

*Rt.Hon. Speaker  
Approved  
by Cabinet  
4/12/25*



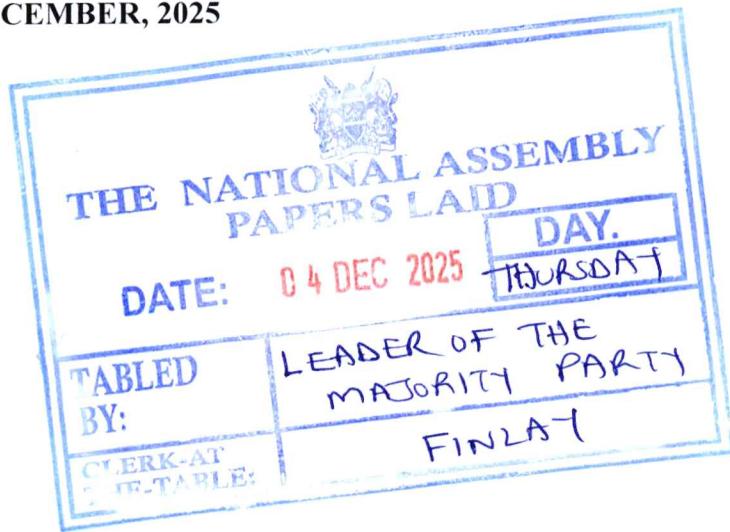
*Approved  
SNA  
4/12/25*

REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT | FOURTH SESSION (2025)

REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION ON ITS  
CONSIDERATION OF THE PRIVILEGES AND IMMUNITIES (THE GLOBAL  
CENTRE FOR ADAPTATION) ORDER, 2025 (LEGAL NOTICE NO. 82 OF 2025)



DECEMBER, 2025



*The Directorate of Audit, Appropriations and General-Purpose Committees*

The National Assembly

Parliament Buildings

NAIROBI

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## **ABBREVIATIONS AND ACCRONYMS**

Cap.	Chapter (of the Laws of Kenya)
CBS	Chief of the Order of the Burning Spear
EGH	Elder of the Order of the Golden Heart
EBS	Elder of the Order of the Burning Spear
GCA	Global Centre for Adaptation
MP	Member of Parliament
ODM	Orange Democratic Movement
UDA	United Democratic Alliance
UDM	United Democratic Movement
UPA	United Progressive Alliance
UPIA	United Progressive Independent Alliance
WDM-Kenya	Wiper Democratic Movement – Kenya

## CHAIRPERSON'S FOREWORD

The Privileges and Immunities (The Global Centre for Adaptation) Order, 2025 is a statutory instrument that was referred to the Committee on Delegated Legislation for its consideration pursuant to the provision of section 12(1) of the Statutory Instruments Act Cap 2A. This provision requires that a statutory instrument once tabled, stand referred to the Committee for its review and scrutiny.

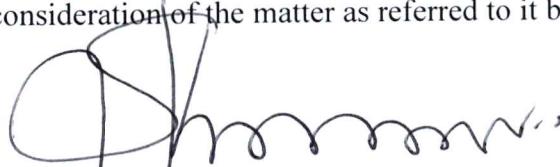
The Cabinet Secretary for Foreign and Diaspora Affairs, in exercise of the powers conferred by section 11 of the Privileges and Immunities Act, Cap 179, published the Privileges and Immunities (The Global Centre for Adaptation) Order, 2025 *vide Legal Notice Number 82 of 2025*. The Order was published on 2<sup>nd</sup> May, 2025 and submitted to the Clerk of the National Assembly on 30th May, 2025 and tabled on 4<sup>th</sup> June, 2025 by the Deputy Majority Whip.

The Committee at its meeting held on Thursday, 4<sup>th</sup> December, 2025 considered the Privileges and Immunities (The Global Centre for Adaptation) Order, 2025 pursuant to section 12(2) of the Statutory Instruments Act Cap 2A.

The Committee observed that the Privileges and Immunities (The Global Centre for Adaptation) Order, 2025 infringed Article 94(6) of the Constitution relating to the principles and standards set in section 17 of the Privileges and Immunities Act Cap 179 requiring that the Order be submitted in draft form and be laid in Parliament for consideration before it can be published, and section 13(a) of the Statutory Instruments Act (Cap. 2A) which requires the Order to conform to the Constitution, the Act under which it is made and any other written law.

