

**REPORT OF THE EACO LEGAL AND CONSTITUTIONAL AFFAIRS
COMMITTEE MEETING HELD IN DAR ES SALAAM, TANZANIA FROM
9TH TO 11TH NOVEMBER 2016**

The East African Communications Organisation (EACO) Legal and Constitutional Affairs Committee (LCAC) meeting was held from 9th to 11th November 2016 in Dar Es Salaam, Tanzania. The meeting was hosted by TCRA.

The list of participants is captured in Annex I. ARCT was unable to attend and CA (Kenya) sent apologies.

AGENDA

The following agenda was adopted:

1. Opening remarks and adoption of the agenda;
2. Recap/feedback on Assemblies meeting;
3. Review of the last Report and matters arising;
4. Finalisation of Dispute Settlement Procedures;
5. Finalisation of the draft procedure for imposition of sanctions;
6. Review of the Work Plan 2016/2017 and matters arising;
7. AOB & Closing of the meeting

1. Opening remarks and adoption of the agenda

The Chairman welcomed members to the meeting and noted that ARCT could not attend the meeting due to travel restriction and CA tendered an apology.

He further noted that the LCAC should continue achieving and finalising outstanding issues.

2. Recap/feedback on Assemblies meeting;

Members reviewed the report of the last LCAC meeting presented to various Assemblies in their meeting held in Kigali-Rwanda from 20th to 24th June 2016 and noted the following actions:

Noted 1:

That Chairperson presented the LCAC progress report to EACO various assemblies for contributions and information.

3. Review of the last Report and matters arising

Noted 2:

Review LCAC last Report and redrafted noted 4 and 7 of the report

Agreed 1:

The Committee replaced the term execution by the word *before signing* and to **remove noted 7** because it was not discussed in the last meeting.

The final report is attached hereto annex III.

4. Finalisation of Dispute Settlement Procedures;

Noted 3:

LCAC developed the Dispute Settlement Procedures as required under Article 19 of the EACO Constitution but were not yet finalised;

Agreed 2:

To submit the Dispute Settlement Procedures to the Congress for approval.

The reviewed Dispute Settlement Procedures are attached hereto annex IV.

5. Finalisation of the draft procedure for imposition of Sanctions

Noted 5:

- (i) LCAC initiated the draft procedure for imposition of sanctions and has, in the past presented the same to EXCOM for consideration but the matter was put on hold to allow membership to stabilise.
- (ii) There is a need to review draft procedure for imposition of sanctions

Agreed 3:

- (i) To advise EXCOM to re-examine the matter and adopt the procedures. The Procedures for imposition of sanctions are attached hereto annex V.
- (ii) To submit the procedures to the next Congress for approval.

6. Review of the Work Plan 2016/2017 and matters arising;

Noted 6:

The Committee reviewed its work plan for financial year 2016/2017 and noted that the following activities were outstanding:

1. Draft LCAC report for submission to Congress;
2. Fine-tune the Dispute Settlement Procedures; and
3. Fine-tune the Procedures for the imposition of Sanctions .

Agreed 6:

- a) Finalise LCAC report and present the report to EACO Congress for approval;

- b) Finalise the Dispute Settlement Procedures and the Imposition of sanctions procedures and present to Congress for approval;

6. Venue for the next Meeting

The Committee agreed that the next meeting to be held in Kigali. The invitation letter to attend meeting should be sent to the members at least 30 days prior to the date of the meeting.

7. Any Other Business

No AOB was raised by Members and the chairperson closed the meeting by thanking all participants for their valuable contributions during the meeting.

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John Daffa

CHAIRPERSON

.....

Jacques.K.KABIRU

RAPPORTUER

Annex 1 : List of participants

Nº	Names	Position and Institution	Country	Phone number
1	John W. Daffa	Principal LO-TCRA	TANZANIA	+255782194194
2	Susan Wegoye	Director, Legal affairs services ,UCC	Uganda	+256 772471589
3	Levi Byamukama	Manager, Government Relations, SAFARICOM	Kenya	+254 721 919 272
4	Hermès Ntahomvukiye	Liaison Manager EACO Secretariat	RWANDA	+250786877213
5	Jacques Kabiru	Director of Legal Services, RURA	RWANDA	+250788490010

Annex 2 : LCAC finalised progress report

Annex 3 : LCAC final report to Assemblies

Annex 4 : Reviewed Dispute Settlement Procedures



DISPUTE SETTLEMENT PROCEDURES

1. Preamble

These Procedures are made pursuant to Article 19 of the East African Communications Organization (EACO) Constitution and shall guide the receipt and resolution of disputes by members pertaining to the interpretation and application of the Constitution.

