AFRICAN DEVELOPMENT BANK GROUP

GREEN CLIMATE FUND

BUILDING CLIMATE RESILIENCE FOR FOOD AND LIVELIHOODS IN THE HORN OF AFRICA (BREFOL)

Djibouti, Ethiopia, Kenya, Somalia, and South Sudan

Annex 9. Legal due diligence

1.1 Introduction

The program on **Building Climate Resilience for Food and Livelihoods in the Horn of Africa (BREFOL)**, is a sovereign operation of the African Development Bank (AfDB), with the national governments Djibouti, Ethiopia, Kenya, Somalia, and South Sudan as the Executing Entities (EEs) together with the Intergovernmental Authority on Development (IGAD). This document provides the due diligence carried out by the AE (AfDB) regarding the implementation of the BREFOL in the five IGAD Member Countries.

The AE has carried out the Country Fiduciary Risk Assessment (CFRA), which provided the bases for dialogue on the portfolio risks and implementation of subsequent funding operations in the respective countries and, at the regional level.

1.2. Legal Instruments and Authority

1.2.1 Legal Instruments

The legal instruments for the Program are as follows:

a) a Loan Agreement between the African Development Fund and the Republic of Kenya;
b) a Protocol of Agreement between the African Development Fund and the Republic of Djibouti;
c) a Protocol of Agreement between the African Development Fund and the Federal Republic of Somalia;
d) a TSF Grant Agreement between the African Development Bank and the African Development Fund (as administrators of the Transition Support Facility) and the Federal Republic of Somalia;
e) a Tripartite Funding and Implementation Agreement amongst the African Development Fund, the Republic of South Sudan and the Food and Agriculture Organisation (FAO);
f) a Tripartite Funding and Implementation Agreement between the African Development Bank and the African Development Fund (as administrators of the Transition Support Facility), the Republic of South Sudan and FAO
g) a Protocol of Agreement between the African Development Fund (ADF) and the IGAD.

The above agreements are jointly referred to as the "**Agreements**".

1.2.2 Conditions Associated with the AfDB's Intervention.

1.2.2.1 Conditions precedent to entry into force: The Loan Agreement with the Republic of Kenya shall enter into force subject to the fulfilment of the conditions provided for in Section *1.2.3* of the General Conditions Applicable to Loan Agreements and Guarantee Agreements of the Fund. The Protocol of Agreements as outlined above shall each enter into force upon signature by the respective parties.

1.2.2.2 Conditions precedent to first disbursement of grants and loan: The obligation of the AfDB to make the first disbursement of the respective grants and loan shall be subject to the entry into force of the respective Protocol of Agreements and the Loan Agreement, in accordance with the provisions of Paragraph *1.2.2.1* above, and the submission of evidence, in a form and substance acceptable to the AfDB, of fulfilment by the Recipient or Borrower of the following conditions:

i. Submission of evidence of the recruitment/appointment of staff for the project management units-PMUs (Regional Program Coordination Unit for IGAD) with qualifications and terms of reference acceptable to the AfDB, as follows: (a) Coordinator; (b) Monitoring and Evaluation Expert; and (c) Accountant.

1.2.3 Other Conditions:

The Borrower/ Recipient shall provide to the AfDB, within six months after the first disbursement:

Djibouti, Kenya, Somalia, South Sudan

i. Submission of the evidence of the establishment of the National Project Steering Committee (NPSC) with composition and terms of reference acceptable to the AfDB.
ii. Provision of Counterpart Contribution, as stipulated in the respective loan/ grant agreements

IGAD:

Submission of the evidence of the establishment of the Regional Program Steering Committee (RPSC) which will include representatives from RCU, ICPAC, ICPALD, IFRAH, AED, ECRI, CEWARN, and representatives from National Program Coordination Units (NPCUs), within three months of the first disbursement of the Grant.