Having examined the Privileges and Immunities (The Global Centre for Adaptation) Order, 2025, the Committee recommends that **the House declares the Privileges and Immunities (The Global Centre for Adaptation) Order, 2025 published as Legal No. 82 of 2025 a NULLITY for infringing Article 94(6) of the Constitution relating to the principles and standards set out in section 17 of the Privileges and Immunities Act Cap 179, and section 13(a) of the Statutory Instruments Act (Cap. 2A) which requires that the Committee to examine during its scrutiny whether a statutory instrument is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law.**

I wish to most sincerely thank the Speaker and the Office of the Clerk of the National Assembly for the invaluable support accorded to the Committee in the discharge of its mandate. I also wish to thank the Committee Membership and the Secretariat for their diligence and commitment during the consideration of the matter as referred to it by the House.



**HON. CHEPKONG'A KIPRONO SAMUEL, CBS, MP.  
CHAIRPERSON, SELECT COMMITTEE ON DELEGATED LEGISLATION**

## 1.0 PREFACE

### 1.1 Establishment and Mandate of the Committee

1. The Select Committee on Delegated Legislation is established under ***Standing Order No. 210*** of the National Assembly Standing Orders and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider in respect of any statutory instrument, whether it is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.
2. 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 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 Kiprono Samuel, 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.**      **Hon. (Maj) (Rtd) Dekow Barrow Mohamed, M.P.**  
Kathiani Constituency      Garissa Township Constituency  
**WDM-Kenya**      **UDA**

**Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS, M.P.**      **Hon. Kamene Joyce, M.P.**  
Kilgoris Constituency      Machakos County  
**KANU**      **WDM-Kenya**

**Hon. Dr. Onchoke, Mamwacha Charles, M.P.**      **Hon. Dr. Kimaiyo, Gideon Kipkoech, M.P.**  
Bonchari Constituency      Keiyo South Constituency  
**UPA**      **UDA**

**Hon. Waithaka, John Machua, M.P.**      **Hon. Chebor, Paul Kibet, M.P.**  
Kiambu Constituency      Rongai Constituency  
**UDA**      **UDA**

**Hon. Yakub Adow Kuno, M.P.**      **Hon. (Maj) (Rtd) Abdullahi, Bashir Sheikh, M.P.**  
Bura Constituency      Mandera North Constituency  
**UPIA**      **UDM**

**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. Mwale, Nicholas S. Tindi M.P.**

Butere Constituency

**ODM**

**Hon. Mugabe Innocent Maino, M.P.**

Likuyani Constituency

**ODM**

**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. Esther Nginyo**  
*Senior Clerk Assistant (Team Leader)*

Mr. Dima Dima W.  
*Deputy Director-DLS*

Mr. Brian Langwech  
*Clerk Assistant III*

Mr. Silvanus Makau  
*Clerk Assistant III*

Mr. Noah Chemweno  
*Serjeant at Arms*

Ms. Rahab Chepkilim  
*Audio Officer*

## **2.0 CONSIDERATION OF THE PRIVILEGES AND IMMUNITIES (THE GLOBAL CENTRE FOR ADAPTATION) ORDER, 2025**

### **2.1 Introduction**

5. The Privileges and Immunities (The Global Centre for Adaptation) Order, 2025 is a statutory instrument that was referred to the Committee on Delegated Legislation for its consideration pursuant to the provision of section 12(1) of the Statutory Instruments Act Cap 2A. This provision requires that a statutory instrument once tabled, stand referred to the Committee for its review and scrutiny.
6. The Cabinet Secretary for Foreign and Diaspora Affairs, in exercise of the powers conferred by section 11 of the Privileges and Immunities Act, Cap 179, published the Privileges and Immunities (Global Centre for Adaptation) Order, 2025 *vide Legal Notice Number 82 of 2025*.
7. The Order was published on 2<sup>nd</sup> May, 2025 and submitted to the Clerk of the National Assembly on 30th May, 2025 and tabled on 4<sup>th</sup> June, 2025 by the Deputy Majority Whip.
8. The Privileges and Immunities (Global Centre for Adaptation) Order, 2025 indicates that the Government of Kenya has entered into an agreement for cooperation with the Global Centre for Adaptation (GCA), an international organization established with the aim of accelerating adaptation action and supporting climate adaptation solutions.
9. Pursuant to section 11 of the Privileges and Immunities Act, Cap 179, the Privileges and Immunities (Global Centre for Adaptation) Order, 2025 seeks to grant the GCA the privileges and immunities under Part I of the Fourth Schedule to the Act which include, *inter alia*:
  - (a) immunity from suit and legal process,
  - (b) inviolability of premises occupied as offices and official archives; and
  - (c) exemption from rates and taxes on importation of goods.
10. The Order seeks to grant the GCA director, officials and staff the privileges and immunities specified under Part III of the Fourth Schedule to the Act, which include *inter alia*:
  - (a) immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties;
  - (b) and exemption from direct taxes upon emoluments received as an officer or servant of the organization.

