

**MEMORANDUM OF UNDERSTANDING
FOR ESTABLISHMENT OF THE
ENERGY REGULATORS ASSOCIATION OF
EAST AFRICA
(EREA)**

Rubavu, May 2009

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- a) there is an increasing need to harmonize energy policies, laws and regulations in East Africa;
- b) there is a need to promote regional co-operation in energy infrastructure planning, capacity building, development of sustainable energy projects and harmonized market structures, systems operations and institutional arrangements; and
- c) co-operation between regulators results in unified voice and common approach on energy and other utility matters in East Africa and internationally;

TAKING INTO CONSIDERATION

- (a) that the Partner States have pursuant to Article 101 of the Treaty agreed to adopt policies and mechanisms to promote the efficient exploitation, developments, joint research and utilization of various energy resources available within the region; and
- (b) the resolutions of the meeting of the Energy Regulators of the EAC held in Kampala, Uganda from 6th to 7th March 2008;

DETERMINED to establish a consultative and collaborative body in order to play a fitting role in the development of the energy resources for the economic development and well being of the people of the Partner States as herein provided;

WHEREFORE this Memorandum **WITNESSETH** as follows:

ARTICLE 1 – DEFINITIONS

In this Memorandum unless the context requires otherwise the following terms shall have the following meaning:

EAC

East African Community established under the East African Community Treaty of 30th November 1999 as may be amended from time to time.



EREA

the Energy Regulators Association of the Partner States;

Executive Committee

the Committee established in terms of Article 7.3.

Executive Secretary

the person appointed by the Executive Committee in terms of Article 7.5.

General Assembly

the highest decision making authority of EREA established in terms of Article 7.2.

Meeting

a General Meeting of the General Assembly, or a Special Meeting of the General Assembly, a meeting of the Executive Committee or Expert Committees.

Member

an energy regulator in any of the Partner States, whether established as an autonomous organization or not, which is a signatory to this MoU or any other body admitted as such by the General Assembly.

Partner States

the Republic of Uganda, the United Republic of Tanzania, Republic of Kenya, Republic of Rwanda, Republic of Burundi and any other country granted membership under the Treaty.

Regulator

an organization or person appointed to regulate a sector, sub sector, industry or utility in the energy sector.

Secretariat

the body established by the Executive Committee in terms of Article 7.5.

Special Contributions

contributions other than Annual contributions that Members may contribute to EREA and includes voluntary contributions; and

Treaty

the Treaty establishing the East African Community and any annexures and protocols thereto.



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ARTICLE 2 – ESTABLISHMENT

- 2.1 There shall be established the Energy Regulators Association of East Africa (EREA) in accordance with the terms of this MOU.
- 2.2 EREA shall seek to have legal personality as may be appropriate for carrying out its functions with the capacity and power to enter into contracts, sue and be sued.
- 2.3 Each Member shall cause the EREA to be registered in their respective jurisdiction so as to give EREA the legal personality in their respective countries.

ARTICLE 3 – GUIDING PRINCIPLES

In performance of its duties the EREA shall be guided by the following principles:

- a) Regional co-operation and harmonization of energy policies and laws in regulatory matters;
- b) Independence of Regulators and good governance;
- c) High ethical and professionalism in energy regulation;
- d) Adherence to government policies, laws and best regulatory practices;
- e) To establish appropriate linkages with EAC so as to champion energy issues;
- f) Advisory to EAC on energy regulatory matters based on researched data and information; and
- g) International co-operation and sharing of experiences.

