

**REGIONAL ASSOCIATION OF ENERGY REGULATORS FOR EASTERN AND
SOUTHERN AFRICA**



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Meeting of the Portfolio Committee on Harmonization of Legal and Regulatory Frameworks of the Regional Association of Energy Regulators for Eastern and Southern Africa (RAERESA)

Virtual
19 April 2021

FINAL REPORT

2022/MESE/YM/ymm

INTRODUCTION

1. Meeting of the Portfolio Committee on Harmonization of Legal and Regulatory Frameworks of the Regional Association of Energy Regulators for Eastern and Southern Africa (RAERESA) was held virtually on 19th April 2022. The main objective of the meeting was to review the annual report of activities and the effectiveness of RAERESA and to facilitate provision of guidance and support RAERESA towards a strategic, sustainable, integrated and coordinated governance.
2. The meeting was attended by Egypt, the current Chair of the Portfolio Committee on Harmonization of Legal and Regulatory Frameworks; Kenya, Sudan and RAERESA Secretariat.
3. The list of participants is attached to this report as Annex I.

A. OPENING – AGENDA ITEM 1

4. Egypt, which is the current Chair of the Portfolio Committee on Harmonization of Legal and Regulatory Frameworks of RAERESA, chaired the meeting. In her opening remarks, Engineer Salma Hussien, from the Egyptian Electric Utility and Consumer Protection Regulatory Agency (EgyptERA) welcomed the participants to the virtual Meeting of the Portfolio Committee on Harmonization of Legal and Regulatory Frameworks of RAERESA.
5. The Chair expressed EgyptERA's willingness to support and cooperate with RAERESA and its Member States to enhance a sustainable regional energy market through development of harmonized regulatory frameworks. She further indicated that this would provide the enabling environment for the required investments, power trade and promotion of renewable energy and energy efficiency to thrive. She also informed the meeting that this year, Egypt would be hosting COP27.
6. In his opening remarks, Dr. Mohamedain E. Seif Elnasr, Chief Executive Officer of RAERESA also welcomed the participants to the virtual Meeting of the Portfolio Committee on Harmonization of Legal and Regulatory Frameworks.
7. He indicated that the meeting of the Portfolio Committee was being held in a time where all the deliverables of the European Funded Project on Enhancement of a Sustainable Regional Energy Market (ESREM) in Eastern Africa-Southern Africa-Indian ocean Region under CPCS Transcom International Limited in association with Multiconsult Norge AS and Econoler consultancy, were finalized and ready for consideration by RAERESA structures.

B. ADOPTION OF THE AGENDA– AGENDA ITEM 2

8. The Meeting considered and adopted the following agenda:
1. Opening Remarks
 2. Adoption of the Agenda and Organization of Work
 3. Presentation, Review and Adoption of the Progress Report on Implementation of the Portfolio Committee Work Plan Activities for 2021
 4. Consideration of the Deliverables of the Project on Enhancement of a Sustainable Regional Energy Market (ESREM) in Eastern Africa-Southern Africa-Indian Ocean Region (EA-SA-IO) Region Under the Portfolio Committee on Harmonization and Legal Frameworks
 5. Review and Adoption of Planned Activities for June 2022 to December 2023.
 6. Any Other Business
 7. Adoption of the Report and Closure of the Meeting

C. PRESENTATION, REVIEW AND ADOPTION OF THE PROGRESS REPORT ON IMPLEMENTATION OF THE PORTFOLIO COMMITTEE WORK PLAN ACTIVITIES FOR 2021 - AGENDA ITEM 3

9. The meeting received updates on the implementation of the Portfolio Committee work plan activities for 2021. In this regard, the meeting noted that several activities were implemented in 2021. These activities are outlined below.

Review of National Legal Frameworks that Set Up Fully Autonomous Energy Regulators in the COMESA Member States to Establish Best Practices in National Regulatory Objectives and Functions

10. The aim of this intervention with regard to facilitate the establishment of energy regulators in the COMESA region, is to give impetus to the full establishment of effective energy regulators in those states that currently either have no legislative provision to establish a regulator, or have legislative provisions, but have not yet given full force and effect by creating and staffing the regulatory authority. Four countries have been selected to participate in this exercise. These countries are Comoros, Djibouti, Democratic Republic of Congo (DRC) and South Sudan.

11. In this regard, the meeting noted that a consultant CPCS Transcom International Limited in association with Multiconsult Norge AS and Econoler was engaged to review

national legal frameworks for four Member States without energy regulators namely: Democratic Republic of the Congo (DRC), Djibouti, Comoros, and South Sudan.