11. Section 17 of the Act provides that ... *any order made under this Act shall, unless a draft thereof has been laid before Parliament and approved by resolution before the making thereof, be laid before Parliament without unreasonable delay, and, if a resolution is passed by Parliament within twenty days on which Parliament next sits after such order is laid before it that the order be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of any new order.*

## **2.2 Object and Purpose of the Order**

12. The object and purpose of the Order seek to grant privileges and immunities to the Global Centre for Adaptation specified under part I of the Fourth Schedule to the Privileges and Immunities Act. It also seeks to grant exemptions and privileges to the Director, officials and staff of GCA.

## **2.3 Legislative Context**

13. Section 11 of the Act deals with technical assistance from agencies and provides that;

*1. where the Government of Kenya enters into an agreement with an external agency under which in return for assistance or cooperation in works executed in, or services rendered to, Kenya by such agency, the Government as agreed that such agency or person in its service, should enjoy any immunities or privileges, the Cabinet Secretary may, by order-*

*a). declare that such agency is one to which this section applies;*

*b). provide that, to such extent as may be specified by the Order, such agencies shall have the immunities and privileges set out in Part I of the Fourth Schedule to the Act; and*

*c). Confer upon such classes of such officers and servants of such agency as may be specified in the Order, to such extent as may be so specified, the immunities and privileges as set out in Part III of the said Fourth Schedule and for purposes of any such Order, references in the said Fourth Schedule to the organization, shall be construed as references to the external agency named in the order.*

14. The privileges and immunities may not be conferred to citizens of Kenya or persons permanently resident in Kenya.

15. The Cabinet Secretary is required to publish a notice in the Gazette specifying the persons entitled to such immunities and privileges.

16. External agencies include: government of foreign state, any recognized agency of such a government or any internationally recognized foundation or other bodies.

17. Article 94(6) of the Constitution provides that an Act of Parliament that delegates power to a person to make delegated legislation must specify *inter alia* the principles and standards applicable to the law made under the authority.

18. While Section 11 of the Act delegates to the Cabinet Secretary power to make an order which is a delegated legislation, section 17 sets out the principles and standards applicable to the said delegated legislation (order) and provides that prior to the making of the Order, a draft

of the Order to be laid before Parliament, when Parliament is in session, and Parliament has **twenty days** to make a resolution to annul [or approve], BUT without prejudice to anything previously done thereunder, or making of a new Order.

## **2.5 Summary of the Content of the Circular**

19. In paragraph 1, the Order provides for the Citation.
20. Paragraph 2, seeks to declare the Global Centre for Adaptation, which is 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 as an organization to which section 11 of the Act applies for purposes of enjoying certain immunities and privileges.
21. Paragraph 3 of the Order accords the organization the legal capacity of a body corporate to enter into contracts, institute a defense legal proceeding and to acquire whole or dispose of movable and immovable property in accordance with the laws of Kenya.
22. Paragraph 4 of the Order confers on the organization the privileges and immunities specified in the Part I of the Fourth Schedule to the Act, which privileges and immunities include:
  - a. immunity from suit and legal process.
  - b. the like inviolability of premises occupied as offices and of official archives as is accorded by Articles 22 and 24 of the First Schedule to the Act;
  - c. the like exemption from rates and taxes, other than taxes on the importation of goods, as is accorded to a mission by the said First Schedule;
  - d. exemption from taxes on the goods or services imported or purchased locally by the organization for its official use in Kenya or for exportation, or on the importation of any publications of the organization directly imported by it, such exemption to be subject to compliance with such conditions as any written law relating to customs and excise may prescribe;
  - e. exemptions from prohibitions and restrictions on importation or exportation in the case of goods directly imported or exported by the organization for its official use and in the case of any publications of the organization directly imported or exported by it; and
  - f. the right to avail itself, for telegraphic communications sent by it and containing only matter intended for publication by the Press or for wireless broadcasting (including communications addressed to, or dispatched from, places outside Kenya), of any reduced rates applicable for the corresponding service in the case of Press telegrams.