Kenya:

Shall within six (6) months of the Date of the Loan Agreement, submit evidence of the competitive recruitment of a third-party implementing agency with qualifications and terms of reference acceptable to the Fund, to implement the IGAD identified regional activities of the Program.

1.2.4 Undertakings:

The Borrower/ Recipients undertakes to:

i. carry out the Program in accordance with the Environmental and Social Management Plans ("ESMPs"), and the Bank's Safeguards Policies and the applicable national legislation in a manner and in substance satisfactory to the Bank;
ii. prepare and submit to the Bank Project Reports, including quarterly reports on the implementation of the ESMPs including any deficiencies identified and the corrective measures thereto;
iii. refrain from taking any action which would prevent or interfere with the implementation of the ESMPs, including any amendment, suspension, waiver, and/or voidance of any provision thereof, whether in whole or in part, without the prior written concurrence of the Bank;
iv. each of the Borrower/Recipient shall cause its respective relevant sector ministry to provide coordination for implementation of country Projects; and
v. each of the Borrower/Recipient shall cause the establishment of a National Project Steering Committee (PSC) which shall be responsible for respective country Project oversight, overall policy guidance, strategic direction, and review and approval of work plans and budgets.

1.3 Regulatory, Tax and Insurance necessary to the Implementation of the Programme

1.3.1 Permits and Licences

For the implementation of the climate resilient activities including sustainable management of agropastoral land (i.e., 1.2.1 & 1.3.1), the beneficiaries will already have access to land as to be eligible for selection into the program. Moreso, the governments of the Programme Countries and IGAD working through the respective PMUs and the IGAD Centre for Pastoral Area and Livestock Development

(ICPALD), will ensure that all beneficiaries are actually selected following the laid down selection criteria discussed under paragraphs 65 -66). For the PPP arrangements (Line of Credit Facilities related to activities 2.3.1 & 3.2.1), between the government and local PFIs, the governments in the Programme Countries will be responsible for granting any permits and licenses to local PFIs as part of their regulatory activities to support the implementation of the Line of Credit Facilities.

The sovereign EEs and IGAD will work through several institutions including those responsible for 'Investment Policies and Regulations'. The EEs will coordinate with these institutions and will oversee the processes to ensure seamless implementation. This is the normal arrangements the AE has for sovereign operations such as the BREFOL.

It will be helpful to cite some of the relevant laws and specific regulations applicable to the BREFOL.

Djibouti: Investment Code

Law N°58/AN/94/3-rd Lamending the Law N°88/ AN/1e L of February 13, 1984 Concerning the Investment Code

Title I. Fundamental guarantees

Article 1

The Present " Investment Code " defines the guarantees and fiscal advantages the government grants to private companies, which invest in the territory of the Republic of Djibouti and the conditions necessary to the grant these advantages.

Article 1 bis

Any person is free to invest or to exert an economic activity in the territory of the Republic of Djibouti in accordance with laws and regulations.

Article 1 end

Unless the same laws and regulations, any company regularly established in the country is free:

- To import all capital goods, materials and equipments, materials raw or consumable, finished or semi-finished products and more generally all goods necessary to its activity;
- To expose its products and its services;
- To determine and to lead its policy of production and marketing;
- To determine its policy of recruiting and dismissal of the staff;
- To choose its customers and suppliers and to fix its prices.

Article 6

The fiscal tax advantages envisaged by this code include:

1. General exemptions
2. Particular exemptions, which are respectively the subject of titles II and III hereafter.

Title II. General regime of tax exemptions

Regime A

Section I. Field of application

Article 8

In order to promote the economic and social development of the Republic of Djibouti and the creation of new jobs, the companies of which the reaction has an objective of those objectives specified in the article nine (9) hereafter, are entitled to exemptions and tax relief stipulated in the articles 11, 12, 13 and 14 of the present title, named "Regime A".

