



**GREEN
CLIMATE
FUND**

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Tenth report of the Green Climate Fund to the Conference of the Parties to the United Nations Framework Convention on Climate Change – Addendum I

Summary

This addendum contains the content for the placeholders in paragraph 179 and Annex X of the Tenth report of the Green Climate Fund to the Conference of the Parties to the United Nations Framework Convention on Climate Change as presented in document GCF/B.29/03. Annex X to the Tenth report of the Green Climate Fund to the Conference of the Parties to the United Nations Framework Convention on Climate Change presents the Fourth biennial report on the privileges and immunities of the Green Climate Fund.

Background

1. This document contains the content of the placeholders in paragraph 179 and Annex X of document GCF/B.29/03, on matters relating to the privileges and immunities of the Green Climate Fund.
2. Annex I to this document contains the text to be included in paragraph 179 of document GCF/B.29/03, and Annex II to this document contains the text to be included in Annex X of document GCF/B.29/03.
3. The decision relevant to this document is contained in document GCF/B.29/03.

Annex I

The placeholder in paragraph 179 of document GCF/B.29/03 shall be deleted and replaced with the following text:

179. Details of this exchange of views, and the conclusions from the Secretariat, can be found in the Report on the Activities of the Secretariat presented by the Secretariat to the Board at its twenty-ninth meeting.¹

¹ See document GCF/B.29/Inf.07/Add.05

Annex II: Annex X to document GCF/B.29/03

Annex X: Fourth biennial report on the privileges and immunities of Green Climate Fund

I. Introduction

1. This report sets out:
 - (a) The purpose of privileges and immunities for international organizations and their importance to the achievement of an organization's mandate; and
 - (b) The status of GCF's efforts to pursue bilateral agreements with countries on the privileges and immunities of GCF.
2. An assessment of the options for a linkage with the United Nations that the GCF Secretariat has explored in a preliminary exchange of views with the United Nations Secretariat, together with the GCF Secretariat's conclusions in this regard can be found in the Report on the Activities of the Secretariat presented by the Secretariat to the twenty-ninth meeting of the Board¹.

II. Executive summary

3. Privileges and immunities are granted to international organizations and their officials to enable such organizations to achieve their respective mandates.
4. As GCF continues to scale up its operations, the risks of operating without privileges and immunities also increases. However, progress on concluding bilateral agreements with countries, as required under relevant United Nations Framework Convention on Climate Change (UNFCCC) and Board decisions, remains slow. In this context, fully implementing paragraph 8 of the Governing Instrument in order to achieve the mandate of GCF, may require Parties and the GCF pursuing supplementary modalities to accord GCF and its officials with the necessary privileges and immunities.

III. Purpose of privileges and immunities

5. As noted in both the second and third biennial reports on the privileges and immunities of GCF² (Second Biennial Report and Third Biennial Report, respectively), privileges and immunities are necessary to ensure the effective, efficient and independent operationalization of GCF, and the implementation of its projects and programmes.
6. Privileges and immunities are not an end in themselves. They are granted to international organizations to enable such organizations to achieve their respective mandates, free from interference from any one State, to the detriment of other States which participate in the organization (e.g. taxation imposed on an international organization by one State, thereby reducing the funding available to other States that would otherwise be able to access the organization's resources).

¹ See document GCF/B.29/Inf.07/Add.05.

² See UNFCCC documents FCCC/CP/2017/5, annex III (<https://unfccc.int/sites/default/files/resource/docs/2017/cop23/eng/05.pdf>) and FCCC/CP/2019/3, annex III (https://unfccc.int/sites/default/files/resource/cp2019_03E.pdf), respectively.

7. Similarly, the privileges and immunities granted to officials of international organizations are provided not for the benefit of the individuals themselves, but in order to allow them to discharge the organization's mandate free from any interference from any one State.

8. The risks faced by GCF as a result of operating without privileges and immunities have been extensively set out in both the Second Biennial Report and the Third Biennial Report, and need not be repeated here. GCF notes, however, that as the size of the GCF portfolio grows, so too do these risks.³ These risks can not only give rise to significant financial liabilities and affect the amount of resources available for programming in developing countries, they can also materially and adversely affect the reputation of GCF, thereby impacting on its ability to achieve its mandate.

IV. Current status of bilateral agreements

9. Pursuant to relevant guidance from the COP and the corresponding decisions by the GCF Board, the Secretariat has continued its pursuit of finalizing bilateral agreements on privileges and immunities with countries. As at 30 April 2021, the Secretariat had sent draft agreements on GCF privileges and immunities to 141 countries and is in active negotiations with approximately 10 countries.

10. In addition to the agreement between the Republic of Korea and GCF concerning the headquarters of GCF, as at 30 April 2021, GCF has signed 27 bilateral agreements with countries regarding the privileges and immunities of GCF, an increase of 6 agreements since the Third Biennial Report two years ago.

11. Progress has remained slow, particularly in the light of the ongoing COVID-19 pandemic, as well as the lack of incentives for countries to conclude such agreements with GCF. In the light of these factors, GCF believes that continuing its efforts on the basis of only bilateral agreements prevents it from fully implementing paragraph 8 of the Governing Instrument in the near or medium term. Since privileges and immunities are provided to organizations to help them achieve their mandate, and given the urgency of the climate crisis, the lack of sufficient privileges and immunities at this critical juncture may hamper GCF's efforts to support developing countries to limit or reduce their greenhouse gas emissions and to adapt to the impacts of climate change within the necessary time frames.

12. As at 30 April 2021, the GCF portfolio under implementation spans 77 countries where it does not have privileges and immunities. This means that GCF is now disbursing USD 1 billion in such countries (worth USD 3.1 billion in total project value), with between USD 296 million and USD 392 million anticipated to be further disbursed in 2021 in countries where GCF does not have privileges and immunities. In addition, a further USD 251 million is being disbursed for multi-country projects which also include countries where GCF does not have privileges and immunities. In the absence of any policy requirement for countries to grant privileges and immunities to GCF in order to access GCF resources, the risk to the achievement of the GCF mandate resulting from the lack of privileges and immunities will increase as the portfolio grows.

³ While a number of these risks have not yet materialized in practice, based on the experience of other international organizations, such risks will become a reality from time to time. The most effective way to address these is to be able to assert privileges and immunities in order to protect the institution, and pre-emptively having this in place is a strong risk mitigant. GCF further notes that on at least one occasion, a GCF staff member was detained while in transit to their final destination for official purposes. Having privileges and immunities in that country could have avoided the distress caused by such detention.