23. Paragraph 5 of the Order confers on the director, officials and staff of the organization while residing in Kenya and performing duties in the service of the organization privileges and immunities specified in Part III of the Fourth Schedule to the Act which include:

- a. immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties;
- b. exemption from direct taxes upon the emoluments received as an officer or servant of the organization;
- c. immunity from national service obligations;
- d. immunity from immigration restrictions and alien registration in respect of the officers and servants and their spouses and dependent relatives;
- e. the like privileges in respect of exchange control facilities as are accorded to officials of equivalent status forming part of a diplomatic mission;
- f. the like facilities, for the officers and servants and their spouses and dependent relatives, for repatriation in times of international crises as are afforded to diplomatic missions; and
- g. exemption from tax or duty on the importation of furniture, personal property and household effects of an officer or servant first arriving to take up his post in Kenya.

24. Paragraph 6 of the Order seeks to exempt Kenyan citizens or persons ordinarily resident in Kenya who are employees of the organization from enjoying the said privileges and immunities.

### **3.0 SUBMISSIONS FROM THE STAKEHOLDERS**

25. Pursuant to Section 16 of the Statutory Instruments Act Cap 2A, the Committee vide its letter Ref. **NA/DAA&GPC/CDL/2025/(101)** dated 25<sup>th</sup> November, 2025, signed by the Clerk of the National Assembly, invited the Ministry of Foreign and Diaspora Affairs for conferment on the subject in a meeting held on Thursday, 4<sup>th</sup> December, 2025. The Ministry vide a letter Ref. MFDA/CONF/ADM/26/1 VOL. III (53) dated 27<sup>th</sup> November, 2025 regrettably indicated that the Hon. Cabinet Secretary could not attend due to exigencies of duty.
26. The Committee also vide its letter Ref. **NA/DAA&GPC/CDL/2025/(102)** dated 25<sup>th</sup> November, 2025, signed by the Clerk of the National Assembly, invited the National Treasury and Economic Planning to a meeting held on Thursday, 4<sup>th</sup> December, 2025 to advise the Committee on tax related issues in the Order.
27. The National Treasury indicated that while in their opinion, the exemption relating to taxes were within the law, they were not aware that the Order was not submitted for tabling in draft form for Parliamentary approval as required under section 17 of the Privileges and Immunities Act Cap 179.

### **4.0 COMMITTEE OBSERVATIONS**

28. Having examined the *Privileges and Immunities (The Global Centre for Adaptation) Order, 2025* and having considered its conformity with the Constitution, the Privileges and Immunities Act Cap 179, the Interpretation and General Provisions Act (Cap. 2), and the Statutory Instruments Act (Cap. 2A), the Committee observed as follows—

#### **4.1 Infringement of the Constitution and Relevant Statutes**

29. Article 94(6) of the Constitution provides that an Act of Parliament that delegates power to a person to make delegated legislation ought to specify *inter alia* the principles and standards applicable to the law made under the authority. Section 17 of the Privileges and Immunities Act sets the principles and standard applicable to an order made under section 11 of the Act and requires that prior to the making of the Order, a draft of the Order to be laid before Parliament, when Parliament is in session, and Parliament has **twenty days** to make a resolution to annul [or approve] the order.
30. Contrary to the requirements set out in Article 94(6) of the Constitution and sections 11 and 17 of the Privileges and Immunities Act Cap 179, the Ministry of Foreign and Diaspora Affairs failed to prepare and submit a draft Privileges and Immunities (The Global Centre for Adaptation) Order thereby infringing section 13(a) of the Statutory Instruments Act Cap

2A which requires that the Committee to examine during its scrutiny whether a statutory instrument is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law.

## **5.0 COMMITTEE RECOMMENDATIONS**

31. Having examined the Privileges and Immunities (The Global Centre for Adaptation) Order, 2025, the Committee recommends that **the House declares the Privileges and Immunities (The Global Centre for Adaptation) Order, 2025 published as Legal No. 82 of 2025 a NULLITY** for infringing Article 94(6) of the Constitution relating to the principles and standards set out in section 17 of the Privileges and Immunities Act Cap 179, and section 13(a) of the Statutory Instruments Act (Cap. 2A) which requires that the Committee to examine during its scrutiny whether a statutory instrument is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law..

Signed .....

