

African Union, African Regional Bodies

Convention of the African Energy Commission

Legislation as at 11 July 2001

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PDF created on 5 February 2025 at 08:38.

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FRBR URI: /akn/aa-au/act/convention/2001/african-energy-commission/eng@2001-07-11

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African Union

Convention of the African Energy Commission

Published

Commenced on 13 December 2006

[This is the version of this document at 11 July 2001.]

The Member States of the Organization of African Unity;

RECOGNIZING that severe energy shortages in many African countries have constrained industrial development efforts for many years in spite of the enormous conventional energy potential as well as vast deposits of new and renewable energy resources;

REALIZING the fact that Africa must harness its energy resources and make them available to meet the energy needs of its peoples in order to be able to develop and provide an alternative to deforestation and use of firewood as a primary source of energy;

RECALLING the various Resolutions and Declarations wherein it had been stipulated that the integrated economic development of the African continent is an essential condition for the achievement of the objectives of the Organization of African Unity;

RECALLING FURTHER the Lagos Plan of Action adopted in 1980, the Cairo Agenda for Action adopted in 1995 and the Resolutions of the First Pan African Energy Ministers' Conferences adopted in Tunis in 1995, of the First and Second Regional Conference of African Ministers Responsible for the Development and Utilization of Mineral and Energy Resources held in Accra in 1995 and Durban in 1997, which, *inter alia*, advocate the need for accelerated socio-economic development in Africa, including the sustainable development and exploitation of energy resources, respectively;

RECALLING ALSO the Regulation and Decision adopted by the Council of Ministers meeting in its Seventy-Second and Seventy-Third Ordinary Sessions in Lome, Togo, from 6 to 8 July 2000 and Tripoli, Libya, from 22 to 26 February 2001 endorsing the principle of establishing the African Energy Commission, Regulation CM/OAU/AEC/Regl. 1 (VII), Para.5 and CM/Dec.559 (LXXIII), respectively, as well as the recommendations of the Conference of African Ministers of Energy held in Algiers, Algeria, from 23 to 24 April 2001;

RECOGNIZING the need to co-ordinate the actions of the African countries to develop their energy resources and deal jointly with the various problems relating to their efficient and rational exploitation and utilization, in order to ensure socio-economic development;

REAFFIRMING the provisions of the Treaty Establishing the African Economic Community, in general, and Article 54 (2) (f), in particular wherein it has been provided that Member States of the African Economic Community shall, in the co-ordination and harmonization of their policies and programmes in the field of energy, "establish an adequate mechanism of concerted action and co-ordination for the collective solution of the energy development problems within the community....";

HAVE AGREED as follows:

Chapter I General provisions

Article 1 – Definitions

In this Convention, unless the context requires otherwise,

- (a) "**AFREC**" shall mean the African Energy Commission
- (b) "**Board**" shall mean the Executive Board established by Article 6 of this Convention;

- (c) "**Conference**" shall mean the Conference of Ministers or Authorities responsible for Energy established by Article 6 of this Convention;
- (d) "**Energy**" shall mean new and renewable or non-renewable resource of energy in the natural state or processed, harnessed by humankind.
- (e) "**Treaty**" shall mean the Treaty Establishing the African Economic Community
- (f) "**Regional Economic Community**" or RECs shall mean any African regional economic community established, *inter alia*, to co-ordinate energy development on a regional or sub-regional basis and in compliance with the Treaty's definition.
- (g) "**Member State**" shall mean a Member State of the African Energy Commission established by this Convention.

Article 2 – Establishment

1. There shall be established within the Organization of African Unity, the African Energy Commission.
2. It shall be composed of each Member States of the OAU.

Article 3 – Guiding principles

For the purpose of this Convention, the Member States solemnly affirm and declare their adherence to the following principles:

- (a) Development of the use of energy to promote and support rapid economic and social development, eradication of poverty, combat desertification and improve the standard and quality of life throughout the Member States;
- (b) Co-operation in the area of energy among Member States, particularly through joint development of energy resources and identification and promotion of regional and/or sub-regional projects;
- (c) Development and utilization of sustainable and environmentally sound energy;
- (d) Acceleration of the implementation of the Abuja Treaty through the integrated, co-ordinated and harmonized development and utilization of energy and the development and implementation of energy policies and programmes;
- (e) Promotion of research and development, and the encouragement of transfer of technology in the energy sector;
- (f) Enhancement of integration, collective self-reliance, security and reliability of energy supply among Member States;
- (g) Inter-state, sub-regional and regional co-operation in training and development of human resources in the energy field;
- (h) Harmonization of standards and procedures in the energy sector;
- (i) Promotion of trade and technical assistance in energy among Member States;
- (j) Promotion of partnership among enterprises and institutions of Member States through, *inter alia*, the creation of favourable conditions for that purpose;
- (k) Equitable cost-sharing in the implementation of this Convention in a spirit of good governance and transparency;
- (l) Peaceful settlement of disputes;

