



HOST COUNTRY AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF KENYA

AND

INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT (IGAD)

ON HOSTING OF

IGAD CLIMATE PREDICTION AND APPLICATIONS CENTRE (ICPAC)



**AGREEMENT BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF KENYA**

AND

**INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT (IGAD)
ON HOSTING OF IGAD CLIMATE PREDICTION AND
APPLICATIONS CENTRE (ICPAC)**

The Government of the Republic of Kenya (**"hereinafter referred to as "the Government"**) and the Intergovernmental Authority on Development IGAD states :

CONSIDERING the decision of the 26th ordinary session of IGAD Council of Ministers meeting held on 13th April 2007 in Nairobi that approved the Protocol for establishment of the IGAD Climate Prediction and Applications Centre (ICPAC) (hereinafter referred to as the "Centre").

AND WHEREAS by the provisions of Articles 3 and 13 of the protocol establishing ICPAC the headquarters of the centre is to be situated in Nairobi, in the Republic of Kenya and further that IGAD shall conclude a Headquarters' Agreement with the Government for the hosting of the Centre in Nairobi.

CONSIDERING that the Headquarters Agreement would assist in facilitating the efforts of the Centre to fully and efficiently discharge its responsibilities and fulfill its objectives;

NOW THEREFORE the Government and IGAD have agreed as follows:



Article 1

Definitions

For the purposes of this Agreement the following expressions shall have the meanings assigned to them as hereunder:

- a) "Archives" means all correspondence, documents, computer data, manuscripts, still and motion pictures, films, and sound recordings belonging or held by the Centre in furtherance of its aims and objectives.
- b) "Agreement" means the Host Country Agreement between the Government of Kenya and the Intergovernmental Authority on Development (IGAD) on the hosting of IGAD Climate Prediction and Applications Centre (ICPAC).
- c) "Council of Ministers" refers to the Council of Ministers of IGAD.
- d) "Director" means the Head of IGAD Climate Prediction and Applications Centre (ICPAC);
- e) "Dependants" means the spouse and children of the Officials of the Centre under the age of 18 years.
- f) "Executive Secretary" means the Executive Secretary of IGAD;
- g) "Government" means the Government of the Republic of Kenya;



- h) "Head of the Centre" means the Director and during his or her absence any other staff member specially designated to act on his or her behalf;
- i) "IGAD" means The Intergovernmental Authority on Development;
- j) "IGAD Centre" means the Centre of the Climate Prediction and Applications Centre (ICPAC) Nairobi;
- k) "ICPAC" means IGAD Climate Prediction and Applications Centre;
- l) "Members and Member states" shall have the meaning assigned to them under the protocol;
- m) "Officials of the Centre" mean the Director and the internationally recruited professional staff;
- n) "Official functions" means activities carried out by the centre in pursuance of its purpose as defined by modalities enclosed in the written procedure establishing the Centre, including its administrative activities.
- o) "Protocol" means the protocol on establishment of IGAD Climate Prediction and Applications Centre (ICPAC).
- p) "Premises" means land, office or building occupied or used by the Centre within the territory of the Republic of Kenya.



Article 2

ESTABLISHMENT OF THE HEADQUATER'S SEAT

The Headquarters of the Centre shall be located and carry out its activities in the Republic of Kenya.

Article 3

LEGAL CAPACITY

The Centre shall have legal personality and in particular shall have the capacity:-

1. To enter into contracts
2. To acquire and dispose off movable and immovable property
3. To sue and be sued

Article 4

DIRECTOR

The operations of the Centre shall be headed by a Director who shall be responsible for the implementation of this Agreement on the part of the Centre.

Article 5

INVIOABILITY AND IMMUNITY OF THE CENTRE

1. The premises of the Centre shall be inviolable. Kenyan authorities may not gain access to the same without consent of the Head of the Centre. Such consent may, however, be deemed to have been given in the event of an outbreak of fire or some other severe accident necessitating immediate measures.



2. The archives of the Centre which includes all correspondence, documents, manuscripts, photographs, films, recordings, graphic presentations and computer programmes, shall be inviolable.
3. The Centre and its property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except in the case of:
 - a) an express waiver of immunity in a particular case by the Executive Secretary;
 - b) a civil action by a third party for damages arising out of an accident caused by a motor vehicle or other means of transport belonging to, or operated on behalf of the Centre.
 - c) a counter – claim directly connected with a legal process initiated by the centre.
 - d) civil actions by a third party arising from commercial transactions.

Article 6

FLAG AND EMBLEM

The Centre shall be entitled to display its flag and emblem, or the flag and emblem of the ICPAC on the premises and means of transport of the Centre.



Article 7

EXEMPTION FROM TAXES AND DUTIES

The Centre, its assets income and other property shall be:

- a) Exempt from all direct taxes, provided however that such exemption shall not extend to levies or charges which are in fact no more than charges for public utility services or for business and investment income.
- b) Exempt from custom duties and Value Added Tax (VAT) on equipment, motor vehicles, materials and other items important or purchased for its official use, provided that the said items imported prior to clearance through customs.
- c) In the event of such items being sold in the Republic of Kenya other than to person or organization similarly privileged, duties and taxes shall be payable thereon.

Article 8

FUNDS AND SECURITY

The Centre may receive and hold any kind of, funds or currency and dispose of them freely for any of its official functions.



