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**REPORT OF THE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE (LCAC), 22ND TO 26TH JUNE, 2015, KAMPALA, UGANDA**

1. **Introduction**

This is the report of the Legal and Constitutional Affairs Committee (LCAC) to Congress for meetings during the periods 2013/14 and 2014/15.

The list of participants to all meetings is attached in Annex I.

1. **Summary of Decisions**
2. **REPORT OF THE LCAC MEETING HELD ON 2ND TO 4TH OCTOBER 2013 IN KIGALI, RWANDA**
   1. **Review of EACO LCAC Action Plan 2013-2014**

The LCAC developed the following action plan for the year 2013-14:

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| --- | --- | --- | --- |
|  | **Activities** | **Date** | **Venue** |
| 1 | Cleaning of the revised Constitution | July 2013 | Nairobi |
| 2 | Review of Guidelines and working methods of EACO Committees and Working Groups | October 2013 | Kigali |
| 3 | **Rules to be developed/ amended**   1. Rules of Procedure 2. Procedure for Settlement of Disputes 3. Procedure for imposition of Sanctions | October 2013-May 2014. |  |
| 4 | Review of rights and Obligations of Members | 2014 |  |

* 1. **Drafting Rules of Procedures pursuant to Art. 16 of the Constitution**

Members developed two (2) sets of Rules of procedures as follows:

1. Rules of Procedures for Congress and Assemblies; and
2. Rules of Procedures for Working Groups and Committees.
   1. **Review of Guidelines and Working Methods for EACO Working Groups and Committees**

The LCAC reviewed the Guidelines and:

1. Agreed to remove matters of procedure from the Guidelines to the Rules of Procedure;
2. Proposed for deletion the provisions on the “Rapporteurs Group” established to manage the work of Working Groups as it was deemed redundant; and
3. Recommended that the Guidelines and the Rules of Procedure once adopted by the Executive Committee, be operationalized subject to subsequent approval by the Congress.

The revised guidelines are attached in **Annex IV.**

* 1. **Any Other Business**

LCAC recommended that once all the Rules developed were adopted, they should be consolidated into a single document for ease of reference

1. **REPORT OF THE LCAC MEETING HELD ON 8TH TO 10TH MAY 2014 IN ARUSHA, TANZANIA**
   1. **Review of the LCAC Report and matters arising**

The LCAC agreed that the EACO Secretariat should provide timely feedback to committees on decisions taken at the EXCOM meetings, to enable the Committees take further necessary action.

* 1. **Review of Guidelines and Working Methods for EACO Working Groups and Committees, Rules of Procedure for Congress and Assemblies and Working Groups and Committees**

The LCAC recommended that:

(i)In accordance with Article 8 (viii) of the Constitution, Congress should delegate the following powers:

1. Grant of observer status (art 5),
2. To consider and approve the strategic plan of EACO(art 8)
3. To appoint committees and working groups (art 8)
4. To consider and adopt auditor report (art 8)
5. To approve membership fee structure (art 8)
6. To approve the organizational structure of the Secretariat (art 11)
7. To establish committees and working groups (art 13)
8. To approve guidelines for the functioning of committees and working groups(art 13)
9. To establish rules of procedures for EACO organs (Art 16)
10. To appoint auditors (art17)
11. Settlement of disputes (art 19)
12. Approve Relationship with other international bodies (art 20 )
13. Imposition of Sanctions and procedures for imposing sanctions
14. Withdrawal of membership

(ii) The LCAC should be represented in EXCOM meetings to give guidance on legal and constitutional matters; and

(iii)The Secretariat includes names of members of the Working Groups and Committees when sending invitation letters to members for consistency and continuity.

* 1. **Consideration of liaison statement from the EACO Exhibitions Ad Hoc Committee**

The LCAC noted that the liaison statement from the EACO Exhibitions Adhoc Committee requesting it to consider the proposal to transition the Committee into a standing Committee of EACO, review the Model Guidelines for EACO exhibitions and advise accordingly.

After due consideration, LCAC agreed that the matter was an administrative detail and forwarded it to the EACO Secretariat for further action.

* 1. **Consideration of the proposal for EACO to become a restricted Union of UPU**

The LCAC analyzed the request from the Secretariat for advice for EACO to become a restricted union of UPU and agreed to undertake a benchmark exercise at PAPU which is a restricted Union of the UPU.

* 1. **Drafting of Procedures for Imposition of Sanctions; Drafting of Procedures for Settlement of Disputes;**

The LCAC drafted the two Procedures and agreed to finalize them in the **2014**/15 Work Plan.