Article 4 – Functions of AFREC

AFREC shall have the following functions, namely to:

- (a) Map out energy development policies, strategies and plans based on sub-regional, regional and continental development priorities and recommend their implementation;
- (b) Design, create and up date an energy continental data base and facilitate rapid dissemination of information and exchange of information among Member States, as well as among the Regional Economic Communities (RECs);
- (c) Advise and encourage the development of human resources in the energy sector in particular, through training;
- (d) Mobilize financial resources to provide to Member States and the Regional Economic Communities with all the necessary assistance for the development of their energy sectors;
- (e) Encourage research and development in the energy sector;
- (f) Develop trade and transit of energy goods and services among Member States, particularly through the identification and removal of barriers;
- (g) Provide technical assistance to Member States, Regional Economic Communities and other stake holders in the African energy sectors;
- (h) Recommend the use of harmonized standards and procedures in the energy sector;
- (i) Establish the necessary mechanisms for the exploitation and utilization of energy resources of the continent in an optimal manner with the aim of complementarity;
- (j) Undertake the harmonisation and rationalization of energy development and utilization programmes;
- (k) Promote among Member States the identification and the adoption and implementation of effective measures to prevent environmental pollution particularly in the exploitation, transportation, storage, distribution, and utilization of the continent's energy resources the control of the system and mechanism for the pricing and tariffication of energy;
- (l) Work towards the realization of added value to energy resources in Member States;
- (m) Assist in the development and utilization of new and renewable sources of energy;
- (n) Provide assistance in feasibility study for energy projects and its adverse impact on the environment;
- (o) Perform any other activity that may be necessary for realization of the above objectives;

Article 5 – Headquarters of AFREC

The Headquarters of AFREC shall be in Algiers, in the People's Democratic Republic of Algeria.

Article 6 – Structure

The organs of the AFREC shall be:

- (a) The Conference of Ministers or Authorities responsible for Energy;
- (b) The Executive Board;
- (c) The Secretariat;
- (d) The Technical Advisory Body; and
- (e) Other subsidiary organs that may be established in accordance with the provisions of this Convention.

Chapter II Management

Article 7 – The Conference - Powers and duties

1. The Conference shall be the highest authority of the Commission.
2. It shall meet in ordinary session once every two (2) years at the Headquarters of the Commission or in any Member State upon the recommendation of the Conference. It may meet in extra-ordinary session at the request of the Executive Board or a Member State and subject to the concurrence of at least two-thirds of the Member States of the Commission.
3. Without prejudice to the generality of the foregoing, the Conference shall, in particular.
 - (a) Discuss the general policy and approve the work programmes of the Commission and evaluate their implementation;
 - (b) Consider and approve the Commission's budget and examine the auditors' report;
 - (c) Adopt its Rules of Procedure;
 - (d) Approve the Commission's Staff Rules and Regulations and Financial Rules and Regulations;
 - (e) Elect its Bureau;
 - (f) Approve, on the proposal of the Executive Board the appointment and removal of the Executive Director of the Commission, in accordance with this Convention and the internal regulations;
 - (g) Elect Member States to serve on the Executive Board of the Commission;
 - (h) Approve the organizational structure of the Secretariat.

Article 8 – Executive Board

1. The Board shall serve for a period of two years.
2. It shall hold one ordinary meeting every year at the Headquarters of the Commission or in any Member State upon the recommendation of the Board. It may also meet in extra-ordinary session under conditions to be specified in the Rules of Procedure of the Commission;
3. It shall be composed as follows:
 - (a) Fifteen senior energy experts representing Member States, elected on the basis of the OAU criteria for geographical representation and on a rotational basis;
 - (b) Senior energy expert of the Organization of African Unity representing the Secretary-General;
 - (c) One duly appointed representative of each of the RECs, *ex-officio*;
 - (d) One duly appointed representative of the Union of Producers, Conveyors and Distributors of Electric Power in Africa (UPEDEA), *ex-officio*;
 - (e) A senior energy expert of the African Development Bank, *ex-officio*;
 - (f) A senior energy expert of the United Nations Economic Commission for Africa, *ex-officio*;
 - (g) The Executive Director who shall serve as the Secretary of the Board.
4. The Board shall be answerable to the Conference.

