

REPORT OF THE EACO MEETING OF THE LEGAL AND CONSTITUTIONAL AFFAIRS (LCAC) HELD AT NAIROBI ON 29TH - 31ST OCTOBER 2012.

The meeting was attended by various representatives from the five member states of EACO.

Members present	Organization	Capacity
1. John Daffa	TCRA	Chairperson/LCAC
2. Jacques Kabiru	RURA	LCAC
3. Hodge Semakula	EACO	LCAC
4. Ntahomvukiye Hermes	EACO	LCAC
5. Anita Moshi	TTCL	LCAC
6. Joan Kyomugisha	UCC	LCAC/Rapporteur
7. Josephine Koskei	CCK	Rapporteur

1.0 Introduction:

The meeting was convened pursuant to a decision of the 19th EACO Congress that the Legal and Constitutional Affairs Committee develops proposals to amend the EACO Constitution and Rules of Procedures to be considered by the 20th EACO Congress.

The Committee met on 29th to 31st October 2012 in Nairobi Kenya to deliberate in the two items above. The programme for the meeting is attached to this report as **Annex I**. Following herein below is the report of the Committee.

2.0 Proposals for the Amendments of the EACO Constitution

Article	Current Provision	Proposed Amendment
1	No definitions of: EARPTO, Member, ICT, Sector Member, Regulatory Member.	<p>Add definitions of the following:</p> <p>EARPTO: means East African Regulatory Postal and Telecommunications Organization</p> <p>Member: Means Regulatory, Sector and Associate member</p> <p>ICT: Means Information, Communications and Technologies</p>
4	<p>Membership of EACO shall be composed of two categories namely:</p> <p>(a) Members</p> <p>(b) Associate Members</p> <p>(i) Members</p> <p>Membership to EACO shall be granted to:</p> <p>(a) Regulators from the Member States of the</p>	<p>(i) Membership Eligibility</p> <p>Membership of EACO shall be composed of three categories namely:</p> <p>(a) Regulatory Member who shall be Regulators from the Member States of the East African Community;</p> <p>(b) Sector Member who shall be Broadcasting, Postal and Telecommunications/ ICT Operators duly</p>

	<p>East African Community; and</p> <p>(b) Broadcasting, Postal and Telecommunications/ ICT Operators duly licensed by the Regulator in the Member States of the East African Community.</p> <p>Any applicant 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.</p> <p>Provided that:</p> <p>(a) In case of a new applicant of a Member State, it shall write to the Regulator of its respective Member State, which shall submit such application to the Congress.</p> <p>(b) In case of a new Member State joining the East African</p>	<p>licensed by the Regulator in the Member States of the East African Community; and</p> <p>(c) Associate Member who shall be any other institution or organization which has interest in the advancement and promotion of the objectives of EACO.</p> <p>(ii) Application for Membership</p> <p>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.</p> <p>Provided that:</p> <p>(d) A new applicant shall submit its application to the Regulator of its respective Member State, who shall submit the application to the Congress;</p>
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Community, its Regulator (if in existence), or its Broadcasting, Postal or Telecommunications/ICT Operator(s) shall write to the Secretary General of the East African Community, communicating their intention to join EACO.

(c) The Secretary General shall, in the case of item (b) above, confirm to the Chairperson of EACO Congress, membership of the state of the applicant in the East African Community. The chairperson of the Congress shall place the request for membership of the applicant at the subsequent Congress meeting.

(ii) Associate Member

Associate Membership to EACO may be granted by the EACO Congress to any other institution or organization

(e) In case of a new Member State joining the East African Community, its ICT Regulator, shall write to the Executive Secretary of EACO, communicating its intention to join EACO; and

(f) The Executive Secretary shall, in the case of item (b) above, confirm to the Chairperson of EACO Congress, membership of the new state in the East African Community. The Chairperson shall place the application for membership of the applicant to the subsequent Congress meeting.

	which has interest in the advancement and promotion of the objectives of EACO.	
6	Currently the Article provides for Associate member	In the proposed amendment the reference to Associate member was deleted
8	<p>Current Article does not spell out the powers of the Congress. It reads:</p> <p>There is hereby established an EACO Congress which shall comprise of Regulators and Operators of Broadcasting, Postal and Telecommunications/ICT services.</p> <p>(a) The Chairperson of the Congress shall be elected by EACO members from amongst Chief Executive Officers of Regulators of the Member States and the election shall have due regard to the principle of rotation.</p> <p>(b) The Congress shall be the highest decision making organ of EACO.</p>	<p>EACO Congress</p> <p>There is hereby established an EACO Congress which shall comprise of Regulators and Operators of Broadcasting, Postal and Telecommunications/ICT services.</p> <p>(a) The Chairperson of the Congress shall be elected by EACO members from amongst Chief Executive Officers of Regulators of the Member States and the election shall have due regard to the principle of rotation.</p> <p>(b) The Congress shall be the highest decision making organ of EACO and shall;</p> <p>(i) consider and</p>