  
**THE HON. CHEPKONG'A SAMUEL KIPRONO, CBS, MP**  
**(CHAIRPERSON)**

Date 4/12/2025

**COMMITTEE ON DELEGATED LEGISLATION**

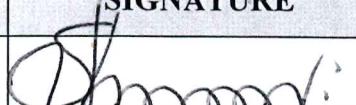
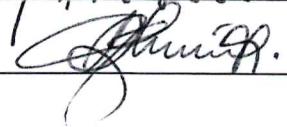
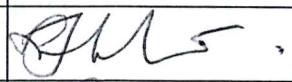
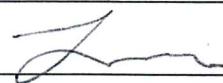
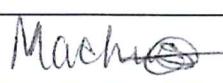


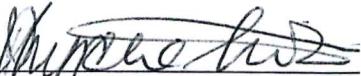
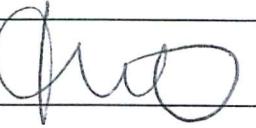
## COMMITTEE ON DELEGATED LEGISLATION MEMBERS ATTENDANCE SCHEDULE

Date 4<sup>TH</sup> DECEMBER 2025      Venue 5<sup>TH</sup> FLOOR BUNGE TOWER, COMMITTEE ROOM 21

Start Time-----Time Ended-----

Agenda CONSIDERATION OF THE PRIVILEGES AND IMMUNITIES (THE GLOBAL CENTRE FOR ADAPTATION) ORDER, 2025.

No.	NAME	SIGNATURE
1.	The Hon. Chepkonga Kiprono Samuel, CBS, M.P, Chairperson	
2.	The Hon. Githinji, Robert Gichimu, 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. Mwale, Nicholas S. Tindi, M.P.	
9.	The Hon. Odoyo, Jared Okello, M.P.	
10.	Hon. Anthony Oluoch, M.P.	
11.	Hon. Waithaka, John Machua, M.P.	
12.	The Hon. Maj. (Rtd.) Dekow Barrow Mohamed, M.P.	
13.	The Hon. Munyoro, Joseph Kamau, M.P.	
14.	The Hon, ( Dr.) Kimaiyo, Gideon Kipkoech, M.P.	
15.	The Hon. Chepkorir, Linet, M.P.	

No.	NAME	SIGNATURE
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.	

COMMITTEE CLERK: ..... SIGNATURE.....

DIRECTOR, DAA&OSC: ..... SIGNATURE.....

**MINUTES OF THE 4<sup>TH</sup> SITTING OF THE COMMITTEE ON DELEGATED  
LEGISLATION HELD ON THURSDAY, 4<sup>TH</sup> DECEMBER, 2025, IN COMMITTEE  
ROOM 21, 5<sup>TH</sup> FLOOR, BUNGE TOWER, AT 10.00 A.M**

**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. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P
4. The Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, M.P.
5. The Hon. Jared Okello Odoyo, M.P.
6. The Hon. John Paul Mwirigi, M.P.
7. The Hon. Waithaka, John Machua, M.P.
8. The Hon. Pauline Lenguris, M.P.
9. The Hon. (Dr.) Charles Mamwacha Onchoke, M.P.
10. The Hon. (Dr.) Gideon Kipkoech Kimaiyo, M.P.
11. The Hon. Innocent Mugabe, M.P.
12. The Hon. Paul Chebor, M.P.

**APOLOGIES**

1. The Hon. Robert Mbui, CBS, M.P
2. The Hon. Nicholas S. Tindi Mwale, M.P.
3. The Hon. Anthony Oluoch, M.P
4. The Hon. Joyce Kamene, M.P.
5. The Hon. Laura Amina Mnyazi, M.P.
6. The Hon. Maj. (Rtd). Dekow Barrow Mohamed, M.P
7. The Hon. Joseph Kamau Munyoro, M.P.
8. The Hon. Yakub Adow Kuno, M.P.
9. The Hon. Linet Chepkorir M.P.

**IN ATTENDANCE**

**SECRETARIAT**

1. Ms. Esther Nginyo	-	Senior Clerk Assistant
2. Mr. Wilson Dima	-	Deputy Director, DLS
3. Mr. Silvanus Makau	-	Clerk Assistant III
4. Mr. Brian Langwech	-	Clerk Assistant III
5. Ms. Rahab Chepkilim	-	Audio Officer
6. Mr. Noah Chemweno	-	Sergeant at Arms
7. Ms. Shirley Safari	-	Attachee
8. Ms. Esther Kerubo	-	Attachee

**THE NATIONAL TREASURY**

1. Mr. Albert Mwenda	-	DG, Budget, Fiscal and Economic Affairs
2. Mr. Milford Bett	-	Parliamentary Liason Officer

## **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 Privileges and Immunities (The Global Centre for Adaptation) Order, 2025**
7. Any Other Business; and
8. Adjournment.

### **MIN. DAA&GPC/CDL/263/2025**

### **PRELIMINARIES**

The Chairperson called the Meeting to order at 10.15 a.m. after which he said a word of prayer. He then welcomed all to the meeting followed by a round of introduction.

### **MIN. DAA&GPC/CDL/264/2025**

### **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted, having been proposed by the Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P. and seconded by the Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, M.P.

