuse

and/or the impediment. Provided that if no action is taken by the Regional Office to rectify the abuse or the impediment, the Government shall, upon notification to the Head of Office and/or the Board, suspend the host country agreement.

3. The Republic of Kenya shall not incur by reason of the location of the Regional Office within its territory an international responsibility for acts or commissions of the Regional Office or its officials acting or abstaining from acting within the scope of their functions, other than the international responsibility which the Republic of Kenya would incur under international law.

On all matters when no specific provision has been made in this Agreement, the Regional Office shall at all times be accorded comparable treatment to that accorded to offices similar privileged international financial organizations.

ARTICLE 18
APPLICATION OF KENYAN LAW

Subject to the provisions of this Agreement, in particular of Article 5, the Applicable Law shall apply within the Regional Office and the Courts of Kenya shall have jurisdiction over acts done in the Regional Office and Premises except as otherwise provided in the Establishment Agreement.

ARTICLE 19
CO-OPERATION WITH THE GOVERNMENT

1. The Host Government and the Regional Office shall consult, from time to time, at the request of either party, on the implementation of this Agreement. For this purpose, the Parties undertake to exchange and regularly update the contact details of focal persons in charge of the implementation of this Agreement.

2. The Host Government and the Regional Office shall enter into such supplemental agreements or arrangements as may be necessary within the scope of this Agreement.

ARTICLE 20
SETTLEMENT OF DISPUTES

1. The Parties hereto will do everything possible to see that differences are settled amicably through diplomatic channels and with the discretion essential to continued good relations between the Republic of Kenya and the Regional Office.

2. Any difference between the Regional Office and the Government concerning the interpretation and/or application of this Agreement or any question affecting the relationship between AFC and the Government, shall be settled amicably through consultations between the Parties, within a reasonable period.

3. Any dispute against the Regional Office in Kenya other than by the Government of Kenya shall first be referred to the Ministry responsible for Foreign Affairs, for negotiation and mediation.

ARTICLE 21
PRESERVATION OF RIGHTS, PRIVILEGES AND IMMUNITIES

This Agreement is entered into in furtherance of, and is subsidiary to, the Establishment Agreement and the AFC Charter. Nothing in this Agreement shall be construed to revoke, restrict, modify, waive or derogate from the Establishment Agreement and the AFC Charter in any way, including with respect to the status and the privileges and immunities of the Corporation provided therein.

ARTICLE 22
AMENDMENT

1. This Agreement may be revised, modified or amended from time to time by mutual written consent of the Parties, through the exchange of notes, which shall constitute an integral part of this Agreement.

2. At the request of either the Host Government or the Regional Office, the Parties shall enter into consultations concerning any proposed modification or amendment to this Agreement.

ARTICLE 23
INTERPRETATION

In this Agreement, unless the context otherwise requires:

1. This Agreement shall be interpreted in the light of its primary purpose to enable the Regional Office to discharge its responsibilities and fulfill its objectives fully and efficiently in Republic of Kenya.

2. The Parties undertake to act in good faith with respect to each other's rights and obligations under this Agreement and to adopt all reasonable measures to ensure the realization of its objectives.

ARTICLE 24
ENTRY INTO FORCE

1. This Agreement shall enter into force provisionally upon signature by the Host Government and the Regional Office and definitively upon gazettement. The Agreement shall also be presented to parliament in accordance with the laws of Kenya.

2. The Parties shall consult periodically on the implementation of this Agreement with a view to ensuring its effective application. Such consultations take place every ten (10) years and shall be concluded no later than six (6) months before the end of each ten-year period. For the avoidance of doubt, these consultations shall not limit, renegotiate, or otherwise impair the privileges, immunities and exemptions under the Establishment Agreement.

ARTICLE 25
TERMINATION

1. This Agreement shall cease to be in force:

   a) by mutual written agreement of the Parties; or
   b) upon the relocation or removal of the Premises outside of Kenya.

2. Upon termination, the provisions of this Agreement shall continue to apply for such period as may be necessary to ensure the orderly cessation of the activities of the Regional Office in Kenya and the disposal or repatriation of its property and assets therein.

IN WITNESS WHEREOF the undersigned, duly authorized representatives for this purpose have signed this Agreement, in two original copies in the English language, both copies being equally authentic.

DONE at **NAIROBI** on this...23rd..... day of.....April.....Two Thousand and Twenty-Six.

FOR THE GOVERNMENT OF THE REPUBLIC OF KENYA

.....

H.E DR. MUSALIA MUDAVADI, EGH
CABINET SECRETARY FOR FOREIGN AND DIASPORA AFFAIRS

FOR AND ON BEHALF OF THE AFRICA FINANCE COOPERATION

.....

SAMAILA D. ZUBAIRU
PRESIDENT AND CHIEF EXECUTIVE OFFICER

OFFICE OF THE CABINET SECRETARY

MFA/INT/147/VOL.19 (31) **4th August, 2026**

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Office of the Clerk
The National Assembly
NAIROBI

Dear Mr Njoroge.

SUBMISSION OF THE EXPLANATORY MEMORANDUM IN RESPECT OF THE DRAFT ORDER GAZETTING THE HOST COUNTRY AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND AFRICA FINANCE CORPORATION

Reference is made to the above subject matter.

The Host Country Agreement (HCA) between the Government of Kenya and the Africa Finance Corporation was negotiated and signed on 23rd April 2026 (copy attached).

Pursuant to Section 17 of the Privileges and Immunities Act CAP 179 and Section 11 of the Statutory Instruments Act of 2013 CAP 2 A, please find attached the Explanatory Memorandum in respect of the Host Country Agreement between the Government of the Republic of Kenya and Africa Finance Corporation together with the draft Legal Notice for consideration and approval by the National Assembly prior to its gazettement.

Yours sincerely,

H.E. DR. MUSALIA MUDAVADI, E.G.H.
PRIME CABINET SECRETARY AND
CABINET SECRETARY FOR FOREIGN AND DIASPORA AFFAIRS

Encl.

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 18 AUG 2026 DAY. Tuesday
TABLED BY: Hon. Owen Baya, MP Deputy Majority Leader Msdo

THE TABLE
NATIONAL ASSEMBLY
RECEIVED
13 AUG 2026
P. O. Box 41842, NAIROBI.

Copy to: **CPA Dr. Aurelia C. Rono, CBS**
Principal Secretary
State Department for Parliamentary Affairs
Office of the Prime Cabinet Secretary and Cabinet Secretary
For Foreign and Diaspora Affairs
NAIROBI