

# **CONSTITUTION OF THE EAST AFRICAN COMMUNICATIONS ORGANISATION (EACO)**

## **PREAMBLE**

**PURSUANT** to the Treaty establishing the East African Community (the Community) dated 30<sup>th</sup> November 1999 signed by the Heads of States and Governments of the Republic of Kenya, the United Republic of Tanzania and the Republic of Uganda and subsequently acceded to by Republic of Burundi and Republic of Rwanda;

**IN RECOGNITION** of the Community's resolve to strengthen its economic, social, cultural, political, technological and other ties for fast balanced and sustainable development;

**AND WHEREAS** the Community has established a Sectoral Committee to coordinate the development of amongst others the communications sectors of the Member States;

**CONSIDERING** the existing regulatory, postal and telecommunications cooperation among members under the East African Regulatory Postal and Telecommunications Organization (EARPTO) established by a Memorandum of Understanding (MoU) signed in 2005;

**CONVINCED** that in order to strengthen EARPTO it is necessary to determine the EARPTO MoU and establish the East African Communications Organisation (EACO), the signatories hereby agree to determine the said MoU and resolve to adopt this Constitution.

## **Table of Contents**

### **Article 1: Definitions**

In the Constitution unless the context otherwise requires:

<b>Assembly</b>	Means any of the following Assemblies: Assembly of Broadcasting Operators, Assembly of Postal Operators, Assembly of Regulators or Assembly of Telecommunications Operators;
<b>Associate Member</b>	means any institution or organization other than a regulatory or sector member which has interest in the advancement and promotion of the objectives of EACO;
<b>Broadcasting Operator</b>	Means any organization licensed by a Regulator of a Member State to operate and/or provide broadcasting networks and/or services;
<b>Chairperson</b>	Means the Chairperson of the different organs of EACO and includes any temporary Chairperson of the organ;
<b>EACO</b>	Means the East African Communications Organisation;
<b>EACO Congress</b>	Means the highest organ of the East African Communications Organisation;
<b>EARPTO</b>	Means the East African Regulatory Postal and Telecommunications Organization;
<b>Member</b>	Means a Regulatory, Sector or Associate member of EACO;
<b>ICT</b>	Means Information and Communication Technologies;
<b>Member State</b>	Means a Member State of the East African Community;

<b>Organization</b>	Means institutions that regulate or operate or provide training in broadcasting, postal or telecommunications/ Information and Communication Technologies (ICT) services;
<b>Postal Operator</b>	Means any organization licensed by a Regulator of a Member State to provide postal and/or courier services;
<b>Regulatory Member</b>	Means a Regulator from the Member States of the East African Community
<b>Sector Member</b>	Means any Broadcasting, Postal and Telecommunications/ ICT Operator duly licensed by the Regulator; in the Member States of the East African Community;
<b>Regulator</b>	Means an organisation designated by a Member State to regulate Broadcasting, Postal and/or Telecommunications/ ICT networks and services;
<b>Telecommunications Operator</b>	Means any organization licensed by a Regulator of a Member State to operate and/or provide telecommunications/ICT networks and/or services.

## **Article 2: Establishment of East African Communications Organization**

- (i) There is hereby established an organization known as the East African Communications Organization whose responsibility shall be to strengthen and promote cooperation in the development and provision of postal, telecommunications and broadcasting services in the East African Community;
- (ii) EACO shall be duly registered in accordance with the law of the host country of its headquarters. Provided that the operations of EACO shall be governed by this Constitution;
- (iii) EACO shall have legal personality with the capacity to amongst others enter into contracts, acquire, own and/or dispose of movable or immovable property and sue or be sued in its name.

## **Article 3: Objectives of EACO**

The objectives of the EACO shall be to harmonise ICT policy and regulatory frameworks in the region; promote the development of broadcasting, postal and telecommunications/ICT services and regulatory matters; and devise ways and means to achieve fast, reliable, secure, affordable and efficient communications services within the Community, with particular focus on:

- (i) Network development and regional inter-connectivity;
- (ii) Harmonization of tariff structures and settlement of accounts;
- (iii) Policy advise on issues relating to the communications sector;
- (iv) Regional projects and programmes;
- (v) The security of broadcasting, postal and telecommunication/ ICT networks;
- (vi) Research and technological development;
- (vii) Human resource development;
- (viii) Exchange of information;
- (ix) Management of radio frequency resource;
- (x) Standards development and promotion of ethical practices;
- (xi) Quality of services;
- (xii) Ensuring the provision of universal service in the region;
- (xiii) Promoting the development and application of Information Communication Technologies ;
- (xiv) Serving as a consultative organization for settlement of matters which

- are of regional nature, promote the development of technical facilities and their most efficient utilization;
- (xv) Harmonizing policies and legislation in the communications sector;
  - (xvi) Promoting the development and sharing of local content from the East African Region; and
  - (xvii) Any other objective as may be determined by the Congress from time to time.