1. **LCAC Work Plan for 2014/2015**

The LCAC developed its Work Plan for 2014/2015 as per Annex VII

1. **REPORT OF THE LCAC MEETING HELD ON 22ND TO 24TH SEPTEMBER 2014 IN KIGALI, RWANDA**
   1. **Finalisation of draft Rules of Procedure for the Working Groups and Committees of EACO (ANNEX II)**

The LCAC noted the EXCOM recommendation that physical meetings of EACO Working Groups and Committees should be twice a year and other meetings be conducted online.

On the basis of the above recommendation, LCAC agreed to include the following clauses:

1. A clause in the Rules that the last meetings of Committees and Working Groups should be held at least one (1) month before the meetings of Assemblies and /or congress; and
2. A definition of “online meeting” as a meeting held by means of video conference /tele conference.
   1. **Finalisation of draft Rules of Procedure for Congress and Assemblies (ANNEX III)**

The LCAC noted the proposal of the Assemblies that the term of Assemblies Chairs be two (2) years instead of one (1) year as provided in the Draft Rules and amended the Draft Rules accordingly.

* 1. **Opinion of LCAC on proposal for EACO to become restricted Union of UPU**

The LCAC reviewed the proposal for EACO to become a restricted Union of the UPU and prepared an opinion in respect to the matter advising the Secretariat to table the proposal before the Assembly of Postal Operators for consideration. The opinion of LCAC is attached as Annex VI

* 1. **Review of Procedure for Imposition of Sanctions**

The LCAC finalised the review of the Procedure and agreed to submit the draft to EXCOM for consideration.

* 1. **Any Other Business**

The LCAC agreed that the Secretariat in consultation with other organs of EACO identifies powers of Congress that can be delegated and prepares an instrument of delegation.

1. **REPORT OF THE LCAC MEETING HELD ON 4TH TO 6TH MARCH 2015 IN KIGALI, RWANDA**
   1. **Review of the Report of the 3rd LCAC and matters arising**
2. With regard to the LCAC recommendations to the Secretariat in respect of the proposal for EACO to become a restricted union of UPU, the Secretariat informed the meeting that it was still awaiting a response from the Postal Assembly; and
3. The LCAC noted that EXCOM has deferred the proposed clauses on imposition of sanctions on members for non payment of their annual membership fees for a period of two (2) years effective from 26th September 2014 so as to give members an opportunity to appreciate the value and the role of the organisation and agreed that the EACO Secretariat in consultation with EXCOM will give guidance to LCAC on when to reopen the discussions on the matter.
   1. **Review of Work Plan 2014/15**

The LCAC reviewed its Work plan for the period 2014/15 as per the Annex VII

* 1. **Review of Dispute Settlement Procedures**

The LCAC noted:

1. The need for clarity on the specific bodies of EACO to address disputes including their composition and the effect it will have on the EACO Constitution
2. Financial implications of the Dispute Settlement Committee
3. The decision of the EXCOM to defer certain proposed clauses of the Imposition of Sanctions Procedure for a period of two years which would affect the imposition of sanctions

In this regard, it agreed that:

1. LCAC would undertake further consultations and benchmark with other organisations before completion of the Dispute Settlement Procedure
2. The completion of the Dispute Settlement Procedure would form part of the activities of the LCAC Work Plan 2015/2016.
3. **Recommendation**

Congress is requested to approve and adopt this report.

ANNEX 1

**LIST OF PARTICIPANTS**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No** | **Names** | **Country** | **Organization** | **E-mail** | **Telephone number** | **Signature** |
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ANNEX II



EACO RoP for Assemblies and Congress

ANNEX III



EACO ROP for WG and committees

ANNEX IV

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***Communications for all in East Africa***

**GUIDELINES FOR EACO WORKING** **GROUPS AND COMMITTEES**

**PREAMBLE**

These Guidelines are made pursuant to Article 13 of the Constitution, to facilitate the functioning of EACO Working groups and Committees.

The purpose of the Guidelines is to establish the different Working Groups; provide for the Terms of Reference of Committees and Working Groups and give guidance in the appointment of Chairpersons, Vice Chairpersons and Rapporteurs of Committees and Working Groups.

**ESTABLISHMENT OF WORKING GROUPS**

Pursuant to Article 13 of the EACO Constitution, the 20th EACO Congress established the following Working Groups:

**Working Group 1:** Policy and Regulatory Harmonization.

**Working Group 2:** Infrastructure Development, Connectivity and Digital Inclusion.

**Working Group 3:** ICT Services and Applications.

**Working Group 4:** Postal Services Development and Regulation.

**Working Group 5:** IP Networks, Standards and Cyber Security.

**Working Group 6:** Broadcasting Development and Regulation.

**Working Group 7:** Resource Planning, Allocations and Management.

**Working Group 8:** Communications Service Pricing and Industry Analysis

**Working Group 9:** Quality of Service and Consumer Protection.

**Working Group 10:** Environment and e-Waste Management.

**Working group 11**: Spectrum Management

**EACO COMMITTEES**

Article 13 of the Constitution establishes three (3) standing committees of EACO:

1. Joint Working Committee;
2. Human Resources Committee; and
3. Legal and Constitutional Affairs Committee.

**SCOPE OF WORK AND TERMS OF REFERENCE OF WORKING GROUPS AND COMMITTEES**

The scope of work and Terms of Reference for each Working Group and Committee are highlighted in **Annex 1** which constitutes an integral part of these Guidelines.

