

DEC. 2021
EREA LPC REPORT

**REPORT OF THE 40TH LEGAL PORTFOLIO COMMITTEE
MEETING OF THE ENERGY REGULATORS ASSOCIATION
OF EAST AFRICA (EREA)**



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This work is the product of the Technical Portfolio Committee. The findings and conclusions expressed in this work reflect the views of EREA Secretariat, the Executive Council and the General Assembly.

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ATTENDANCE

The Energy & Petroleum Regulatory Authority (EPRA), Zanzibar Utilities Regulatory Authority (ZURA), Authority of Regulation of Water and Energy (AREEN) Electricity Regulatory Authority(ERA), Rwanda Utilities Regulatory Authority(RURA), Energy and Water Utilities Regulatory Authority (EWURA) and Petroleum Authority of Uganda (PAU) were present. The attendance list and register for the meeting is attached hereto as Annex '1'.

The following Agenda was adopted:

Opening Prayer;

Constitution of the Bureau;

Communication from the Chairperson;

Adoption of the Agenda.

Review NRI regulatory framework (regulations, standards, procedures, and processes) and provide recommendation.

Review the EREA constitution to include Upstream petroleum committee.

Review of MOUs for the programs of EREA

Review of resolutions and agreements

Anchoring the EREA to the EAC

Review of the draft code of ethics and conduct of EREA

Growing EREA in membership and

Any Other Business (A.O.B)

OPENING OF MEETING

The Secretariat opened the meeting.

2. CONSTITUTION OF THE BUREAU

The Membership of the legal portfolio committee was fully constituted, and the Chairperson confirmed the quorum for the meeting.

3. COMMUNICATION FROM THE CHAIRPERSON

The Chairperson welcomed the members to the 40th Legal Portfolio Committee (LPC) held in Arusha from 2nd to 3rd December 2021.

The Chairman urged the members to work fruitfully to achieve the goals of the LPC for the benefit of EREA.

4. ADOPTION OF THE AGENDA

The members of Legal Portfolio Committee (LPC) adapted the agenda.

5. REVIEW NRI REGULATORY FRAMEWORK (REGULATIONS, STANDARDS, PROCEDURES, AND PROCESSES) AND PROVIDE RECOMMENDATION

The LPC within the reporting period discussed how to undertake the following two activities which are:

- (1) To compare the regulatory framework on petroleum storage and transportation and
- (2) To benchmark with selected comparator associations.

The LPC developed a draft report on the regulatory frameworks on petroleum storage and transportation which is attached and marked Annex 2

The LPC discussed the aspects related to benchmarking and developed indicators for the benchmarking activity which included Licensing requirements, Licensing process, HSE among others which require physical visits to the different NRIs and Ministries to determine policy and regulatory aspects.

6. REVIEW THE EREA CONSTITUTION TO INCLUDE AN UPSTREAM PETROLEUM COMMITTEE.

Article 10 of the Constitution of the Energy Regulators Association of East Africa gives the General Assembly powers to establish other committees as may be required to give effect to the provisions of the constitution.

During the 13th Annual General Assembly, which was held on 18th June 2020 via zoom video, it was resolved that the EREA constitution should be amended to include the Upstream Petroleum Committee.

The LPC has deliberated and consulted the petroleum representatives of the different NRIs as to the best way forward and as a result makes the following recommendation

RECOMMENDATION:

The LPC recommends that whereas the AGA approved the amendment of the Constitution to add an Upstream Petroleum Committee, following consultation and after considered deliberations, the LPC recommends that a Petroleum Committee which covers upstream, midstream and downstream is established instead of one which only caters for the upstream.

REVIEW OF MOUs FOR THE PROGRAMS OF EREA

The LPC drafted the MOU between the Ministries in charge of Energy in partner states and EREA. The MOU is attached and labelled Annex 3. The secretariat then shared it with the different partner states for comments.

Responses from the partner states are as follows:

- (a) Sudan responded with no objection Kenya,
- (b) Burundi and Tanzania responded with their proposed amendments to the MOU
- (c) Uganda and Rwanda are in the process of submitting their comments.