## **Article 4: Membership**

### **(i) Membership Categories**

Membership of EACO shall be composed of three (3) categories namely:

- (a) Regulatory Member
- (b) Sector Member and
- (c) Associate Member

### **(ii) Application for Membership**

Any organization wishing to join EACO after the coming into force of this Constitution shall apply in writing and submit a letter of accession in accordance with Article 22 of the Constitution.

Provided that:

- (a) A new applicant shall submit its application to the Regulator of its respective Member State, which shall submit the same to the Executive Committee for consideration;
- (b) If a new Member State joins the East African Community, its Regulator, shall make a written application for membership to the Executive Secretary communicating its intention to join EACO;
- (c) The Executive Secretary shall, in the case of item (b) above, confirm to the Chairperson of Executive Committee, membership of the new state in the East African Community. The Chairperson shall submit the application for membership for consideration by the subsequent Executive Committee meeting; and
- (d) The decision of the Executive Committee on membership applications

shall be communicated to the Applicants in writing within thirty (30) days of the decision.

#### **Article 5: Observer Status**

Observer status may be granted by the Executive Committee to any institution or organization with a mandate relevant to the objectives of EACO and which has expressed interest in attending EACO meetings.

#### **Article 6: Rights and Obligations of Members**

- (i)** Members shall have the right to attend and participate in activities of the EACO.
- (ii)** Members shall be obliged to pay their membership fees to EACO in a timely manner.
- (iii)** Members shall promote the image and interests of EACO in regional and international ICT meetings and fora.
- (iv)** Members shall have the right to vote in meetings of EACO organs.

#### **Article 7: Organs of the EACO**

**The organs of the EACO shall be:**

- (a) EACO Congress;
- (b) Executive Committee;
- (c) Assemblies; and
- (d) EACO Secretariat.

#### **Article 8: EACO Congress**

- (a) There is hereby established an EACO Congress which shall comprise of all EACO members. The Chairperson of the Congress shall be elected by EACO members from amongst Chief Executive Officers of the Regulatory Members and the election shall have due regard to the principle of rotation.

- (b) The Congress shall be the highest decision making organ of EACO and shall;
  - (i) Consider and approve the broad policies of EACO;
  - (ii) Consider the reports from various organs of EACO and make appropriate decisions;
  - (iii) Consider and adopt the Auditor's report;
  - (iv) Approve the membership fee structure; and
  - (v) Approve amendments to the Constitution.

### **Article 9: Executive Committee**

- (a) There is hereby established an Executive Committee which shall comprise the following members;
  - (i) The Chief Executive Officers of the Regulatory Members;
  - (ii) The respective Chairpersons of the Assemblies of Postal, Telecommunications and Broadcasting Operators; and
  - (iii) The Executive Secretary.
- (b) The Chairperson of the Congress shall Chair the Executive Committee.
- (c) The Executive Committee shall be the supervising authority for the EACO Secretariat and shall be responsible for:
  - (i) The direction of the affairs of the Organization in between meetings of the Congress;
  - (ii) Examining and approving the EACO budget;
  - (iii) Considering the annual report and Strategic Plan before submission to Congress;
  - (iv) Staff recruitment;
  - (v) Approving the organisational structure of the Secretariat
  - (vi) Considering and approving the Strategic Plan of EACO; and
  - (vii) Appointing committees, working groups or other persons to advise the Congress or to perform such specific tasks as the Executive Committee may consider necessary;
- (d) Subject to this Constitution, the Executive Committee may regulate its own procedure.

## **Article 10: Assemblies**

### **(i) Assembly of Regulators**

- (a) There is hereby established an Assembly of Regulators, which shall comprise of the Regulatory Members.
- (b) The Chairperson of the Assembly of Regulators shall be elected from amongst members of the Assembly and the election shall have due regard to the principle of rotation.
- (c) The Assembly of Regulators shall deliberate on regional regulatory issues.