12. The meeting was informed that during the period under review, the consultant finalized the country blueprint reports that provided an analysis of the four country's current status of regulatory establishment and measures required to establish and/or operationalize a regulator. Further, country reports that provided International Best Practice on the mandate, structure, budget and funding of an effective and well governed national regulatory electricity authority were finalized. The reports were subjected to consultative and validation workshops with stakeholders before finalization.

13. The meeting noted that Democratic Republic of Congo (DRC) and Djibouti had already established their national regulators. In this regard, the meeting commended Secretariat for the efforts provided in assisting Member States to establish their national regulators.

14. The meeting further noted that RAERESA would also be working with those countries which had not yet established the national regulator to assist them to do so such as Eritrea, Libya, Somalia and Tunisia.

Review of the Eastern Africa Power Pool (EAPP) and the Southern Africa Power Pool (SAPP) Legal Documentation to Establish Best Practices in Regional Regulatory Objectives and Functions

15. The meeting was informed that CPCS Transcom International Limited in association with Multiconsult Norge AS and Econoler was engaged to provide technical support to enhance market rules for regional energy trading and develop Memorandums of Understanding (MOUs) between the Eastern Africa Power Pool (EAPP) and the Southern Africa Power Pool (SAPP) to support the inter-regional power trading.

16. In this regard, the meeting noted that in the period under review, CPCS finalized the Inter-Regional Economic Community Memorandum of Understanding (MoU) to provide the required governance for the inter-regional power trading between EAPP and SAPP. The Inter-Pool Memorandum of Understanding (MoU) that should allow for cooperation between SAPP and EAPP was also finalized. Further, the commercial arrangements for power trading between EAPP and SAPP, the regional open access guidelines and the market surveillance and compliance reports were also finalized. The meeting also noted that the draft MoUs would be submitted to COMESA, EAC and SADC for finalization and signing. The meeting further noted that a draft Inter-Pool MoU for EAPP and SAPP cooperation should be submitted to the power pools for finalization and signing.

17. Moreover, the meeting noted that the other reports and guidelines should be submitted to COMESA, EAC, SADC, and to the two power pools.

Assist the COMESA Member States to Domesticating Regional Regulatory Rules and Guidelines

18. CPCS was engaged to provide technical support to domesticate the harmonized regulatory framework in 14 Member States in Eastern Africa-Southern Africa-Indian Ocean (EA-SA-IO) region. Work was completed in the period under review, regarding the provision of support to align Member States' national legislation/ regulation with adopted harmonized regional regulatory framework (HRRF).

19. In this regard, the meeting noted the that:

- a. support was provided to 14 Member States, namely: Burundi, Comoros, Democratic Republic of Congo (DRC), Djibouti, Egypt, Ethiopia, Kenya, Madagascar, Malawi, Seychelles, South Sudan, Uganda, Zambia and Zimbabwe;
- b. a report was done for each country summarizing the gaps between national legislations and the regional regulatory framework and recommendations to address the gaps; and
- c. a consolidated report highlighting the overall results of the evaluation of 14 participating states from the EA-SA-IO region, in respect of the alignment of their legal and regulatory frameworks for electricity against the HRRF.
- d. The reports were validated by the respective Member States.

20. The meeting was informed that resources from the project on enhancement of a sustainable regional energy market were used for the implementation of the activities indicated above.

21. The meeting noted that some planned activities were not implemented due to lack of funding and would be rolled over to the 2022 Portfolio Committee's Work Plan.

Recommendation

22. ***The meeting recommended that the progress report on the implementation of the Portfolio Committee work plan activities for 2021 be adopted.***

E. CONSIDERATION OF THE DELIVERABLES OF THE PROJECT ON ENHANCEMENT OF A SUSTAINABLE REGIONAL ENERGY MARKET (ESREM) IN EASTERN AFRICA-SOUTHERN AFRICA-INDIAN OCEAN REGION (EA-SA-IO) REGION UNDER THE PORTFOLIO COMMITTEE ON HARMONIZATION AND LEGAL FRAMEWORKS - AGENDA ITEM 4

23. The meeting received for consideration and adoption, reports and guidelines developed under the Project on enhancement of a Sustainable Regional Energy Market (ESREM) in Eastern Africa, Southern Africa and Indian Ocean (EA-SA-IO) Region which went through consultative process and were validated by the stakeholders. The deliverables were in line with the Portfolio Committee on Harmonized Legal and

Regulatory Frameworks workplan outputs. In this regard, the following reports and guidelines were presented as outlined below.