		<p>approve the broad policies and strategic Plan of EACO;</p> <p>(ii) consider the Annual report and adopt any decisions it considers appropriate</p> <p>(iii) examine and approve the EACO budget;</p> <p>(iv) consider and adopt the Auditors report;</p> <p>(v) approve the membership fee structure;</p> <p>(vi) appoint committees, task forces, specialised working groups or other persons to advise the congress or to perform such specific tasks as the congress may consider necessary;</p> <p>(vii) adopt and when necessary amend the Constitution of EACO.</p>

Executive Committee

- (a) There is hereby established an Executive Committee, which shall comprise of the Chairperson of the Congress, Chairperson each of the Assemblies and the Executive Secretary.
- (b) The Chairperson of the Congress shall be the Chairperson of the Executive Committee.
- (c) The Executive Committee shall be responsible for the direction of the affairs of the Organization in between meetings of the Congress.
- (d) Subject to this Constitution, the Executive Committee may regulate its own

Executive Committee

- (e) There is hereby established an Executive Committee , which shall **comprise the following members:**
 - (i) **the Chief Executive Officers of the regulators from member states; and**
 - (ii) **the EACO 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 -**

procedure.

- (i) the direction of the affairs of the Organization in between meetings of the Congress;
- (ii) Considering the draft budget, annual report and strategic plan before submission to Congress;
- (iii) Conducting on behalf of the Congress the process to select a candidate for appointment to the position of secretary general and senior managers, and recommend to the Congress candidates for appointment as and when required.
- (iv) appoint the

		<p>Executive Secretary and liason managers of EACO;</p> <p>(v) approve the organisational structure of the Secretariat</p> <p>(d) Subject to this Constitution, the Executive Committee may regulate its own procedure.</p>
12 (v)	There shall be developed, for approval of the Congress, Guidelines for the implementation of this Article.	(i) Recommend the deletion of this and capture it in the HR Manual or another relevant instrument
13	There was no provision for establishment of the Legal and Constitutional Affairs Committee	<p>To add a new sub article:</p> <p>(ii) There is hereby established the Legal and Constitutional Affairs Committee, which shall advise on all legal and constitutional matters of EACO; the composition of</p>

		<p>the committee shall be at least one Legal Advisor from each member state.</p>
<p>13 ii)</p>	<p>There is hereby established the Human Resource Development and Training (HRDT) Committee, which shall formulate strategies and policy guidelines for capacity building and human resources training and development, including administrative matters related to the Secretariat. Membership of the HRDT Committee shall comprise of institutions that provide training in broadcasting, postal and telecommunications/ICT services.</p>	<p>To add a new sub article :</p> <p>(iii) The composition of the HRDT committee shall be senior officers responsible for human resource from the regulator, sector member and associate members.</p>
<p>25</p>	<p>Amendments</p> <p>(i) Any Member may propose amendment(s) to this Constitution by submitting a written proposal to the Chairperson of the Congress at least four (4) months prior to the date of the next Congress.</p> <p>(ii) Proposed amendments shall be submitted by the Chairperson of the</p>	<p>Amendments</p> <p>(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.</p> <p>(ii) Proposed amendments</p>

	<p>Congress to members for their consideration, at least three (3) months prior to date of the next Congress.</p> <p>(iii) The Congress may approve any such amendments by a two-thirds majority of the Members.</p>	<p>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.</p> <p>(iii) The Congress may at any time initiate review of this Constitution</p> <p>(iv) The Congress may approve any such amendments by a two-thirds majority of the Members.</p>

3.0 EACO Rules of Procedure

Following the adoption of the new EACO Constitution and establishment of the EACO Secretariat the Committee found it necessary to substantially amend the current Rules of Procedure in order to take care of the new Provisions in the Constitution and established EACO Secretariat.

The proposed new Rules of Procedure are attached in this report as **Annex II**.

4.0 Brief on the relationship between EACO and EAC.

The Committee noted the following report on the establishment of a relationship between EACO and EAC:

- i. The DG of RURA in his capacity as the chairman of EACO had in March 2012 written to the secretary general briefing him about EACO and seeking to establish of a relationship with EAC.
- ii. In September 2012, the Executive secretary of EACO wrote to the Secretary General of EAC following up the DG/RURA'S letter of March 2012.
- iii. Neither has the Secretary General/EAC responded to the two letters nor did he attend the EACO inauguration ceremony to which he had been invited.
- iv. During the EACO inauguration Minister of EAC affairs of Rwanda appreciated the role of EACO and agreed to follow up the matter with the Secretary General EAC. However she noted that the PPP arrangement of EACO posed a structural problem for EACO to relate with EAC as an institution of EAC.
- v. In the circumstance EACO'S application as an observer in EAC meetings is still pending.

5.0 Recommendation:

The Committee recommends as hereunder:

- i. Congress should consider and adopt the proposed amendments to the EACO Constitution.
- ii. Congress to Consider and adopt the proposed EACO Rules of Procedure.
- iii. National Regulators (members of the executive Committee) should through their Ministers for ICT and Ministers of EAC follow up the issue of EACO's application as observer to EAC.
- iv. EACO Secretariat should write to the Regulators and request them to take up this matter.