Article 9

An entitled to advantages of the "Regime A", investments and companies of which the objectives are as follows:

- Exploitation, preparation or transformation of products of vegetable or animal origin, whatever is the origin;
- Fishing in high-sea and deep-sea; preparation, freezing, Transformation or storage of the products of the sea;
- The mining development, the industry of treatment or formation of the mining products or metals, that they are or not extracted from the ground of the territory;
- Research, exploitation or storage of any source of energy as well as refining of hydrocarbons;
- Creation, exploitation of establishments aiming at the development of the tourism and the craft;
- Creation and electric, electronic, and chemical exploitation and ship-buildings industries;
- Land, sea or air transports;
- Harbor and airport activities;
- Construction, repair and maintenance the ships for Sea transports or of fishing;
- Manufacturing or conditioning on the spot of the products or goods for great consumption;
- Banking or credits activities to be promoted new investments as well as the activities of warranting (credit, storage);
- Concealing services, engineering, computer data processing, telematic center server of data bases.

Article 10

The beneficiary companies of the advantages of the "Regime A" must:

1. To realize an investment of a minimum amount of five million Djibouti Francs (5.000.000 DJF);
2. To create a minimum number of permanent jobs.

A decree order by the Council of the Ministers will define the conditions for application of the 2°point of this article.

Section II. Exemptions

A. Direct taxation — A1: License

Article 11

The beneficiary companies of the "Regime A" are exempted from the "Taxation of the license" during the year during which installations of activity put into operation and in the next five years.

Article 12

The companies indicated in the previous article remain liable for the "license of importer". However, the imports necessary to investments and exempted from putting into operation are excluded from the field of application of this license.

Section II. Exemptions—direct taxations

A1: licenses

Article 16

The beneficiary companies of the "Regime B" are entitled to tax license during the year which the installation are put into operation or the activity is initiated and the ten next following years. These companies remain subjected to importer tax in conditions stipulated in the article 12.

Ethiopia: New Investment Incentives (NII)

On 12 July 2022, the Council of Ministers of Ethiopia issued Investment Incentives **Regulation No. 517-2022**. This NII offers income tax exemption for investors from the date of obtaining the business license or expansion permit, as provided in the schedule attached to the Regulation (Second part of the NII). The Regulation also allows investors to import capital goods, construction materials and motor vehicles free from custom duties (Part Three of NII). There is also provision for duties and responsibilities of regulatory institutions in implementing the Regulation (Part Five). The final part i.e., part six provides for miscellaneous provisions of who has power to issue directives, transitory provisions and repealed laws.

The participation of the private sector is recognized as an important aspect in the development of infrastructure projects. Therefore, to select projects and award such projects to the private sector, the Ethiopian government has come up with a special proclamation for such a purpose namely the **Public Private Partnership Proclamation No 1076/2018**. To implement this Proclamation, a directive has been issued namely A Directive Issued to Implement Public Private Partnership **Directive No 55/2010/2018. The Investment Proclamation No 1180/2020** also recognizes PPP as vehicles for investments that foreign investors participate jointly with the government of Ethiopia by way of Public Private Partnership. The PPP Directorate General is tasked with identifying projects, selecting private sector candidates that may participate in PPP or receive investment proposals submitted by any private investor intending to invest jointly with the government. The PPP Board shall follow PPP Proclamation and Directive for decision and upon approval designate a public enterprise or establish a project company to invest as partner in the joint investment.

Kenya: Investment Promotion Act (2004).