### **(ii) Assembly of Postal Operators**

- (a) There is hereby established an Assembly of Postal Operators, which shall comprise of a Members who are postal operators.
- (b) The Chairperson of the Assembly of Postal Operators shall be elected from amongst members of the Assembly and the election shall have due regard to the principle of rotation.
- (c) The Assembly of Postal Operators shall deliberate on postal issues, which are of a regional nature.

### **(iii) Assembly of Telecommunications Operators**

- (a) There is hereby established an Assembly of Telecommunications Operators, which shall comprise of Members who are telecommunications operators.
- (b) The Chairperson of the Assembly of Telecommunications Operators shall be elected from amongst members of the Assembly and the election shall have due regard to the principle of rotation.
- (c) The Assembly of Telecommunications Operators shall deliberate on telecommunications issues which are of a regional nature.



#### **(iv) Assembly of Broadcasting Operators**

- (a) There is hereby established an Assembly of Broadcasting Operators, which shall comprise of Members who are broadcasting operators.
- (b) The Chairperson of the Assembly of Broadcasting Operators shall be elected from amongst members of the Assembly and the election shall have due regard to the principle of rotation.
- (c) The Assembly of Broadcasting Operators shall deliberate on broadcasting issues which are of a regional nature.

Any member of EACO may attend meetings of any Assembly and make contributions to the deliberations of such Assembly.

#### **Article 11: EACO Secretariat**

- (i) There shall be an EACO Secretariat headed by an Executive Secretary;
- (ii) The EACO Secretariat shall have such other staff in accordance with the organizational structure approved by the Congress;
- (iii) The EACO Secretariat shall be located at the Headquarters of EACO;
- (iv) The EACO Secretariat shall be responsible for:
  - (a) conducting and executing EACO business operations on a day-to-day basis;
  - (b) The development and implementation of the strategic plan and management of all EACO programmes and projects;
  - (c) Convening, in consultation with the Chairpersons of the relevant organs, the meetings of various organs/committees, taking and maintaining records of those meetings;
  - (d) Development of necessary information and position papers to be discussed by the various EACO institutions;
  - (e) Providing strategic and technical facilitation as well administrative and logistical support to the meetings of all EACO organs;
  - (f) Establishing an information data base and documentation for the ICT industry and disseminating such information to the membership as may be necessary;
  - (g) Carrying out of the general and financial administration of EACO including preparation and implementation of operational and financial plans and budgets, keeping proper books of accounts and ensuring

- annual auditing of those accounts;
- (h) Mobilising funds, from development partners and other sources, for the implementation of EACO programs and activities;
  - (i) Representing and promoting EACO regionally and internationally;
  - (j) Maintaining and safekeeping of all official documents, records and assets; and
  - (k) Such other activities as the Congress may from time to time determine.
  - (v) The expenses of the EACO Secretariat shall be borne by members.

## **Article 12: Executive Secretary**

- (i) There shall be an Executive Secretary who shall be appointed by the Executive Committee based on a competitive recruitment procedure.
- (ii) The Executive Secretary shall be the Chief Executive Officer of EACO and shall be responsible for the day-to-day management of EACO business.
- (iii) The Executive Secretary shall be a citizen of a Member State of the East African Community and shall serve for a fixed term of four years.
- (iv) The appointment of the Executive Secretary shall have due regard to the principle of rotation.
- (v) There shall be developed, for approval of the Congress, policies for the implementation of this Article.
- (vi) The EACO Secretary may be removed from office before the end of a term of service by the Executive Committee for the following reasons:
  - (a) Mental infirmity;
  - (b) Incompetence;
  - (c) Gross negligence;
  - (d) Misuse of EACO funds or property; and
  - (e) Conduct likely to bring EACO into disrepute;
- (vi) In the event of death or removal of an Executive Secretary before the end of a term, the Executive Committee shall ensure that a new Executive Secretary is appointed within three (3) months, based on the principle of rotation.

### **Article 13: Committee(s) and Working Groups**

There is hereby established the following standing committees of EACO;

- i. Joint Working Committee;
- ii. Human Resources Committee;
- iii. Legal and Constitutional Affairs Committee and
- iv. Dispute Settlement Committee.

The Executive Committee may establish such other committees or working groups with specific terms of reference for the purposes of meeting EACO's objectives. Such committees or working groups shall report to the respective EACO organs. There shall be developed guidelines for the functioning of Committees and Working Groups which shall be approved by Executive Committee.

### **Article 14: Headquarters Seat**

The Headquarters of EACO shall be Kigali, Rwanda. The host country of the EACO headquarter shall endeavour to create a conducive working environment for the conduct of EACO activities.