5. Without prejudice to the generality of the foregoing, the Board shall, in particular, be responsible for the following:
 - (a) Prepare and submit the provisional work programmes, studies, projects, and the Commission's annual budget for the consideration of the Conference;
 - (b) Submit a periodic report on the activities of the Commission to the Conference;
 - (c) Determine the terms and conditions of service of the staff of the Commission;
 - (d) Prepare for the meetings of the Conference;
 - (e) Recommend the appointment and the removal of the Executive Director of the Commission;
 - (f) Perform any other function that may be assigned to it by the Conference.

Article 9 – The Secretariat - Powers and duties

1. The Secretariat of the Commission shall be headed by the Executive Director. He/she shall be assisted by the necessary staff.
2. The Secretariat shall in particular:
 - (a) Provide Secretarial services to all the sessions of the Commission's organs;
 - (b) Be responsible for the day to day management of the Commission;
 - (c) Follow-up on the implementation of decisions of the Conference and the Board;
 - (d) Keep in custody the documents, files and other data relating or relevant to the work of the Commission;
 - (e) Keep an inventory of the energy resources, requirements, legislation, and programmes of Member States, RECs and other parties;
 - (f) Prepare of Agenda, documents and provisional work programmes for consideration by the Board;
 - (g) Prepare and submit the draft Programme-Budget, annual report, balance sheet and financial statements for submission to the Conference for its consideration and appropriate action, subject to previous study by the Executive Board;
 - (h) Prepare and submit reports on the activities of the Commission;
 - (i) Convene meetings, symposiums, exhibitions as well as groups and panels of experts it considers necessary for the implementation of its work programmes and of the activities entrusted to it by the Conference or the Executive Board;
 - (j) Initiate studies, collect and analyse information and data;
 - (k) Perform any other duty that may be entrusted to it by the Conference and/or the Executive Board;

Article 10 – The Executive Director - Functions

1. The Executive Director, appointed for a renewable mandate of four years, shall direct the affairs of the Secretariat and is responsible for the performance of its duties.
2. He/she is the accounting officer of the Commission and is responsible for the proper administration of the budget.

3. Without any prejudice to the generality of the foregoing, the Executive Director shall, in particular,
 - (a) Follow-up and ensure the implementation of the decisions of the Conference and the Executive Board.
 - (b) Provide secretarial services to the Conference and the Executive Board;
 - (c) Act as the legal representative of the Commission;
 - (d) Appoint and remove in accordance with conditions to be laid down in the internal regulations, the administrative and technical personnel of the Secretariat; and
 - (e) Ensure the geographical and equitable distribution of the Secretariat's personnel;
 - (f) Performing other functions that may be assigned to it by the Conference.

Article 11 – Technical Advisory Body

1. The Technical Advisory Body shall comprise the RECs, Joint Secretariat of the OAU/ECA/ADB/UN Agencies operating in the energy sector such as UNEP, UNDP, UNDESA, UNIDO, FAO and UNESCO as well as relevant regional and sub-regional entities dealing with energy as the World Energy Council (WEC).
2. It shall be a consultative forum on energy policies, programmes, projects and related activities. It shall provide, more particularly, advisory and technical assistance to the Commission.

Article 12 – Rules of procedure

The Commission shall determine its own rules of procedure. The Rules will provide, *inter alia*, for the quorum and the procedures for decision making by the Commission.

Article 13 – Observers

The Conference may establish modalities, in the Rules of Procedure, for granting Observer status and for the participation of invited guests in its sessions.

Article 14 – Obligations

1. In the performance of their duties, the Executive Director and the staff shall not receive instructions from any Government or from any other authority external to organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.
2. Each Member State undertakes to respect the exclusive character of the responsibilities of the Executive Director and the staff and not to seek to influence them in the discharge of their responsibilities.

Chapter III

Assets, financial resources and audit

Article 15 – Assets of the Commission

The assets of the Commission shall consist of acquisitions by gift or purchase.