### **MIN. DAA&GPC/CDL/265/2025**

### **CONFIRMATION OF MINUTES**

- i. The Minutes of the 44<sup>th</sup> Sitting held on Tuesday, 25<sup>th</sup> November, 2025, were confirmed as an accurate record of the proceedings, having been proposed by the Hon. (Dr.) Charles Mamwacha Onchoke, M.P. and seconded by the Hon. Jared Okello Odoyo, M.P.
- ii. The Minutes of the 45<sup>th</sup> Sitting held on Monday, 1<sup>st</sup> December, 2025, at 9.00 a.m. were confirmed as an accurate record of the proceedings, having been proposed by the Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P. and seconded by the Hon. Jared Okello Odoyo, M.P.
- iii. The Minutes of the 46<sup>th</sup> Sitting held on Monday, 1<sup>st</sup> December, 2025, at 2.00 p.m. were confirmed as an accurate record of the proceedings, having been proposed by the Hon. Paul Chebor, M.P. and seconded by the Hon. Jared Okello Odoyo, M.P.
- iv. The Minutes of the 47<sup>th</sup> Sitting held on Tuesday, 2<sup>nd</sup> December, 2025, at 10.00 a.m. were confirmed as an accurate record of the proceedings, having been proposed by the Hon. (Dr.) Gideon Kipkoech Kimaiyo, M.P. and seconded by the Hon. Jared Okello Odoyo, M.P.

### **MIN. DAA&GPC/CDL/266/2025**

### **CONSIDERATION OF THE PRIVILEGES AND IMMUNITIES (THE GLOBAL CENTRE FOR ADAPTATION) ORDER, 2025**

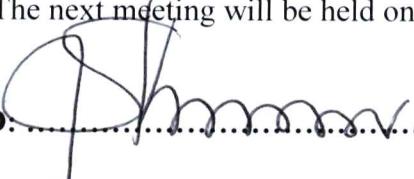
1. The Committee on Delegated Legislation, through a letter referenced **Ref: NA/DAA&GPC/CDL/2025/ (102)**, invited the Prime Cabinet Secretary, the Cabinet Secretary for Foreign and Diaspora Affairs, and the Principal Secretary for the National Treasury to consider the *Privileges and Immunities (The Global Centre for Adaptation) Order, 2025* in accordance with Section 16 of the Statutory Instruments Act.

2. However, the Prime Cabinet Secretary, via a letter referenced **Ref: MFDA/CONF/ADM/26/1 VOL.III (53)**, indicated that he would not be able to attend the meeting. Additionally, the Principal Secretary for the National Treasury delegated his representation to the Director-General for Budget, Fiscal and Economic Affairs, Mr. Albert Mwenda.
3. The Committee subsequently proceeded to consider the Order and made the following observations and recommendations.
  - i. The Cabinet Secretary for Foreign and Diaspora Affairs, in exercise of the powers conferred by section 11 of the Privileges and Immunities Act, (*Cap 179*), published the Privileges and Immunities (Global Centre for Adaptation) Order, 2025 *vide Legal Notice Number 82 of 2025* and submitted to the Clerk of the National Assembly on 30th May, 2025 and tabled on 4<sup>th</sup> June, 2025.
  - ii. The Privileges and Immunities (Global Centre for Adaptation) Order, 2025, Legal Notice No. 82 of 2025 is a statutory instrument and has the force of law within the meaning of section 2 of the Statutory Instruments Act, (*Cap 2A*) to the extent that it is an Order made pursuant to the powers conferred to the Cabinet Secretary under section 9 of the Privileges and Immunities Act, (*Cap 179*).
  - iii. Section 17 of the Privileges and Immunities Act, requires that prior to the making of the Order, a **draft of the Order to be laid before Parliament**, when Parliament is sitting, and Parliament has twenty days to make a resolution to annul [or approve], BUT without prejudice to anything previously done thereunder, or making of a new Order.
  - iv. ***The Committee observed that the Regulation-Making Authority contravened Section 17 of the Privileges and Immunities Act by publishing the order without first submitting the draft Order to Parliament for consideration and approval.***
4. Having examined the Privileges and Immunities (Global Centre for Adaptation) Order, 2025 *Legal Notice Number 82 of 2025* in accordance with the Constitution, the Interpretations 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 declares the Privileges and Immunities (Global Centre for Adaptation) Order, 2025 *Legal Notice Number 82 of 2025* a **NULLITY** for failure to adhere to Section 17 of the Privileges and Immunities Act.

**MIN. DAA&GPC/CDL/267/2025**

**ADJOURNMENT**

There been no any other business, the meeting was adjourned at twenty minutes past twelve o'clock. The next meeting will be held on notice.