### **Article 15: Meetings**

#### **(i) Meetings of the Congress**

- (a) Ordinary meetings of the Congress shall be held once every two years in a Member State on a rotational basis.
- (b) The Congress may convene an extra-ordinary meeting at the request of one or more members and subject to the agreement of two thirds of the members.

#### **(ii) Meetings of the Assemblies**

- (a) Ordinary meetings of all the Assemblies shall be held annually at the same time and venue in a Member State on a rotational basis.
- (b) The Assemblies may convene an extra-ordinary meeting at the request of one or more members of the respective Assembly and subject to agreement of the majority of the members thereof.

### **(iii) Venue of Meetings of Congress and Assemblies**

- (a) The meetings of the Congress and the Assemblies shall be held in the same venue and the latter shall immediately precede the former.
- (b) In order to ensure effective rotation of meetings, a country shall not host meetings of Congress or Assemblies for two consecutive terms; provided that where circumstances warrant the hosting of Congress or Assemblies for two consecutive terms in a given country, the Chairperson may request the convening of a meeting in that particular country.

### **(iv) Financing of Meetings**

The cost of attending EACO meetings shall be borne by individual members, provided that the costs of convening meetings shall be borne by members of the host country.

### **Article 16: Rules of Procedure**

- (i) Shall make Rules of Procedure under this Constitution, to govern the conduct and proceedings of meetings of all organs of EACO.
- (ii) Executive Committee shall make Rules of Procedure under this Constitution, to govern the conduct and proceedings of meetings for Committees and Working Groups of

### **Article 17: Finance and Budget**

- (i) The finances of EACO shall comprise:
  - (a) Annual subscriptions from the Members which shall be made in accordance with a membership fee structure approved by the Congress;
  - (b) Gifts, donations, grants and project funds;;
  - (c) Self-generated income and investments; and
  - (d) Any other funds availed to EACO, and approved by Congress, for the furtherance of EACO's objectives.
- (ii) Each EACO Member shall remit their contributions to the Secretariat in the manner and during the time frame prescribed by the Congress.

- (iii) The financial year of EACO shall be determined by the Congress.
- (iv) The Secretariat shall before every meeting of the Congress prepare a budget, with estimates of revenue and expenditure, for the succeeding financial year.
- (v) The Secretariat shall receive the contributions of Members, any gift, donations, grants and funds and manage the use of such resources in accordance with the budget;
- (vi) The Congress shall appoint reputable Auditors, to audit EACO's books of account in accordance with the laws of the host country of the headquarters. The Auditors shall be entitled to serve for a maximum of two consecutive terms of two years each.
- (vii) The Secretariat shall prepare statements of annual accounts for approval by the Executive Committee before submission for audit and presentation to the Congress for adoption.

#### **Article 18: Exhibitions and Symposia**

Organizations may be allowed to conduct exhibitions during the EACO meetings under the general direction of the chairperson of the Congress.

#### **Article 19: Settlement of Disputes**

- (a) Any dispute arising from the interpretation or application of this Constitution which cannot be settled amicably shall be referred to the Executive Committee for determination. The decision of the Executive Committee shall be final, provided that in the case of termination of membership the decision of Congress shall be final
- (b) There shall be developed, for approval of the Congress, procedures for the implementation of this Article.

#### **Article 20: Relationship between the EACO and other International Bodies**

1. EACO may, with approval of the Congress, collaborate and/ or enter into agreement with other regional and international bodies with similar objectives and interests.
2. With a view to promoting the improvement, harmonization and development of East Africa Postal services, EACO shall maintain privileged relations with the Universal Postal Union (UPU).
3. Pursuant to Article 20.2 of the EACO Constitution, EACO shall not introduce provisions in its Constitutions or Regulations which are less

favourable to the public that those provided for in the Article 8.1 of the UPU Constitution and Article 119.2 of the UPU general regulations.

### **Article 21: Entry into force**

This Constitution shall enter into force after its approval by the Congress and upon being signed by at least two-thirds of the Members.

### **Article 22: Accession to the Constitution**

After the coming into force of this Constitution, any applicant admitted into membership or member who has not signed this Constitution shall submit to EACO a letter of accession to the Constitution indicating full acceptance of the obligations provided in the Constitution.