For decades, Kenya had one of the most open regimes for Foreign Direct Investment (FDI) in Africa. The principal restrictions were contained in the **Trade Licensing Act** (1968, with subsequent amendments), even though the FDI-related restrictions had not been enforced recently. Apart from this Act, the only formal limits on foreign ownership were in telecommunications and insurance (in which foreign ownership of a business is limited by policy to 70 per cent and 77 per cent respectively) and for companies listed on the Nairobi Stock Exchange, which are required to have at least 25 per cent national ownership. Moreover, FDI did not require screening for approval. A new FDI entry regime was introduced in late

2004, which overturned this approach. As a result, one of the most liberal entry regimes for FDI in sub-Saharan Africa has been replaced by one of the more restrictive ones. **The Investment Promotion Act (2004)**, which the President ratified on 31 December 2004, introduces a mandatory investment threshold and restrictive screening procedure for all foreign investments. These are set to become a significant impediment to FDI inflows. The Act makes a formal distinction between domestic and foreign investors, and requires the latter to apply to the newly established **Kenya Investment Authority (KIA)** for an Investment Certificate by stating that "a foreign investor shall not invest in Kenya unless [it] has been issued with an investment certificate".

However, one of the key targets of BREFOL is to build climate resilience for food and livelihoods in the horn of Africa. As a such, the Programme is anchored within Kenya's Export Processing Zones Act (1990), with subsequent amendments. Under this Act, special incentives are provided for enterprises operating under the umbrella of the Export Processing Zones. Three types of activities can be carried out in EPZs: manufacturing, services and commercial. In addition to procedural incentives (exemption from certain licences, facilitation services by the Export Processing Zones Authority) and the higher quality of infrastructure, the following fiscal incentives are granted to companies operating in EPZs:

- Exemption from "all existing and future taxes and duties payable under the Customs and Excise Act and Value Added Tax Act on all export processing zone imports for use in the eligible business activities of the EPZ enterprise".
- Exemption from registration under the VAT Act.
- Exemption from the payment of income tax for the first 10 years from the date of first sale, followed by a rate of 25 per cent for the subsequent 10 years and the standard rate thereafter.
- Exemption from the payment of withholding tax on dividends and other payments made to non-residents for the first 10 years.
- Exemption from stamp duty.
- Exemption from any quotas or other restrictions or prohibitions on imports or exports, with the exception of trade in firearms, military equipment or other illegal goods.

Somalia: The Foreign Investment Law

Law No. 19 of 1987

***Article 2.* Forms of foreign investment**

Foreign investment can be made in any of the following forms:

1. Convertible currency specified by the Central Bank of Somalia and duly transferred to Somalia;
2. Machinery, equipment, spare parts, installations and current production inputs, whose importation is permitted under the prevailing import legislation;

Article 6. The foreign investment promotion office

The Foreign Investment Promotion Office, hereafter referred to as "The Office", shall be the administrative and promotional office responsible for assisting The Board in the performance of its functions. The duties of The Office shall be the following:

1. To provide information and advice to the foreign investor on matters such as: application and registration procedures under this law; taxation; foreign exchange regime; economic legislation; foreign trade regime; investment opportunities; institutional framework; local sources of debt financing; partner search;

2. To assist the foreign investor in meeting the application requirements related to foreign investment;
3. To assist approved foreign investment, at the incorporation and development stages, with guidance and advice concerning official institutions and channels and related administrative procedures;

Article 15. Investment incentives

Foreign investment shall be eligible for incentives and facilities, in accordance with the legislation in force governing such incentives and facilities.

South Sudan: The Investment Promotion Act, 2009

In accordance with the provisions of Article 59(2)(b) read together with Article 85(1) of the Interim Constitution of Southern Sudan, 2005; the Southern Sudan Legislative Assembly, with the assent of the President of the Government of Southern Sudan, hereby enacts the following:

Article 1. Title and Commencement

This Act shall be cited as "The Investment Promotion Act, 2009" and shall come into force on the date of its signature by the President.

Article 30. Entitlement to Certain Licenses

1. An investment certificate shall set out the licenses that are necessary to the proposed investment and which the holder of the investment certificate would, on application, be legally entitled.

Chapter VIII. Investment incentives

Article 32. Benefits and Incentives

1. Subject to the provisions of Section 40 of this Act, an enterprise shall be entitled to such benefits and incentives as are applicable to such enterprise as provided in the Second Schedule and this Act and any other law for the time being in forced in Southern Sudan.