'Blueprint' Reports for the Establishment and Full Operationalisation of the Proposed National Electricity Regulatory Authority

24. The meeting noted that one of objectives of the ESREM project was to facilitate the establishment of energy regulators in the EA-SA-IO region, was to give impetus to the full establishment of effective energy regulators in those states that currently either have no legislative provision to establish a regulator, or have legislative provisions, but have not yet given full force and effect by creating and staffing the regulatory authority. The meeting further noted that four countries had been selected to participate in this exercise. These countries were Comoros, Djibouti, Democratic Republic of Congo (DRC) and South Sudan.

25. The meeting was informed that the "Blueprint" Reports providing guidelines for the creation and operationalisation of the autonomous electricity regulator were developed under the ESREM Project. The reports were developed for Comoros, Djibouti, Democratic Republic of Congo (DRC) and South Sudan.

26. Further, the meeting was informed that in addition to the "Blueprint" Reports, a second country report describing international best practice on the structure, budget, funding and mandate of an effective and well governed national regulatory electricity authority was also developed for each Country.

Recommendation

27. The meeting noted the "Blueprint" Reports and Country Best Practice Reports for Comoros, Djibouti, Democratic Republic of Congo (DRC) and South Sudan and conditionally recommended that the Reports to be adopted and officially be submitted to the Relevant Member States for their further action, pending the provision of comments by the Members of the Portfolio Committee by the 26th of April 2022.

28. The Blueprint Reports and Country Best Practice Reports for Comoros, Djibouti, Democratic Republic of Congo (DRC) and South Sudan are attached to this report as Annex II.1 to Annex II.8.

Reports on Alignment of Member States' National Legislation/Regulation with Adopted Harmonized Regional Regulatory Framework

29. The meeting was informed that the Framework for Regulatory Oversight for the Regional Energy Market Report was developed under the ESREM Project. The Framework report contains detailed recommendations for the harmonization of regulatory practices across the region to boost development of the interconnected

energy market. The recommendations of that report on regulation, which was adopted by the COMESA Council of Ministers formed the core of the 'harmonized regional regulatory framework' or HRRF.

30. The meeting was informed that technical support was provided under the ESREM project to compare the national legal and regulatory frameworks of a sample of 14 Member States which were representative of the different regions of COMESA including South Sudan, with the Harmonised Regional Regulatory Framework. The Harmonised Regional Regulatory Framework (HRRF) identifies the essential factors that are required to remove barriers to investment and facilitate free trade between Member States. The HRRF sets out the means by which progress towards a better enabling environment for free cross-border trade can be measured

31. The meeting was informed that the output of the study was a single report comparing the overall results of the state of concordance of the 14 MS identified with the regional regulatory framework and individual reports for each participating Member State with more detailed results of its own concordance with the regional regulatory framework and recommendations for increased alignment.

32. The 14 Member States that participated in the study are namely: Burundi, Comoros, Democratic Republic of Congo (DRC), Djibouti, Egypt, Ethiopia, Kenya, Madagascar, Malawi, Seychelles, South Sudan, Uganda, Zambia and Zimbabwe. The reports were presented before the Committee for consideration and adoption.

Recommendation

33. The meeting noted the Consolidated Report and the Individual Country Reports for Burundi, Comoros, Democratic Republic of Congo (DRC), Djibouti, Egypt, Ethiopia, Kenya, Madagascar, Malawi, Seychelles, South Sudan, Uganda, Zambia and Zimbabwe and conditionally recommended that the Reports to be adopted and officially be submitted to the Relevant Member States, pending the provision of comments by the Members of the Portfolio Committee by the 26th of April 2022.

34. The Consolidated Report and the Individual Country Reports for Burundi, Comoros, Democratic Republic of Congo (DRC), Djibouti, Egypt, Ethiopia, Kenya, Madagascar, Malawi, Seychelles, South Sudan, Uganda, Zambia and Zimbabwe. are attached to this report as Annex III.1 to Annex III.15.

Reports on the Review of the Eastern Africa Power Pool (EAPP) and the Southern Africa Power Pool (SAPP) Legal Documentation to Establish Best Practices in Regional Regulatory Objectives and Functions

35. The meeting was informed that an Inter-Regional Economic Community Memorandum of Understanding (MoU) and Inter Power Pool Memorandum of

Understanding (MoU) were developed to operationalize relevant cross-boundary power trading such as the Zambia-Tanzania and Kenya (ZTK) inter-connection. The meeting noted the two MoUs which were aligned to international best practice regarding integrated regional power market and the appropriate regulatory oversight of such regional markets.