2. Definitions

For the purposes of these Rules;

“Committee” means Executive Committee (EXCOM) sitting as the Dispute Settlement Committee (DSC)

“Complainant or aggrieved party” means a Party that lodges the dispute.

“Organization” means EACO.

“Responding Party” means a Party against whom a dispute has been lodged.

3. Dispute Settlement

(i) Members shall make all reasonable effort to amicably settle disputes between themselves within three (3) months from the date at which the dispute arose.

(ii) Where disputing parties fail to amicably resolve a dispute, within the period provided in (i), an aggrieved party may refer the matter to the EACO Secretariat within three (3) months.

4. Type of Disputes

Disputes referred to herein shall be disputes that are directly related to the interpretation and application of the EACO Constitution.

5. Lodging of a Dispute

- a) All disputes shall be lodged formally and in writing to the EACO Secretariat by the complainant stating clearly the details of the complaint and who the party(ies) complained against is/are and what reliefs they seek.
- b) The Secretariat shall within fourteen (14) working days of receipt of the complaint, vet the complaint taking into consideration the following :
 - i. Whether the parties have made attempts to amicably resolve the dispute;
 - ii. Whether the complaint is related to the interpretation and application of the EACO Constitution.

- iii. Whether the member does not have any outstanding annual membership subscription
- c) The Secretariat shall inform the complainant the outcome of the vetting within fourteen (14) days after receipt of the complaint.
- d) Where the Secretariat has concluded its vetting process and found that complaint merits being forwarded to the Committee , it shall forward the matter to the Committee within seven(7) working days .

6. Hearing of complaint

- a) In carrying out its duties as the Dispute settlement, Committee, the Committee will be assisted by a member of Legal and Affairs and Constitutional Committee(LCAC) and the EACO Secretariat.
- b) The EACO Secretariat shall take and keep record of the proceedings .
- c) The Committee may co-opt an expert to advise on the matter under determination.
- d) Upon receipt of the complaint from the Secretariat, the Chairperson of the Committee shall present the matter at its next meeting provided, that where the matter is of an urgent nature, the chair shall convene the meeting for dispute settlement within thirty (30) calendar days.
- e) The Committee shall require the complainant to provide sufficient information as may be reasonably available in order to facilitate the hearing of the complaint.
- f) The Committee shall invite the complainant and/or the responding party to the hearing.
- g) A dispute shall be heard and concluded within a period of six (6) months from the date of submission. Provided that the committee on its own motion or upon application by either party to the dispute extend the stipulated timeframes in any of the following circumstances:

- i. the need for further and better particulars to enable the adequate assessment of the complaint;
- ii. gravity of the matter which may require more time for further investigations or consultations
- iii. any other reasonable or justifiable grounds.
- iv. Any such extension of timeframe for hearing a compliant shall be communicated to the parties to the dispute.
- v.
- vi. The Secretariat shall, in writing inform the parties to the dispute of the Committee's decision within seven (7) days from the date of pronouncement of the final decision.

7. Implementation of the decision

The implementation of the decision shall be effected within thirty (30) days from the date of pronouncement.

8. Penalties/Sanctions

Penalties/sanctions that shall be awarded in accordance with the procedures for the imposition of sanctions.

9. Costs

Each party to the dispute shall bear its own costs.

SIGNED AT KIGALI ON THISDAY OF2016

Eng. Godfrey MUTABAZI

Annex 5: Procedures for imposition of sanctions



PROCEDURES FOR IMPOSITION OF SANCTIONS TO EACO MEMBERS

Preamble

WE, EAST AFRICAN COMMUNICATIONS ORGANISATION (EACO) MEMBERS,

HAVING regard to the EACO constitution of 2010 as further amended from time to time;

HAVING regard to the EACO constitution especially in Article 23 providing sanctions to any member who acts contrary to any of the provisions of EACO Constitution;

CONSIDERING that the Article 23 of EACO Constitution *in fine* requires to put in place procedures for the implementation thereof;

AND WHEREAS All EACO Members are determined to strictly observe all provisions of EACO Constitution including the annual payment of their contribution;

CONVINCED that the annual payment of the Contribution of each member is mandatory for each Member in order to strengthen and sustain EACO strategic plan and activities in general;

NOW HEREBY ADOPT, by consensus in EACO congress of./.../2017.., the procedures on the administration of sanctions to EACO Members:

CHAPTER I : GENERAL PROVISIONS

Article 1: Purpose of this procedure

This procedure sets out provisions for imposing sanctions on any EACO Member who does not comply with the provisions of EACO Constitution.