Article 37. Repatriation of Capital, Profits and Dividends

1. Investors shall have an unrestricted right to use their investments and any incomes lawfully received there from for any lawful purpose and all proceeds of the operations of an enterprise may, subject to tax and other lawful obligations, be retained by the business organization, or disposed of in any lawful manner.
2. Subject to tax and other lawful obligations, an enterprise to which this Act applies shall be guaranteed unconditional transferability in and out of Southern Sudan through any authorized dealer bank in freely convertible currency of —

    a. capital for investment;
    b. payments in respect of loan servicing where foreign loans have been obtained; and
    c. the remittance of proceeds, net of all taxes and other statutory obligations, in the event of sale or liquidation of the enterprise or any interest attributable to the investment.

Schedules

First schedule. The investment priority areas

A) Investment in the following fields shall be deemed a priority of the Government of Southern Sudan.

1.

a) Agriculture: food and cash crops, farm mechanization, seeds and agricultural tools industry, livestock and dairy development; fisheries and fish processing and preservations, and apiculture (bee-keeping).
b) Agro-business, textiles, leather industries and food processing such as flour milling, oil pressing mills, sugar processing, fruits and vegetable canning, meat and fish processing, animal feeds and fertilizers, abattoirs and hides (value addition).

Second schedule. Benefits and incentives

1. The Tax Exemptions and Concessions.

a) The priority investments areas listed in the First Schedule shall, after registrations, enjoy tax exemptions and concessions in machinery and equipment, capital and net profits for a period that shall be determined by the Authority, and by which an investor has realized sufficient return on investment.
b) All agriculture imports (tools, equipment, machinery and tractors, pharmaceuticals, animal feeds, seeds etc) for boosting food and cash crops production shall be exempt from any duty and taxes for a period that shall be determined by law.

2. Access to Land for Investment

c) The Government of Southern Sudan and the Local Authorities shall provide land for investment in any of the priority areas mentioned in First Schedule. Notwithstanding any other provisions of the law, the following conditions shall be deemed included in the decisions on investment in the priority areas listed in the First Schedule:
d) a. general investments in agriculture - other than forestry and paper wood - shall not exceed 30 years for a foreign investor subject to renewal by mutual consent by the parties;
e) b. a foreign investor who wishes to invest in plantation forestry and depending on periods of harvest, shall not exceed 60 years subject to renewal by mutual consent by the parties;

1.4 Currency Regime, Foreign Exchange and Regulatory Approval

1.4.1 Foreign exchange regulatory frameworks

Djibouti: No foreign exchange restrictions. There are no limitations on converting or transferring funds or on the inflow and outflow of cash. Funds can be transferred by banks or international money transfer companies such as Western Union, which are monitored by the central bank.

Ethiopia: Foreign exchange rates are closely managed to maintain the purchasing price of the Birr and are not determined by market forces. No person residing in Ethiopia can hold foreign currency for more than 30 days, and any resident entering Ethiopia from abroad shall declare possession of more than

$1,000. The minimum rises to $3,000 for non-residents. Any resident carrying foreign currency shall convert it at an authorized bank

Kenya: The law provides that the market determines the external value of the Kenya shilling. There are no limitations on converting or transferring funds or on the inflow and outflow of cash. Funds can be transferred by banks or international money transfer companies such as Western Union, which are monitored by the central bank. Non-residents may import local and foreign currencies without restrictions, but amounts exceeding $10,000 must be declared. Residents and non-residents leaving Kenya must have documents indicating the source of funds and the purpose for the amount if it is $5,000 or more. There is no holding limit.

Somalia: Central Bank of Somalia Act Law No. 130 of 22 April 2012, Section 32 mandates the government to decide on the system (floating, fixed, or any variation thereof) that shall establish the value of the Somali shilling in relation to foreign currencies (the foreign exchange regime). No effective government agency determines monetary policy, and several currency traders set the exchange rate.