The comments which were received have been attached and marked Annex 4

RECOMMENDATIONS:

With regard to the MOU, LPC in liaison with the secretariat should further engage with Tanzania, Kenya, Burundi, the state parties that gave counter provisions to the draft MOU. The secretariat should also follow up with the NRIs who are currently working on their responses.

8. REVIEW OF RESOLUTIONS AND AGREEMENTS

The LPC reviewed the resolution from the AGA to amend the constitution by proposing appropriate language to cater for the new petroleum committee.

9. ANCHORING THE EREA TO THE EAC

The LPC in liaison with the secretariat drafted a communique dated 28th May 2021 addressed to the EAC requesting for observer status in the EAC. This action

was brought about by advice of the Secretary General of the East Africa Community Secretariat on 19th May 2021 to EREA on progressive anchorage to the EAC. As an observer, EREA would be allowed to attend the different sectoral meetings but would not be able to make any contributions as an observer.

Upon consultation of the Ministers in charge of Energy in the Partner states, EREA was advised to proceed and request for admission as an institution of EAC. A request was formerly made on the 11th of October 2021 through the chairperson of the EAC sectoral council on Energy and EREA is still awaiting a response. The request is attached and marked Annex 5

Additionally, the LPC received a request from the secretariat to explore and analyse the various options for the existence of EREA. In particular, the secretariat informed the LPC that they had been facing the challenges below

Difficulty in accessing funds from development partners due to the current status of EREA as a company limited by guarantee (a local Company) due to the fact that development partners only deal with Countries, intergovernmental agencies and on the minimum, NGOs.

(ii) EREA lacks a framework of implementing the harmonisation of regulatory frameworks due to its current status as a company limited by guarantee.

(iii) EREA lacks the capacity to advise partner states on regulatory frameworks, reforms and standardisation of the same due to its current status as a company limited by guarantee.

On the foregoing, the LPC undertook research and drafted a legal paper on the pros and cons of various options of existence for EREA towards attaining diplomatic status. The report is attached and marked Annex 6

RECOMMENDATIONS:

The LPC with secretariat have endeavoured to explore all possible solutions in order to ensure that EREA attains the proper status and capacity in order to execute its mandate. Our recommendation at this point is that as we pursue anchoring EREA to the EAC, efforts to seek quasi, intergovernmental status must be maintained. In the event that all these efforts do not come to fruition, EREA should contemplate changing its headquarter' s to another Jurisdiction.

10. REVIEW OF THE DRAFT CODE OF ETHICS AND CONDUCT OF EREA

The LPC reviewed the draft Code of Ethics and Conduct of EREA and made the following key alterations.

(i) Revised the scope to apply to internal EREA employees

(ii) Noted that it is apt that EREA adopts a code of conduct for NRIs similar to sister institutions such as NARUC

(iii) Removed duplications and typographical errors.

RECOMMENDATION

The LPC hereby recommends the approval of the code of ethics and conduct of EREA's staff.

11. GROWING EREA IN MEMBERSHIP

The LPC approached the Rwanda Mines, Petroleum and Gas Board requesting them to join either as an observer or full members. They are still considering, and we are waiting for their response. We also wrote to the Electricity Sector Regulatory Authority of DRC requesting them to be an observer because the DRC has written to join the EAC.

We have also considered a collaboration and or partnership with the Eastern Africa Power Pool- Independent Regulatory Board in particular to support them in capacity building and focus on the harmonisation of policies.

12. ANY OTHER BUSINESS (AOB)

There being no other business, the meeting adjourned at 5.00 pm.

Signed:

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CHAIRPERSON

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SECRETARY

ANNEX 1: ATTENDANCE LIST AND ATTENDANCE REGISTER

NAME	DESIGNATION	ORGANIZATION
1. Mr. Lionel Rwamamara	Co-opted Chair	RURA
2. Ms. Leah Hadidah Jara	Vice Chair	EPRA
3. Mr. Harold Obiga	Member	ERA
4. Mr. Isaac Kabuye	Secretary	PAU
5. Ms. Khuzaimat Bakar Kheir	Member	ZURA
6. Mr. Sindagaya Leonidas	Member	AREEN