36. The meeting noted the following additional reports and guidelines to promote power trading between the Eastern Africa Power Pool (EAPP) and the Southern Africa Power Pool (SAPP) were also finalized:

- a. draft commercial arrangements between EAPP and SAPP;
- b. draft high-level guidelines for initial national open access; and
- c. draft market surveillance and compliance monitoring Report.

Recommendations

37. The meeting noted the draft reports and guidelines and conditionally recommended (pending the provision of comments by the Members of the Portfolio Committee by the 26th of April 2022) that the Reports and guidelines be adopted and officially be submitted as follows:

- a. the draft Inter-Regional Economic Community Memorandum of Understanding (MoU), the draft commercial arrangements for power trading between EAPP and SAPP, the draft regional open access guidelines and the draft market surveillance and compliance report to be submitted to COMESA, EAC and SADC for further consideration; and**
- b. the draft Inter-Pool Memorandum of Understanding (MoU), the draft commercial arrangements for power trading between EAPP and SAPP, the draft regional open access guidelines and the draft market surveillance and compliance report to be submitted to the Eastern Africa Power Pool (EAPP) and the Southern Africa Power Pool (SAPP) for further consideration.**

38. The Draft Inter-Regional Economic Community Memorandum of Understanding (MoU), the draft Inter-Pool Memorandum of Understanding (MoU), the draft commercial arrangements for power trading between EAPP and SAPP, the draft regional open access guidelines and the draft market surveillance and compliance report are attached to this report as Annex IV.1 to Annex IV.5.

F. REVIEW AND ADOPTION OF PLANNED ACTIVITIES FOR THE PERIOD JUNE 2022 – DECEMBER 2023 - AGENDA ITEM 5

39. The meeting was informed that the planned activities for June 2022 to December 2023 were under RAERESA's strategic plan 2017 – 2026. In this regard, the meeting was further informed that resources from the African Development Bank (AfDB) funded Project on Regional Harmonization of Regulatory Frameworks and Tools for Improved

Electricity Regulation in COMESA, among others, would be used to facilitate their implementation.

40. The meeting noted, however, that the following three activities were not funded: 1. Review of national legal frameworks in the oil sector in the COMESA Member States to establish a model petroleum legal framework, 2. Review of national legal frameworks in the LPG sector to develop guidelines for LPG regulations, standards and taxation, as well as programmes for public awareness on the benefit of LPG usage and 3. Review of national legal frameworks in the gas sector in the COMESA Member States to establish a model gas legal framework.

41. In this regard, the meeting guided that the Secretariat should facilitate the mobilization of funding for the activities to be implemented in June 2022 to December 2023, which would not be funded under the African Development Bank funded Project on Regional Harmonization of Regulatory Frameworks and Tools for Improved Electricity Regulation in COMESA.

42. The meeting was informed that possible funding should be explored for the activities that were not implemented in 2021 from initiatives such as the regulatory energy transition accelerator, among others. The meeting guided that a technical working group be formed from member countries with experience in petroleum and gas to assist with the development of the guidelines.

43. The meeting noted the planned activities contained in the RAERESA work plan related to the Portfolio Committee on Harmonization of Legal and Regulatory Frameworks for June 2022 – December 2023. The meeting further noted that the planned activities related to the Portfolio Committee on Harmonization of Legal and Regulatory Frameworks for June 2022 – December 2023 would be consolidated in the RAERESA work plan for June 2022 to December 2023.

Recommendations

44. ***The meeting made the following recommendations:***

- a. adopted the work plan of the Portfolio Committee on Harmonization of Legal and Regulatory Frameworks for June 2022 to December 2023; and***
- b. a technical working group be formed from member countries with experience in petroleum and gas to assist with the development of the required guidelines.***

G. ANY OTHER BUSINESS - AGENDA ITEM 6

45. There were no items discussed under any other business agenda.

**H. ADOPTION OF THE REPORT AND CLOSURE OF THE MEETING - AGENDA
ITEM 7**

Adoption of the Report

46. The meeting adopted the report with amendments.

Closure of the Meeting

47. In her closing remarks, Engineer Salma Hussein who chaired the meeting of the Portfolio Committee on Harmonized Legal and Regulatory Frameworks thanked the Members of the Portfolio Committee for their active participation in the proceedings that had enabled the meeting to successfully adopt its report.

Signature of the Chairperson of the Portfolio Committee on Harmonization of Legal and Regulatory Frameworks of the Regional Association of Energy Regulators for Eastern and Southern Africa (RAERESA):

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19 April 2022

Cairo, Egypt

LIST OF PARTICIPANTS/ LISTE DES PARTICIPANTS

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