The Congress may, on its own motion or pursuant to the recommendation of Executive Committee or an Assembly, amend or vary the number and terms of reference of a Working Group and/or Committees as it may deem necessary.

**ORGANIZATION AND COORDINATION OF WORKING GROUPS AND COMMITTEES**

**Office Bearers of Working Groups and Committees**

In order to manage and coordinate their activities, each Working Group and Committee shall have the following office bearers:

1. Chairperson 2. Vice-Chairperson 3. Rapporteurs ( 1st and 2nd)

**Appointment Criteria for Chairperson and Vice Chairperson**

* a)  The Chairperson and Vice-Chairperson of a Working Group or Committee shall be appointed by the Executive Committee from amongst officers of EACO members, taking into account their knowledge, experience and competence in the areas/issues covered by the relevant Working Group;
* b)  In appointing the Chairperson and Vice-Chairperson, the Executive Committee shall have regard to the principles of geographic distribution and rotation;
* c)  The Chairperson and Vice-Chairperson shall each serve for a term of two years, renewable for one further term.
* d)  Prior to appointment, the Executive Committee shall secure the commitment of the Member from whom the Chairperson or Vice Chairperson is proposed to be appointed.  3

**Appointment of Rapporteurs and Liaison Managers**

Rapporteurs shall be appointed from amongst members of the Working Group or Committee, based on their knowledge of the subject and ability to coordinate the work of the Group or Committee.

The Secretariat shall designate a Liaison Manager to each Working Group and Committee. The Liaison Manager shall be the Head Rapporteur.

**Vacation of Office**

An office bearer of a Committee or Working Group may:

 a) at any time resign from office by notice in writing to the Executive

Committee; or

 b) be removed from office by the Executive Committee for absence from three

Consecutive meetings of the Committee or Working Group, without reasons.

ANNEX V



**EAST AFRICAN COMMUNICATIONS ORGANIZATION**

**LEGAL AND CONSTITUTITONAL AFFAIRS COMMITTEE**

**Source:** EACO Legal and Constitutional Affairs Committee from 8th to 10th

May 2014

**Title:**  Guidelines for EACO Exhibitions

**RESPONSE TO LIAISON STATEMENT OF 5TH MAY 2014**

**Response to:**  EACO Exhibitions Adhoc Committee

**Required action:** Advising on the establishment of EACO Exhibition Advisory

Committee

Review and amend the Model Guidelines for EACO

Exhibitions as appropriate

**Issued:** 10th May 2014

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The EACO Legal and Constitutional Affairs Committee met from 8th to 10th May 2014 in Arusha, Tanzania.

Based on the liaison statement submitted by the EACO Exhibitions Adhoc Committee on 05th May 2014, the LCAC prepared this response to the liaison statement on two main issues including (1) the transformation of EACO Adhoc Committee into EACO Exhibitions Advisory Committee and (2) to review the Model Guidelines for EACO Exhibitions.

The LCAC has reviewed above issues and and recommends as follows:

1. **Transformation of EACO Exhibitions Adhoc Committee (Adhoc Committee) into EACO Exhibitions Advisory Committee (Advisory Committee)**

The LCAC noted the proposal to transform the Adhoc Committee into an Advisory Committee in order to reinforce the Secretariat’s capacity in the fulfillment of the long-term objectives of the exhibitions.

The EACO Committees are established by Article 13 of the EACO Constitution. The Article vests Congress with the power to establish any other committee with specific terms of reference for the purposes of meeting EACO’s objectives.

The request for the transformation of Adhoc Committee into a standing committee should therefore be submitted to the Congress for consideration.

1. **Review of Model Guidelines for EACO Exhibitions**

The LCAC reviewed the guidelines for EACO Exhibitions and amended them as per Annex 1. The amendments to the Guidelines relate mainly to its title, its structure and the legal issues. The changes and comments made to the guidelines for EACO Exhibitions are highlighted in track changes.

ANNEX VI

**Opinion on the proposal for EACO to become a Restricted Union of the Universal Postal Union**

**1.0 Background**

The EACO Secretariat presented Paper No. EACO/EC/8-4 to the Executive Committee (ExCom) meeting of 21st March 2014, proposing that EACO becomes a restricted union of the Universal Postal Union (UPU). The ExCom adopted the proposal in principle and requested the Legal and Constitutional Affairs Commitee (LCAC) to further review the proposal and advise the ExCom on the matter.