Article 16 – Financial resources

1. The Budget of the Commission approved by the Conference shall, subject to such Financial Rules and Regulations as may be adopted, be administered by the Executive Director of the Commission under the supervision of the Board.
2. The financial resources of the Commission shall consist of,
 - (a) Annual contributions by the Member States;
 - (b) Special contributions from the Member States;
 - (c) The Commission’s remuneration for any services that it renders;
 - (d) Gifts, bequests and other donations
 - (e) Other sources as may be approved by the Board.

Article 17 – Audit

The books of accounts of the Commission shall be audited by external auditors approved by the Conference.

Article 18 – Payment of contributions

1. Members of the Commission undertake to pay their assessed contributions regularly;
2. Any Member with outstanding arrears of contributions to the regular budget of the Commission equal to or greater than its assessed contribution for the previous two complete fiscal years shall be deprived of the right to take the floor, to vote and to present candidates for any post in any of the organs of the Commission.

Chapter IV

Miscellaneous provisions

Article 19 – Status, privileges and immunities

The Commission, its property and assets and staff shall enjoy in the territory of each State party to this Constitution the privileges and immunities provided for in the OAU General Convention on Privileges and Immunities. In this regard, the Commission shall conclude with the Member State in whose territory its Headquarters is established a Host Agreement.

Article 20 – Amendment

1. Any Member State may submit its written proposals for the amendment of this Convention to the Executive Director who shall transmit the same to all the Member States of the Commission, within a period not exceeding three months following the receipt by the Secretariat of the proposed amendment.
2. The proposed amendment shall not be submitted to the Conference for consideration until all the members have been duly notified of it and a period of one year has elapsed.
3. Such an amendment shall require approval by at least two-thirds of all the Member States.

Article 21 – Cessation of Membership

1. Any State which desires to withdraw or renounce its Membership shall forward a written notification to the Executive Director. At the end of one year from the date of such notification, if not withdrawn, the Convention shall cease to apply with respect to the renouncing State, which, shall thereby cease to be a Member.
2. A member that has submitted a notice of withdrawal in accordance with sub-article (1) of this Article shall, during the period of notice, exercise all the rights and obligations of a member in accordance with the provisions of this Convention.
3. The Conference shall have the power to suspend, under conditions to be specified, any member from the Commission where it decides by two thirds majority of the votes of all members that such a member has failed to discharge its obligations in accordance with the provisions of this Convention.

Article 22 – Official languages

The official languages of the Commission shall be those of the Organization of African Unity.

Article 23 – Special relations with Regional Economic Communities and International Organizations

The Commission may enter into such co-operation agreements with the Regional Economic Communities and International Organizations as the Conference may decide, on the recommendation of the Board.

Article 24 – Subsidiary bodies

The Conference may establish such subsidiary bodies and ad-hoc working groups, as it may deem necessary.

Article 25 – Depository of the Convention

1. The instruments of ratification or accession to this Convention shall be deposited with the Secretary-General of the OAU.
2. The Secretary-General of the Organization of African Unity shall transmit certified copies of this Convention and information concerning ratification, acceptance and approval of, or accession to this Convention to all States.
3. The functions of the Secretariat of the Commission shall, prior to its establishment, be performed by the interim structure established by Article 26 of this Convention, which shall, in collaboration with the General Secretariat of the Organization of African Unity, convene the first meeting of the Conference.

Article 26 – Transitional arrangements

Following the adoption of this Convention by the Member States of the OAU, and pending its entry into force, the General Secretariat of the OAU shall, in close cooperation and consultation with the host country and the members of the Bureau of the Conference of African Ministers of Energy, undertake the necessary measures to appoint the required staff and to set up an interim structure in order to facilitate the speedy establishment of AFREC in accordance with this Convention.

Article 27 – Ratification, accession and entry into force

1. This Convention shall be open for signature and ratification or accession by any Member State of the OAU.

2. This Convention shall come into force thirty days after fifteen instruments of ratification have been deposited.
3. For any State acceding subsequently, this Convention shall come into force in respect of that State on the date of the deposit of its instrument of ratification or accession.
4. The Secretary General of the OAU shall inform all Member States of the entry into force of this Convention.

IN FAITH WHEREOF, WE the representatives of Member States of the Organization of African Unity have signed this Convention.

Done at Lusaka, Zambia, on 11 July, 2001