South Sudan: Foreign exchange activities are governed by the Foreign Exchange Business Act, 2012. The Bank of South Sudan is responsible for licensing and supervising all foreign exchange businesses in the country.

1.4.2 Electronic money issuance regulations: Mobile money daily transactions for natural persons

Djibouti: Not more than 1 million FDJ (USD 5,715) a day and 3 million FDJ (USD 17,140) a month.

Ethiopia: ETB6,000 ($208) and mobile bank account balances of ETB25,000 ($868).

Kenya: No more than KSh70,000 and an aggregate monthly load limit of KSH1 million, provided that the bank may approve higher amounts for specific categories of e-money issuers. Following the onset of the COVID-19 pandemic, Kenya increased the limits for mobile money as follows: transaction limit: KSh150,000 ($1,360); daily limit: KSh300,000 ($2,720); mobile money wallet limit: KSh300,000 ($2,720); and the monthly total limit for mobile money transactions was removed.

Somalia: No regulatory limit.

South Sudan: Tier 1 accounts are subject to a maximum balance limit of South Sudanese pounds (SSP) equivalent to $1,000, an aggregate daily transaction limit of SSP equivalent to $250 and an aggregate monthly transaction limit of SSP equivalent to $2,000.

Tier 2 accounts are subject to a maximum balance limit of SSP equivalent to $4,000, an aggregate daily transaction limit of SSP equivalent to $1,000 and an aggregate monthly transaction limit of SSP equivalent to $8,000.

Tier 3 accounts are subject to a maximum balance limit of SSP equivalent to $10,000, an aggregate daily transaction limit of SSP equivalent to $2,000 and an aggregate monthly transaction limit of SSP equivalent to $20,000. Over-the-counter transactions are subject to a single transaction limit of SSP equivalent to $1,000

1.4.3 Microfinance regulatory frameworks

Djibouti: Permissible activities for MFIs are all essential financial services and funds transfers within Djibouti and money exchange. This law defines 'microfinance' as all essential financial services: credit and savings, in particular, but also funds transfers, money exchange, insurance and domiciliation of salaries/ pensions/ emoluments etc.) intended to provide or contribute effectively to the promotion of vulnerable segments of the Djiboutian population. MFIs cannot engage in money transfers beyond the country's

Ethiopia: MFIs are only permitted to participate in the remittances market as a sub-agent of a banking partner. Although the law does not directly provide that money transfer is one of the permissible activities, it is provided in the law that MFIs may engage in other activities as specified by directives of the National Bank of Ethiopia from time to time.

Kenya: The Central Bank of Kenya (CBK) regulates deposit taking MFIs only. As per the law, international remittances are not necessarily part of an MFI's remit. However, the law empowers the CBK to prescribe any other business activity.

Somalia: The Somali microfinance industry is currently unregulated. CBOS has established a board-level resolution outlining the requirements for registering an MFI. MFIs have started to apply for the registration certificates. The Financial Institutions Law of 2012 only recognizes commercial banks and money transfer businesses as financial institutions, which has left microfinance players in a legal vacuum.
South Sudan: There is no regulation in place. The microfinance sector is self-regulating.

1.4.4 AML/CFT regulatory frameworks

Djibouti: The Banque Centrale de Djibouti Law provides that money laundering is punishable by the penal system. As such, the central bank, as part of its mission of monitoring and regulating the national banking and financial system, is empowered to take any measures it deems necessary. Credit institutions and financial institutions are required to confirm the identity and address of their customers before opening an account or passbook, taking securities or vouchers into custody, allocating a safe or establishing any other business relationship. A natural person's identity is verified by presenting an original valid official document, including a photograph, of which a copy is taken. Their address is verified by presenting a document proving it. The law requires reporting institutions to report suspicious transactions.