### **Article 23: Sanctions**

- (i) The Congress may impose sanctions on any Member who:
  - (a) Defaults in the payment of its annual contribution for more than one financial year;
  - (b) Acts contrary to any of the provisions of this Constitution.
- (ii) Such sanctions shall include a warning, reprimand, levying of interest on delayed payments, withdrawal of voting rights, suspension from or termination of membership, where applicable.
- (iii) Where a Member is under sanction, their financial obligations to EACO shall continue to accrue, provided that in the case of termination of membership, such obligations shall be payable only up to the financial year in which the membership is terminated.
- (iv) There shall be developed, for approval of the Congress, procedures for the implementation of this Article.

### **Article 24: Withdrawal**

- (i) Any Member intending to withdraw from EACO shall give six month's written notice to the Congress Chairperson. Upon receipt of the notice,

the Chairperson shall inform Congress accordingly.

- (ii) During the period of notice of intention to withdraw from membership, the Member shall comply with the provision of the Constitution and shall continue to be bound by the same.
- (iii) Upon the expiry of the period of notice, the Member shall, unless the notice is withdrawn, cease to be a member..
- (iv) A Member who has withdrawn its membership shall not be entitled to a claim on any property of EACO.
- (v) The obligations assumed by a member under this Constitution shall to the extent necessary survive the termination of membership of that member.

### **Article 25: Language of EACO**

The official language of EACO shall be English.

### **Article 26: Amendments**

- (i) Any Member may propose amendment(s) to this Constitution by submitting a written proposal to the Executive Secretary at least four (4) months prior to the date of the next Congress.
- (ii) The Congress may, on its own motion, initiate amendment of this Constitution.
- (iii) Proposed amendments shall be circulated by the Executive Secretary to all members for their consideration, at least three (3) months prior to date of the next Congress.
- (iv) The Congress may approve amendments by consensus.
- (v) In the event there is no consensus, the Congress shall approve such amendments by a two thirds majority of members present at the meeting of Congress.

### **Article 27: Depository of the Constitution**

The Constitution shall be deposited in its original form with the Executive Secretary.

The Executive Secretary shall transmit certified copies of the Constitution to the members.

## **Article 28: Determination of the Constitution and Dissolution of EACO**

- (i) This Constitution shall be determined by an agreement of two-thirds of the Members.
- (ii) Upon determination of this Constitution, its provisions and the provisions of any separate contracts or agreements made in that respect shall continue to govern the outstanding obligations or projects as if this Constitution had not been determined .
- (iii) A resolution of the Congress to dissolve EACO shall determine the terms and conditions of dealing with the liabilities and the disposal of any EACO Assets; provided that such assets shall not be disposed off to the private benefit of any persons.

## **Article 29: Transitional Provisions**

- (i) The current EARPTO members shall be deemed to be the founder members of EACO.
- (ii) The EARPTO MOU shall continue to be in force until this Constitution comes into force, whereupon the said MoU shall be repealed.
- (iii) Notwithstanding the repeal of the EARPTO MOU, all decisions made, and contracts entered into by the various Organs of EARPTO under the MOU shall continue to be in force and binding as if the same were made pursuant to the provisions of this Constitution.



**SIGNED AT \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2017**

in originals, all in the English Language and all of them being equally authentic.

**IN WITNESS WHEREOF the undersigned, being duly authorised by respective members of EACO, have appended their signatures hereto:**

	<b>Member</b>	<b>Full Names and title of Representative</b>	<b>Date</b>	<b>Signature</b>
1.	Uganda Communications Commission			
2.	Tanzania Communications Regulatory Authority			
3.	Communications Commission of Kenya			
4.	Rwanda Utilities Regulatory Agency			
5.	Agence de Regulation et de Controle des Telecommunications			
6.	Uganda Post Limited			
7.	Uganda Telecom Limited			
8.	MTN Uganda Limited			
9.	Warid Telecom Limited			
10.	Celtel Uganda Limited			

11.	Burundi Postal Administration			
12.	Rwanda National Post Office			
13.	MTN Rwanda			
14.	Rwanda Telecom			
15.	Tigo Rwanda			
16.	Postal Corporation of Kenya			
17.	Telkom Kenya Limited			
18.	Safaricom Limited			
19.	Celtel Kenya Limited			
20.	Essar Telecom Kenya Limited			
21.	Tanzania Posts Corporation			
22.	Tanzania Telecommunications Company Limited			
23.	Celtel Tanzania Limited			
24.	Vodacom Tanzania Limited			
25.	MIC Tanzania Limited			
26.	Zanzibar Telecom Company Limited			