ARTICLE 4 – OBJECTIVES

The objectives of EREA shall be as follows:

a) **Harmonization of regulatory policies and legislation**

Facilitate the harmonization of regulatory policies and legislation in East Africa to standardize regulatory practices and procedures, based on sound researched data and information and consistent with acknowledging the national sovereignty of Partner States;

b) **Information Sharing**

To promote research in the energy sector and facilitate information sharing and the application of common and consistent decision making practices and procedures among regulators;

c) **Capacity Building**

Facilitate regulatory capacity building among Members through skills training and development of regulatory expertise;

d) **Project Planning**

Promote regional co-operation in the planning and development of integrated energy market;

e) **Implementation of new and existing Projects**

Harmonize the co-ordination and implementation of new and existing projects in the energy sector;

f) **Promotion of the Philosophy of Autonomous Energy Regulation and Good Governance**

Promote the advantages of autonomous utility regulation in Partner States and the principles of good governance in the energy sectors;

g) **Unified voice**

Promote a unified voice and common approach on energy matters regionally and internationally;

h) **Promotion of Relationships with Governments and other Stakeholders**

Promotion of relationships between and among Members and their governments, consumer groupings, similar international associations and other stakeholders to advance the interests of Members in East Africa;

i) **Consumer Empowerment and Education**

To promote empowerment of consumers and education programs.

j) **Joint Utilization of Donor Funding**

Achieving maximum benefit from joint utilization of donor funding for regulatory capacity building purposes; and

k) **East Africa Power pool and Energy market**

Facilitate the establishment of a power pool and a competitive and efficient energy market in East Africa.

ARTICLE 5 - FUNCTIONS

The functions of EREA shall include but not limited to:

- a) encourage Members to provide information as may be reasonably required by other Members or the Secretariat in order to facilitate the co-ordination of regulatory practices, procedures and benchmarking;
- b) facilitate common and consistent regulatory policies, standards, legislation and regulations in Partner States;
- c) determine training needs among Members;
- d) develop, conduct and manage information and capacity-building programmes;
- e) source funding to achieve capacity-building, research needs and consumer empowerment;
- f) promote research and development of policy proposals on energy regulation, in line with international trends and best regulatory practices;
- g) investigate and deliberate on issues referred to it by Members or emanating from any other source, relating to matters which impact on the attainment of the objectives set out in this MOU;
- h) establish relationships with other international organizations and associations that promote similar objectives;
- i) consider membership to similar international organizations where appropriate; and
- j) create the necessary regulatory framework for the establishment of a power pool and competitive energy market in.



ARTICLE 6 – MEMBERSHIP

- 6.1 Membership is open to Regulators in Partner States, whether established as an autonomous organization or not, who are the signatories to this MoU or any other body as shall be admitted as such by the General Assembly.
- 6.2 Membership is limited to each Regulator being entitled to a single membership.
- 6.3 Each Member shall be represented by an official duly mandated by the Member to make decisions on behalf of that Member at an EREA Meeting.
- 6.4 Every Member shall pay an annual subscription fee approved by the General Assembly. The criteria used to determine the annual subscription shall be approved by the General Assembly.
- 6.5 Any Member with outstanding arrears of contributions shall be:
- a) liable to a penalty of one percent (1%) interest of the outstanding amount for every defaulting month or part thereof;
 - b) deprived of the right to participate in Meetings or other EREA activities, or enjoy other EREA benefits; and
 - c) barred from presenting candidates for any post in any of the organs of EREA.
- 6.6 New membership will be permitted at any time by application to the Executive Secretary, with notification thereof being circulated to all Members. Membership will be approved by the General Assembly at its meeting following the receipt of the application. Confirmation of membership status shall be forwarded to the applicant within two (2) months of approval by the General Assembly and upon payment of annual subscription.
- 6.7 An Applicant whose application is pending or any other person approved by the General Assembly may be entitled to an Observer status of EREA.
- 6.8 Members may resign from EREA by giving twelve (12) months notice to the Executive Secretary, who shall notify the Executive Committee at its following

meeting which shall forward the notice of resignation to the General Assembly for a resolution. Members who resign shall be obliged to pay their annual subscription for the full duration of the twelve (12) months notice period.

- 6.9 Members shall be entitled to adopt this MoU subject to ratification by their organizations and Governments as appropriate within a period of six (6) months of such adoption.

ARTICLE 7 – STRUCTURE OF EREA

- 7.1 The organs of EREA shall be the

- a) General Assembly;
- b) Executive Committee;
- c) Portfolio Committees; and
- d) Secretariat.