Article 9

COMMUNICATION

1. The Centre shall enjoy for its official communication, treatment not less favorable than that accorded by the Government to any intergovernmental organization in the republic of Kenya;
2. The archives of the Centre and all documents belonging to it or held by it shall not be violated. Such immunity extends to printed or electronic communication or data, publications, still moving pictures, films and sound recording.
3. The Centre shall have the right to use codes and to dispatch and receive its official correspondence, publications, still moving pictures, films and sound recording either by courier service or in sealed bags or in any other form such as electronically, and these shall have the same immunities and privileges as those accorded to other intergovernmental organizations in Kenya.

Article 10

IMMUNITY OF THE OFFICIALS OF THE CENTRE

1. The officials of the Centre shall be accorded:
 - a) Immunity from suit and legal process in respect of things done or omitted to be done in course of the performance of official duties;
 - b) Inviolability of all papers and documents relating to the work for which he or she is engaged by the Centre;



- c) Facilities in respect of currency or exchange regulations as necessary for the effective exercise of his or her functions.
- d) No immunity from legal process shall apply in case of a motor traffic offence committed by an Official of the Centre or in the case of damage caused by a motor vehicle belonging to or driven by such person.
- e) Similarly no immunity from legal process shall apply in cases of Civil actions by a third party arising from commercial transactions.

Article 11

EXEMPTIONS FOR OFFICIALS OF THE CENTRE

Officials of the Centre who are not Kenyan citizens or permanently residents in Kenya immediately prior to their employment by the Centre shall have the right to import free of duty and value added tax:

- a) Household and personal effects of any kind imported by officials of the Centre or their dependants including one motor vehicle imported or purchased by them prior to clearance through customs within ninety days of their first arrival in Kenya or such longer period not exceeding three hundred and sixty days from the date of arrival.
- b) Exemption, with respect to themselves and dependants from immigration restrictions and alien registration;
- c) Exemption from direct taxes upon the emoluments paid to them by the Centre



Article 12

ENTRY, STAY AND DEPARTURE

1. The government undertakes to:
 - a) Issue and renew where necessary entry and work permits grants for the internationally recruited professional staff of the Centre; and
 - b) Issue dependant passes gratis to the dependants of the internationally recruited professional staff of the Centre.
2. The Head of the Centre shall promptly notify the Government of Kenya of the name of the Officials of the Centre and of the members of their families forming part of the household, their arrival and their final departure, or the termination of their functions with the Centre.

Article 13

OPERATION OF THE AGREEMENT

1. This Agreement shall be interpreted in the light of its primary purpose of enabling the Centre to discharge its duties fully and efficiently and achieve its purpose.
2. The Government and IGAD may enter into such supplementary Agreements as may be necessary to fulfill the purpose of this Agreement.



3. Where the Agreement imposes obligations on the appropriate Kenyan authorities, the ultimate responsibility for the fulfillment of such obligations shall rest with the government.
4. The privileges and immunities provided for in this Agreement are conferred in the interest of the Centre and not for the personal benefit of individuals themselves. It is the duty of the Centre and all persons enjoying such privileges and immunities to observe in all respects the laws and regulations of the republic of Kenya.
5. The Centre shall co-operate at all times with the appropriate authorities of the Republic of Kenya to facilitate a proper administration of justice and shall prevent any abuse of the privileges and immunities granted under the provision of this Agreement by Officials of the Centre.
6. If the immunity provided for in this Agreement is likely to impede the course of justice, and can be waived without prejudice to the purposes for which it was accorded, the Head of the Centre in consultation with the Head of IGAD Secretariat has the right and the duty to waive the immunity of any Official of the Centre, and the Head of IGAD Secretariat in consultation with the Chairman of the Council of Ministers of IGAD in respect of the Head of the Centre.

Article 14

SETTLEMENT OF DISPUTES

Any dispute arising between IGAD and the Government concerning the interpretation or application of this Agreement or any question affecting the Centre and the Government, which is not settled amicably, shall be referred for final decision to a panel of three arbitrators. One of the arbitrators shall be chosen by IGAD, one shall



be chosen by the Government and the third, who shall be the chairman of arbitration panel, shall be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within six months following their appointment, the third arbitrator, at the request of the Chairman of the Council or the Government shall be chosen by the President of the International Arbitration Tribunal.

Article 15

AMENDMENTS

1. This Agreement may be amended at any time.
2. Any such amendment of the Agreement shall be made by mutual consent and shall be effected by an Exchange of Notes that shall be deemed to form part of this Agreement.
3. Consultations with respect to amendment of this Agreement may be entered into by the IGAD and the Government at the request of either party.

Article 16

TERMINATION

1. The Agreement may be terminated by mutual consent. In the event of the centre being transferred from the territory of Kenya, the Agreement shall cease to be in force after a period reasonably required for such relocation and for the disposal of the Centre's properties in Kenya.





IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

Done in Nairobi on 12th day of June.....2008
In triplicate in the English language.

FOR THE GOVERNMENT OF
THE REPUBLIC OF KENYA

FOR THE INTERGOVERNMENTAL
AUTHORITY ON DEVELOPMENT


.....
HON. MOSES WETANG'ULA, MP
MINISTER OF FOREIGN AFFAIRS


.....
DR. ATTALA H. BASHIR
EXECUTIVE SECRETARY