Ethiopia: The law adopts the FATF Recommendation and stresses the need to apply a risk-based approach to ensure that measures to prevent and mitigate ML/ FT are proportionate to the identified risks. The issue is whether the National Bank of Ethiopia has taken advantage of this flexibility in the law by ensuring service providers are implementing a risk-based approach to KYC for customer onboarding and related requirements. The laws provide acceptable IDs and conditions for non-face-to-face business relationships. The law requires reporting institutions to report suspicious transactions.

Kenya: CBK has a risk-based supervisory framework for AML/CFT. CBK, one of the designated AML/CFT supervisors under the Act, has been authorized to issue fines and penalties to institutions and individuals who violate the Act. The Proceeds of Crime and AntiMoney Laundering Act, 2009 imposes obligations to verify customer identity, requiring financial institutions to apply enhanced CDD measures. The law describes customer ID as an official record reasonably capable of establishing the applicant's true identity. Proof of address is also verified by a referee or utility bill. The law requires reporting institutions to report suspicious transactions to the Financial Reporting Centre.

Somalia: Somalia has the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2016. Art. 5 of the Act provides for CDD. Clause 5 of this article provides for a possibility of a proportionate, risk-based approach and flexible KYC/ CDD requirements by stipulating that regulations issued by an appropriate supervisory authority that, in the interest of improving financial inclusion, reduce general CDD obligations require the consent of the Financial Reporting Centre, as the national agency responsible for the AML/CFT risk assessment, and must be based on a written finding of lower risk based on the specific circumstances and limitations of the product, service or client category

South Sudan: The Electronic Money Regulation, 2017 contains AML requirements. It calls for e-money service providers and their agents to comply with the Anti-Money Laundering and Countering Terrorist Financing Act, 2012 and any other Financial Intelligence Unit (FIU) requirements as may be issued from time to time. E-money service providers are required, within seven calendar days, to furnish the FIU with information on any suspicious transaction, agent or subscriber.

1.4.5 Foreign Exchange Allocations

Ethiopia: The directive of the National Bank of Ethiopia (NBE) concerning allocation of foreign currency is Transparency in Foriegn Currency Allocation and Foreign Currency Exchange Management Directive No FXD/77/2021(Directive). The Directive states the fact that foreign exchange is a scarce resource that should be managed carefully to ensure its efficient and proper allocation. The Directive provides details of priority sectors in allocation of foreign currency. Remittance of funds by foreign investors is put as the third priority area in the Directive.

Kenya: Foreign Exchange Arrangements Kenya switched from a fixed exchange rate regime (1966-1982) to a crawling peg tied to a basket of major currencies (1983-1993) before floating the Shilling in October 1993. It fully liberalized capital account transactions in 1994 and signed up to the IMF's Article VIII, which ensures currency convertibility for current account transactions and bans multiple currency practices. The Exchange Control Act was repealed in 1995, and all foreign exchange transactions are free of any restriction.

1.5 Taxation:

As indicated in Clause 6:05 of the FAA, under Article 47 of the Agreement establishing the Accredited Entity, there is provision for tax exemption with regards to any obligation relating to the payment, withholding or collection of any tax or duty. Accordingly, the AE shall not withhold any amount for Taxes from any Other GCF Funds and Unused Funds to be transferred by the Accredited Entity to the Fund, The Fund shall not be required to make any additional contribution, including for the payment of Taxes, during the implementation of the Funded Activity. The flow of GCF proceeds will therefore not be affected by taxes and will reflow back to the GCF without any tax impacts.

1.6 Insurance:

Section 10 of the AMA provides for the AE to ensure that adequate provision is made for the insurance of any Goods required for the Funded Activity against hazards. Any indemnity for such insurance shall be payable in a freely usable currency to replace or repair such Goods; the AE, as a lender of record, will ensure that each project is adequately insured as per standard industry practices.

References

https://investmentpolicy.unctad.org/.