**SIGNED:** .....

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

**DATE:** .....



*Office  
Please forward  
Anaphiru  
etc*

③ 32  
For registration  
& tabling as  
instructed  
HFO  
3/6/25

## OFFICE OF THE CABINET SECRETARY

MFA.CONF/IRO/32/VOL. II

12<sup>th</sup> May 2025

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

Dear *Njoroge*,

*P DIPS  
To acknowledge receipt, register ~~as in~~ in  
the register of Treaties/Agreements,  
Court Judging and report to the  
Chairman  
Climate  
Law.*

*30/5/25*

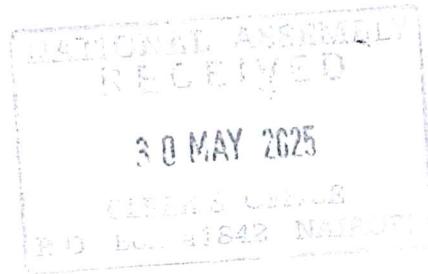
### **SUBMISSION OF THE EXPLANATORY MEMORANDUM IN RESPECT OF THE ORDER GAZETTING THE HOST COUNTRY AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GLOBAL CENTER FOR ADAPTATION**

Reference is made to the above subject matter.

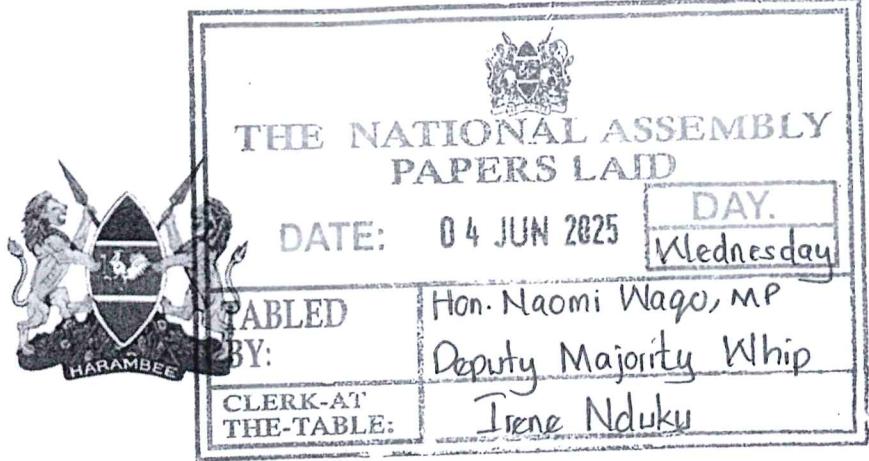
Please find attached the Explanatory Memorandum in respect of the attached Order Gazetteing the Host Country Agreement between the Government of the Republic of Kenya and the Global Center for Adaptation.

Yours

*Sincerely*  
*M. S.*



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



## 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

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### 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:** 2<sup>nd</sup> 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;

### **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 gazettlement 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.
- 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

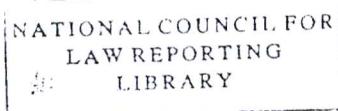
The Principal Secretary, State Department for Foreign Affairs, Dr. Korir A. Singoei.

Email: [communications@mfa.go.ke](mailto: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.

Date..... 2025



## **SPECIAL ISSUE**

981

*Kenya Gazette Supplement No. 61*

*2nd May, 2025*

*(Legislative Supplement No. 37)*

LEGAL NOTICE NO. 82

### **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.*



REPUBLIC OF KENYA  
THE NATIONAL TREASURY

Telegraphic Address: 22921  
FAX NO. 310833  
Telephone: 2252299

THE NATIONAL TREASURY  
P O BOX 30007 – 00100  
NAIROBI

When Replying Please Quote:

Ref: TNT/CONF/321/02/A TY<sup>1</sup> (29)

Date: 28<sup>th</sup> November 2025

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

Dear *Clerk*

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

I acknowledge receipt of your correspondences dated 15 October 2025 and 25<sup>th</sup> November 2025 regarding the captioned subject matter.

The National Treasury has reviewed the Order, with particular focus on tax-related provisions and noted that the Articles contained therein do not contravene existing tax legislation. Specifically, the Order provides for:

1. exemption from taxes on goods and services imported or procured locally by the organisation for its official use in Kenya;
2. exemption of officials and staff from direct taxes on their emoluments; and
3. exemption of officers and their dependents from duty and tax on the importation of furniture, personal property, and household effects upon first arrival to assume duty in Kenya.