Article 2: Scope of application

This procedure shall apply to Regulatory Member, Sector Member and Associate Members.

CHAPTER II: DEFAULTS IN PAYMENT OF ANNUAL CONTRIBUTION

Article 3: Default in Payment

The payment of annual contribution is compulsory to each EACO member and failing to this obligation shall lead to the Sanctions.

Article 4: Time frame of Payment

Each Member of EACO shall make payment in EACO'S bank account no later than 30th June of each financial year.

The proof of payment shall be submitted to EACO Secretariat within twenty (20) calendar days after making such payment.

Article 5: Levying of interest on delayed payments

The levying of interest on delayed payment is equal to ten (10) per cent of the total amount due to each financial year until the Membership is terminated.

Article 7: Level of sanctions in default of Payment

Without prejudice of Article 6 of this procedure, the level of sanctions in default of Payment is the following:

- a) One year of non-payment of each EACO Member falls under Level two of these procedures ;
- b) Two (2) consecutive years of non-payment of EACO Member falls under Level three (3) of these procedures.

CHAPTER II: NON COMPLIANCE WITH OTHER PROVISIONS OF THE CONSTITUTION.

Article 6: Acts contrary to the provisions of the Constitution

All EACO members shall strictly respect all provisions of the Constitution and in the event of any Member commits an act contrary to the provisions of the Constitution; three (3) levels of disciplinary procedures with various sanctions may be imposed dependent upon the gravity of the case and/or the on-going nature of the provision violated.

(a) Level One : Written warning

This shall be given if there has been either a breach of the Constitution which remains unresolved after being given a Fourteen (14) calendar days notice by the Secretariat.

(b) Level Two: Reprimand Letter

If EACO Member does not correct and /or improve the breach set out in level one within three (3) months or commits any other act during the timeframe of an existing warning, a formal reprimand shall be issued by the Secretariat .

(c) Level Three (3): Withdrawal of voting rights, suspension from or termination of membership

1. If the breach of the Constitution is a so serious breach of the Constitution, it will be appropriate to consider taking formal action under level three (3) of this procedure.
2. It may also be appropriate to move to level three (3) if EACO Member does not meet the required improvement set out in reprimand Letter under level two (2) of this procedure, or commits any other act of breach during the timescale of an existing reprimand.
3. Before taking such sanction provided in Level three (3), EACO Secretariat shall conduct an investigation that shall lead to a report to be submitted to Executive Committee for approval. The Executive Committee shall subsequently submit this report containing the facts and the proposed sanctions to be approved by the Congress.
4. The sanctions approved by the Congress at all levels listed above start immediately without appeal.
5. Serious breach includes:
 - i. Failure to correct a formal reprimand within the specified period
 - ii. Failure to pay contribution for two consecutive years
 - iii. Acts by a member which portray a poor image of EACO
 - iv. Failure by a member to participate in the activities of EACO for two consecutive years without prior notification
6. Where it is established that there is a serious breach of the Constitution, the Executive Committee shall take a temporary sanction against the concerned EACO Member pending the final approval of the Congress.

Article 8: Reporting on non compliance to the Constitution.

- a) EACO Secretariat shall continuously monitor and assess the Members which are not complying with the provisions of the Constitution.
- b) Any violation of the provision of the Constitution shall immediately be reported to the Executive Committee which shall also refer the case to the Congress for approval.

CHAPTER III: FINAL PROVISIONS

Article 9: Entry into Force

These procedures shall come into force on the day of its adoption by the Congress.
These procedures shall be binding in its entirety and directly applicable to all EACO Members.

SIGNED AT KIGALI ON THISDAY OF2016

Eng. Godfrey MUTABAZI
Chairman EACO 2015/2016