7.2 **The General Assembly**

- a) There shall be a General Assembly which shall be composed of the Chairpersons of the Members and members of the Executive Committee or their authorized representative appointed in writing. Provided that where the Chairperson is unable to attend he shall appoint a representative from among members of the governing body of such Chairpersons.
- b) All representatives attending the General Assembly shall be duly authorized to make decisions on behalf of their organization.
- c) The General Assembly shall elect a Chairperson and a Deputy Chairperson. The Chairperson shall chair meetings of the General Assembly for a term of office. The term of office of the Chairperson and the Deputy Chairperson shall be one (1) year.
- d) In the event the Chairperson or Deputy Chairperson is unable to discharge the duties of his/her office for any reason whatsoever such Chairperson or

Deputy as the case may be, shall be replaced as the Chairperson or Deputy Chairperson of EREA by the successor in title thereof.

- e) The Chairpersonship of EREA shall rotate among Members such that each Member is given the opportunity to chair EREA for a term of office.

7.3 The Executive Committee

- a) There shall be an Executive Committee, which shall be responsible for the conduct of the affairs of EREA.
- b) The Executive Committee shall be composed of Chief Executive Officers of the Members or their authorized representative appointed in writing.
- c) The Executive Committee shall elect a Chairperson and a Deputy Chairperson. The Chairperson shall chair meetings of the Executive Committee for a term of office. The term of office of the Chairperson and the Deputy Chairperson shall be two (2) years.
- d) The Chairperson of the Executive Committee shall be from a country other than that of the Chairperson of the General Assembly.

7.4. Portfolio Committees

- (a) There shall be Portfolio Committees to handle specialist areas as follows:
 - (i) Economic Committee that deals with issues relating to policies, planning, tariffs, market operations, consumer protection, research and information;
 - (ii) Technical Committee that deals with issues of generation, transmission, distribution and supply of energy in terms of quality safety, standards, power systems integration, security of supply, renewable energy; and
 - (iii) Legal Committee that deals with issues of legislation, regulation, review of the law, harmonization, compliance enforcement, training and capacity building.
- (b) Membership of Portfolio Committees shall be comprised of professionals from the relevant specialist areas nominated by each Member with powers to co-opt other specialists and/or set up working groups.
- (c) Each Portfolio Committee shall prepare its own terms of reference for approval by the Executive Committee.
- (d) The chairperson of each Portfolio Committee shall submit written reports to the meetings of the Executive Committee provided for under Article 9.2 or as may be required by the Executive Committee.

7.5. The Secretariat

- a) Until the Secretariat is fully established the office of the Chairperson of the Executive Committee shall provide secretarial services.
- b) There shall be a Secretariat consisting of an Executive Secretary and other staff as may be determined by the Executive Committee.
- c) The Executive Secretary shall be appointed by the Executive Committee and shall be the Chief Executive Officer of the Secretariat.
- d) The Executive Secretary shall report to the Executive Committee.

- e) The terms and conditions of employment of the Executive Secretary and other staff shall be determined by the Executive Committee;
- f) Other Secretariat staff, if any, shall be appointed by the Executive Committee in accordance with the terms and conditions as shall be determined by the Executive Committee;
- g) The duties of the Secretariat shall be to:
- (i) organize and arrange all Meetings of EREA, provided that all notices shall be issued by the Executive Secretary in consultation with the Chairperson.
 - (ii) without prejudice to the generality of the aforesaid, the duties of the Executive Secretary shall include the:
 - preparation and circulation of agenda to Members;
 - preparation, receipt and distribution of papers including taking and keeping the minutes of Meetings of the General Assembly and Meetings of the Executive Committee; and
 - preparation of the annual reports of EREA.
 - (iii) attend and provide logistical support to all Meetings of EREA;
 - (iv) collect and process statistical data on the Member organizations and countries;
 - (v) prepare and co-ordinate position papers;
 - (vi) obtain and circulate information that will facilitate the achievement of the objectives of EREA as may be directed by the Executive Committee;
 - (vii) prepare the annual budget of EREA in accordance with Article 8.3;
 - (viii) collect and account for the funds of EREA, keep books of accounts and records and ensure the annual auditing of the accounts;
 - (ix) monitor the implementation of the objectives of EREA on a continuous basis; and
 - (x) perform any other duties as may be assigned by the Executive Committee from time to time.