In reviewing the proposal, the LCAC carried out research on Restricted Unions, including the process of becoming one. The LCAC also had a benchmark visit to the Pan African Postal Union (PAPU).

This report discussed what a Restricted Union is, its obligations, advantages and the process of becoming a Restricted Union. The Report then draws conclusions and makes recommendations.

**2.0 What are Restricted Unions?**

Restricted Unions are a type of membership to the UPU, which brings together UPU member designated operators within a region in order to promote their further cooperation and to improve services.

There are several Restricted Unions of UPU including the Pan African Postal Union; Southern African Postal Operators Association; West African Postal Conference; Conference of Posts and Telecommunications of Central Africa; Caribbean Postal Union; and the Postal Union for Mediterranean.

**3.0 Advantages of becoming a Restricted Union of the UPU**

Pursuant to *Article 8.2* of the UPU Constitution, a Restricted Union may send observers to Congresses, Conferences and meetings of the UPU, to the Council of Administration and to the Postal Operations Council. Further, *Article 8.3* of the said Constitution allows the UPU to send observers to Congresses, Conferences and meetings of Restricted Unions.

From the foregoing we note that by becoming a Restricted Union of the UPU EACO would:

* Enhance its image and visibility within UPU, regional Economic Communities (RECs) in Africa and its development partners;
* Establish and achieve stronger linkages, constructive collaboration and engagement with UPU;
* Create a more coordinated and focused multi stakeholder regional forum where stakeholders in the East African postal eco-system would dialogue and formulate consensus on emerging regional and global postal issues;
* Facilitate the development of well considered regional positions/proposals on postal agenda items in PAPU and UPU; and
* Facilitate regional postal policy harmonization, development and implementation or regional postal projects/programmes such as Harmonized Regional Postal Code and Adressing System; and

**4.0 Process of becoming a Restricted Union of UPU**

*Article 8.1* of the UPU Constitution provides that Member countries, or their postal administrations if the legislation of those countries so permits, may establish Restricted Unions and make Special Agreements concerning the international postal service, provided always that they do not introduce provisions less favourable to the public than those provided for by the Acts to which the member countries concerned are parties.

In the circumstances, the following steps need to be taken for EACO to become a Restricted Union of the UPU:

1. The Postal Administrations of the five (5) East African Countries should be consulted as to whether they would want to sponsor EACO to become a Restricted Union of the UPU. This can be done by submitting this proposal to the Postal Assembly of EACO;
2. Once the Postal Assembly confirms their sponsorship of the proposal, the LCAC shall propose an amendment to the EACO Constitution that explicitly states that EACO members pledge not to introduce provisions less favourable to the public than those provided for in Article 8.1 of the UPU Constitution and Articles 119.2 of the UPU General Regulations;
3. LCAC shall also consult with the UPU and draft the requisite Special Agreements envisaged by Article 8 of the UPU Constitution, which together with copies of the EACO Constitution, will accompany EACO’s application to the UPU.

**5.0 Recommendations**

The LCAC recommends that:

* The Secretariat should table the above proposal to the EACO Postal Assembly, which is best placed to asses the cost and benefits of joining UPU in the capacity of a Restricted Union and to pass a resolution that they would support the process.
* Following the Postal Assemblies endorsement, the LCAC shall progress the matter as above stated.

ANNEX VII

WORK PLAN FOR YEAR 2014/15

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|  | **Item** | **STATUS** |
| 1  2  3 | Guidelines and  Working Methods of Working Groups and Committees  Rules of Procedure for Congress and Assemblies  Rules of Procedure for Working Groups and Committees | The drafts were finalised and presented to EXCOM for consideration and submission to Congress |
| 4 | Liaison Statement from EACO Ad hoc Committee on Exhibitions | Forwarded to EACO Secretariat because LCAC considered the matter as an administrative detail. |
| 5 | Proposal to become a restricted Union of UPU | LCAC considered the matter and forwarded its recommendation to the Secretariat |
| 6 | Dispute Settlement Rules | A draft was prepared and however it was not concluded because the members noted the need to carry out further benchmarks |
| 7 | Procedure for Imposition of Sanctions | The drafts were finalised and presented to EXCOM for consideration on 26th September 2014.  In its deliberations, EXCOM deferred the proposals on imposition of sanctions on members for non payment of their annual membership for a period of two years.  The Procedure will be submitted to the Congress for approval, however in view of EXCOM’s deferral, the implementation of the affected clauses would be held abeyance pending further advice from Secretariat. |