The exemptions will, however, not apply to Kenyans. The exemptions as contained in the Order are in line with our tax laws as well as the Privileges and Immunities Act (Cap. 179).

The purpose of this letter, therefore, is to submit the National Treasury's position (enclosed) on the matter for your further necessary action.

Yours *Sincerely*  
*Chris Kiptoo*

**DR. CHRIS K. KIPTOO, CBS**  
**PRINCIPAL SECRETARY/NATIONAL TREASURY**  
Encl.



## STATEMENT BY THE PRINCIPAL SECRETARY, THE NATIONAL TREASURY ON THE PRIVILEGES AND IMMUNITIES (GLOBAL CENTRE ON ADAPTATION) ORDER, 2025

The National Assembly's Departmental Committee on Environment, Forestry and Mining asked the Principal Secretary for the National Treasury to provide submission on impact of proposed tax exemptions on the collection of ordinary revenue and enforcement of tax laws enacted to support the financing of annual budgets.

### Response

The National Treasury would like to respond as follows:

- The Global Center on Adaptation (GCA) is an international non-governmental organization that focuses on accelerating climate adaptation solutions worldwide and has regional offices established in Nairobi. On 20<sup>th</sup> April 2025, vide the Legal Notice No.82 granted privileges and immunities to GCA and its internationally recruited staff, following GCF's request. The Parliament ratified on 30<sup>th</sup> Sept 2025, the decision to grant GCA's Host Country Agreement.
- The Host Country Agreement is anchored under the Privileges and Immunities Act (Cap. 179). The Act allows the Government of Kenya to confer privileges and immunities as well as tax exemptions to organizations with Host Country status. The privileges provided by the HCA areas follows:
  1. Exemption from taxes on goods or services imported or purchased locally by the organization for its official use in Kenya;
  2. Exemptions of officials and staff from direct taxes on emoluments; and
  3. Exemption of officers and their servants from tax or duty on the importation of furniture, personal property and household effects when first arriving to take up their post in the country.

- These exemptions are as provided in the Privileges and Immunities Act (Cap. 179) and are aligned to Kenya's tax laws. The tax-related provisions in the Order, therefore, do not contravene existing tax legislation.
- The exemptions will, however, not apply to Kenyans. The exemptions as contained in the Order are in line with the tax laws and the Privileges and Immunities Act (Cap. 179).
- While, the proposed exemptions may have a negative impact on the revenue, there are other economic benefits that will accrue the country by hosting the organization, primarily through job creation, increased local spending, and the transfer of expertise and technology.
- Similar exemptions in line with the tax laws and the Privileges and Immunities Act (Cap. 179) have been granted to all the entities that have Host Country Status with Kenya.



DR. CHRIS K. KIPTOO, CBS  
PRINCIPAL SECRETARY/ THE NATIONAL TREASURY

28<sup>th</sup> November 2025



REPUBLIC OF KENYA  
THE NATIONAL TREASURY

Telegraphic Address: 22921  
FINANCE – NAIROBI  
Fax No. 315779  
Telephone: 2252299

THE NATIONAL TREASURY  
P.O. Box 30007 - 00100  
NAIROBI  
KENYA

Ref: TNT/CONF 269/02 'A' 109

3<sup>rd</sup> December, 2025

**SAMUEL NJOROGE, CBS**  
Clerk of the National Assembly  
Parliament Buildings  
Nairobi

Dear *Clerk*

Re: **THE PRIVILEGES AND IMMUNITIES (THE GLOBAL CENTRE FOR ADAPTION) ORDER, 2025**

Reference is made to letter NA/DAA&GPC/CDL/2025/ (102) dated 25<sup>th</sup> November, 2025 from the Clerk of the National Assembly on the matter in caption. The Committee on Delegated Legislation has invited me to a meeting on **Thursday, 4<sup>th</sup> December, 2025** to brief the Committee on the said Statutory Instrument specifically on matters on tax exemption.

However, I will be attending other official meetings on the same date and will not be in a position to attend the meeting as scheduled. The purpose of this letter is to seek your indulgence to request you to inform the Honourable Committee and to allow my office to be represented by **Mr. Albert Mwenda, Director General Budget, Fiscal & Economic Affairs** who is well versed with the subject matter.

Please consider.

Yours *Sincerely*  
*Albert*

**DR. CHRIS KIPTOO, CBS**  
**PRINCIPAL SECRETARY/THE NATIONAL TREASURY**

Copy: **Mr. Albert Mwenda**  
Director General-Budget, Fiscal & Economic Affairs  
The National Treasury  
**NAIROBI**