- h) Some of the duties of the Secretariat may be outsourced in such a manner as shall be approved by the Executive Committee;
- i) EREA shall establish rules of procedure for its operation, which shall be ratified by the General Assembly and adopted by Members within three (3) months of ratification and circulated to all members by the Secretariat;
- j) Any amendments to any rules shall be circulated to all Members two (2) months prior to the rule taking effect, and the Secretariat shall be responsible for distributing the amended rules to all Members; and
- k) All official documents of EREA shall be in English language and such other languages as may be decided by the General Assembly.

ARTICLE 8 – FUNDING ARRANGEMENTS

8.1 The financial resources of EREA may consist of:

- (i) Annual contributions by Members;
- (ii) Special contributions by Members;
- (iii) Grants or donations as shall be approved by the General Assembly

8.2 The financial year of EREA shall be the period of twelve (12) months ending in 30th June in each year.

8.3 The Secretariat shall on an annual basis prepare a budget showing the estimated costs of EREA for the following financial year and the subscription contemplated to be raised from each Member. Such budget shall be approved by General Assembly, save that the first budget of EREA shall be approved by the Executive Committee.

8.4 Members shall share the costs of the operation of EREA equitably and as it shall be determined by the General Assembly.

8.5 Each Member shall remit to the Secretariat its subscription for the current financial year in the manner prescribed by the General Assembly.

- 8.6 The management of funds of EREA shall be in accordance with the rules set by the Executive Committee.
- 8.7 The Secretariat shall within a period of three (3) months after the end of the financial year cause the financial statements of EREA to be audited by a certified auditor in accordance with international accounting standards. The auditor shall be appointed by the General Assembly.

ARTICLE 9 – MEETINGS

9.1 Meetings of the General Assembly

- a) EREA shall hold a General Meeting once a year at a venue to be specified in the notice. At least twenty-one (21) days written notice of a General Meeting shall be given to the Members.
- b) Notwithstanding the provisions of Article 9.1 (a) EREA may hold a Special General Assembly Meeting at the instance of the Executive Committee, or whenever requested by at least half of the Members. At least seven (7) days notice shall be given for such a meeting.
- c) The first Meeting of the General Assembly shall appoint office bearers of EREA and shall be held within one (1) month after adoption of this MoU.
- d) The minimum agenda for the General Meeting shall include:
 - (i) approving the annual report;
 - (ii) approving the audited accounts and the budget estimates for the following year;
 - (iii) approving the strategic plan;
 - (iv) appointing auditors; and
 - (v) approving annual subscription.

9.2 Meetings of the Executive Committee

- a) The Executive Committee shall meet at least twice a year at a venue to be specified in the notice.
- b) The Executive Committee shall
 - (i) receive, review and where appropriate approve reports and work plans from the Portfolio Committees;
 - (ii) approve terms of reference for the Portfolio Committees;
 - (iii) review the audited accounts and the budget and making appropriate recommendations to the General Assembly;
 - (iv) approve the business plan submitted by the Secretariat; and
 - (v) consider any other matters that it consider necessary.
- c) The Executive Committee Meeting shall, where necessary consider other matters relevant to EREA.

9.3 Meetings of Portfolio Committees

- a) Portfolio Committees shall hold at least two meetings in a year or as may be necessary to handle business assigned to such committees by the Executive Committee.
- b) Each Portfolio Committee shall appoint a Chairperson and a Secretary from amongst its members provided the Chairperson and Secretary shall not come from the same Member.
- c) The Portfolio Committees shall regulate their own procedure for meetings.

9.4 Venue for the Meetings

The venue for meetings shall be determined taking into consideration the principle of rotating meetings among members. In the absence of agreement by the majority of members, the decision on the venue of a particular meeting shall be made by the chairperson of the General Assembly, Executive Committee or the Portfolio Committee as the case may be.

