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CLERK-AT THE-TABLE:	Irene Nduku

EXPLANATORY MEMORANDUM ON THE HOST COUNTRY
AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC
OF KENYA AND THE GLOBAL CENTER ON ADAPTATION 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 the
Global Center of Adaptation on
Establishment of the GCA
Regional Office in Nairobi

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

Enacted Pursuant to: Section 11 of the Privileges and
Immunities Act

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

Gazette on: 2nd May 2025

Tabled on

PART II

1. Purpose of the HCA between the Government of the Republic of Kenya and the Global Center on Adaptation (GCA) on the Establishment of the GCA regional Office in Nairobi

INTRODUCTION

- 1.1 The GCA is an international organization established with the aim of accelerating adaptation action and supporting climate adaptation solutions which is registered in the Netherlands.
- 1.2 The GCA:
 - a. Is a development partner that operates through regional offices and partner institutions to facilitate knowledge sharing and learning and enable implementation of adaptation solutions, provide a coherent global perspective on adaptation, and mobilize resources for adaptation;
 - b. Works to promote global cooperation and collaboration on adaptation, bringing together governments, international organizations, the private sector, civil society and other stakeholders toward common adaptation goals; and
 - c. Aims to catalyze action on adaptation by providing tools, support and resources to those who are most vulnerable to the impacts of climate change.
- 1.3 The GCA has been working in collaboration with the Government of Kenya, local and international partners in the Republic of Kenya since 2021.
- 1.4 The GCA is desirous of establishing a regional office in Nairobi to strengthen and enhance its activities in the Republic of Kenya and also to serve the African Region.

- 1.5 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 the GCA within the Republic of Kenya
- 1.6 The Government of the Republic of Kenya agrees to the establishment of a regional office of the GCA for purposes of carrying out its activities in the Republic of Kenya and elsewhere in the African region.
- 1.7 This Explanatory Memorandum provides a detailed justification and explanation of the Host Country Agreement (HCA) between the Government of Kenya and the Global Center on Adaptation (GCA). The Agreement establishes a Regional Office of the GCA in Nairobi, Kenya, to enhance Kenya's role in climate adaptation and resilience-building efforts across Africa.
- 1.8 The Agreement aims to facilitate the establishment and operations of the GCA Regional Office in Nairobi. It defines the legal status, privileges, immunities, and obligations of GCA and its officials within Kenya. The primary objectives include:
 - a. Strengthening Kenya's position as a hub for climate adaptation initiatives in Africa.
 - b. Supporting the Africa Adaptation Acceleration Program (AAAP) to implement climate resilience projects.
 - c. Enhancing cooperation between the Government of Kenya and GCA in climate adaptation.

2. LEGISLATIVE CONTEXT

- 2.1 The Agreement is entered into pursuant to Kenya's international commitments on climate action, including the Paris Agreement and national climate adaptation 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 GCA as an international organization with legal personality and full capacity to perform its functions and achieve its objectives.
- 2.4 The CGA 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;
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3. POLICY BACKGROUND

- 3.1 The policy objective of the Privileges and Immunities Act is to provide immunities, privileges and capacities of an international organization.
- 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 the GCA: and
 - b) Grant Exemptions and privileges to officials of GCA.

4. KEY PROVISIONS OF THE AGREEMENT

(a) Establishment of the Regional Office

The Government of Kenya grants permission for GCA to set up its Regional Office in Nairobi.

The Office will facilitate adaptation programs and research to address climate challenges in Kenya and Africa.

(b) Legal Status and Functions of GCA

GCA is recognized as an international organization with legal personality. It can enter into contracts, acquire property, and institute legal proceedings.

(c) Privileges and Immunities

GCA's property and assets will be immune from legal processes except where immunity is expressly waived. Similarly, Officials of GCA 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 GCA activities. Goods and services imported for official use will be exempt from customs duties and VAT.

(e) Employment Conditions

GCA 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 and, if necessary, through Kenyan courts.

(g) Entry into Force and Duration

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

5. BENEFITS TO KENYA

The Host Country Agreement with GCA is a strategic initiative aligned with Kenya's climate change agenda. It provides an opportunity for Kenya to benefit from global expertise and resources in climate adaptation while reinforcing Nairobi's status as a hub for international organizations.

Additionally, it will :

- a. Enhance Kenya's international profile as a leader in climate adaptation.
 - b. Strengthening cooperation with global stakeholders in climate resilience.
 - c. Create job opportunities and capacity-building opportunities for Kenyan professionals.
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- d. Increase investment in climate adaptation projects in Kenya and Africa.

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's subject to it.

The Impact on the Private Sector

It is expected that the HCA will create a positive impact on the private sector. Because the GCA works to promote global cooperation and collaboration on adaptation, bringing together governments, international organizations as well as the private sector.

The Impact on the Public Sector

The HCA will facilitate knowledge-sharing and learning, guide and enable the implementation of adaptation solutions, provide a coherent global perspective on adaptation, and mobilize for resources.

7. FINANCIAL IMPLICATIONS

The Agreement does not impose any direct financial obligations on the Government of Kenya beyond facilitating the operations of the Regional Office. The benefits in terms of technical expertise, funding for climate adaptation, and capacity-building outweigh any potential costs and foregone Customs Duty & VAT.

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, Kenya Revenue Authority and Ministry of Environment , Climate Change and Forestry.

9. MONITORING AND REVIEW

The Ministry of Foreign and Diaspora Affairs will monitor the activities of GCA together with the relevant Ministry in which the objectives of GCA applies by monitoring, reviewing and evaluating the activities undertaken by GCA.

This will be done periodically to monitor and evaluate the HCA through interaction with the implementers and beneficiaries of the HCA.

The Ministry of Foreign and Diaspora Affairs will also ensure that GCA annually submits its activities, the names, addresses, dates of employment of all its Staff and their rank. The first submission shall be done within three (3) months of signing the Host Country Agreement and thereafter annually, but not later than 31st day of December every year.

10. 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: communications@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 Privileges and Immunities Act and HCA.

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THE PRIVILEGES AND IMMUNITIES ACT

(Cap. 179)

IN EXERCISE of the powers conferred by section 11 of the Privileges and Immunities Act, the Cabinet Secretary for Foreign and Diaspora Affairs makes the following Order—

THE PRIVILEGES AND IMMUNITIES (THE GLOBAL CENTRE FOR ADAPTATION) ORDER, 2025

1. This Order may be cited as the Privileges and Immunities (The Global Centre for Adaptation) Order, 2025.

2. The Global Centre for Adaptation, in this Order referred to as "the Organisation", being an international organization established with the aim of accelerating adaptation action and supporting climate adaptation solutions; and with which the Government of Kenya has entered into an agreement for cooperation, is hereby declared to be an organisation to which section 11 of the Act shall apply.

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

- (a) enter into contracts;
- (b) institute and defend legal proceedings; and
- (c) acquire, hold or dispose of movable and immovable property in accordance with the laws of the Republic of Kenya.

4. The Organisation shall have the privileges and immunities specified in paragraphs 1, 2, 3, 4, 5 and 6 of Part I of the Fourth Schedule to the Act.

5. The director, officials and staff of the Organisation 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.

6. Paragraph 5 shall not apply to a citizen of Kenya or to any person who is ordinarily resident in Kenya except solely for the purpose of being an employee of, and working exclusively for the Organisation.

Made on the 20th April, 2025.

MUSALIA MUDAVADI,
Cabinet Secretary for Foreign and Diaspora Affairs.