9.5. Expenses of Attending Meetings

The expenses for attending Meetings shall, as far as possible, be borne by individual Members.

9.6. Assistance by Host Member

The Member within whose organization a meeting is held shall provide such logistical assistance as may be determined by Executive Committee from time to time.

9.7. Quorum

The quorum for any meeting shall be three Members.

9.8. Voting

- a) Every decision of EREA shall be by consensus and where a meeting has failed to reach a decision by consensus the decision shall be by simple majority of Members present.
- b) Unless specified otherwise in the MoU:
 - (i) Each Member shall have one vote at any meeting;
 - (ii) The chairperson shall have a casting vote in all Meetings; and
 - (iii) Election of all office bearers shall be conducted by secret ballot.

9.9. Observers

Observers may, with the consent of the General Assembly, Executive Committee, or any Portfolio Committee as appropriate be invited to any Meeting provided the Observer shall have no voting rights.

ARTICLE 10 – RESIDUAL POWERS

All powers not specifically provided for in this MoU, shall be exercised by the Executive Committee.



ARTICLE 11 – SANCTIONS

- 11.1 Sanctions may be imposed against any Member that breaches any of its obligations or responsibilities in terms of this MoU, or that acts in a manner that is deemed to be detrimental to the objectives of EREA.
- 11.2 The nature and extent of sanctions to be applied shall be determined at the General Assembly Meeting on a case-by-case basis.

ARTICLE 12 – ENTRY INTO FORCE

- 12.1 This MoU shall come into force on the date when it is signed by at least three (3) Members.
- 12.2 In the case of a Member admitted to membership under Article 6.6 of this MoU, such membership shall come into force on the date of the approval of its application by a General Meeting, or by a resolution of General Assembly.

ARTICLE 13 – DEPOSITORY

This MoU shall be deposited with the Secretariat.

ARTICLE 14 – DISSOLUTION OF EREA

EREA may be dissolved by a resolution taken at a General Meeting by at least three Members. Such resolution shall determine the terms and conditions of dealing with the liabilities and disposal of the assets of EREA.

ARTICLE 15 – INDEMNITY

Every officer or agent of EREA shall be indemnified by EREA against any liability incurred in the *bona fide* exercise of his or her functions.



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**ARTICLE 16 – AMENDMENTS TO THE MEMORANDUM OF
UNDERSTANDING**

- 16.1 This MoU may be amended at a General Assembly Meeting, provided that a notice for such amendment shall have been delivered to each Member three (3) months prior to the date of the Meeting.
- 16.2 An amendment shall be implemented if it is so resolved at a General Assembly Meeting by at least three Members.

ARTICLE 17 – INTERPRETATION

The decision of the General Assembly Meeting shall be final in the interpretation of this MoU.

ARTICLE 18 – SETTLEMENT OF DISPUTES

Any dispute arising from the application of this MoU, which cannot be settled amicably, shall be referred to the General Assembly Meeting whose decision shall be final.



WHEREFORE the undersigned have adopted this MoU by appending their signature as hereunder:

| Regulatory Authority | Name of Signatory | Signature |
|--|---|--------------------|
| Energy and Water Utilities Regulatory Authority (EWURA) P. O. BOX 72175 Dar es Salaam, Tanzania | <i>Harunahach</i> | <i>Usee</i> |
| Energy Regulatory Commission (ERC) P. O. BOX 42681 Nairobi, Kenya | ENG. KABURU Muri RUTHA | <i>[Signature]</i> |
| Electricity Regulatory Authority (ERA) P. O. BOX 10332 Kampala, Uganda | Eng. Dr. F.B. Sebbonza | <i>Sebbonza</i> |
| Rwanda Utilities Regulatory Agency (RURA) P. O. BOX 7289 Kigali, Rwanda | COL A. MUDENGE DG & Vice Chairman RURA | <i>[Signature]</i> |
| Directorate of Water and Energy P. O. BOX 745 Bujumbura, Burundi | DI-BUHANSA P Director General of Water & Energy | <i>[Signature]</i> |



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