

Economic Community of West African States, African Regional Bodies

Supplementary Act A/SA.2/01/08 Establishing the ECOWAS Regional Electricity Regulatory Authority

Act 1-2 of 2008

Legislation as at 18 January 2008

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Economic Community of West African States

Supplementary Act A/SA.2/01/08 Establishing the ECOWAS Regional Electricity Regulatory Authority Act 1-2 of 2008

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[This is the version of this document at 18 January 2008.]

The High Contracting Parties,

MINDFUL of Articles 7, 8 and 9 of the ECOWAS Treaty as amended, establishing the Authority of Heads of States and Government and defining its composition and functions;

MINDFUL of Articles 26, 28, and 55 of the ECOWAS Treaty relating to the promotion, cooperation, integration and development of energy projects and sectors of the Member States of the Community;

MINDFUL of Protocol A/P4/1/03 of 31 January 2003, henceforth referred to as « the ECOWAS Energy Protocol » establishing the legal framework intended to promote long term cooperation in the ECOWAS energy sector based on complementarities and mutual benefit, with a view to achieving increased investment in the energy sector and increased energy trade in the West African region;

MINDFUL of Article 31 (n) of the Energy Protocol requesting the Meeting of Energy Ministers of ECOWAS Member States to establish regulatory bodies for energy systems, programs and projects;

MINDFUL of Decision A/DEC.3/5/82 of the Authority of Heads of State and Government relating to the energy policy of ECOWAS;

MINDFUL of Decision A/DEC.5/12/99 of the Authority of Heads of State and Government of 10 December 1999 relating to the establishment of a West African Power Pool (WAPP);

MINDFUL of Decision A/DEC. 6/01/05 of the Authority of Heads of State and Government of 19 January 2005 relating to the development of a regional regulatory framework for the power sector within ECOWAS as a prelude to the establishment of a Regional Regulatory Body;

CONSIDERING that the Supplementary Act relating to the regional regulation of ECOWAS Electricity sector seeks to institute a Regulatory Authority for the West African Electricity Sector in order to foster open and transparent cross-border electricity exchanges within the ECOWAS sub-region, to ensure improved efficiency of power supply in ECOWAS Member States and increased access to energy for its citizens;

DESIROUS to endow the Community with a mechanism for cooperation between National Regulatory Authorities and to this end, to establish a Regional Electricity Regulatory Authority with a view to entrenching best practices in contractual trans-boundary power transactions;

AGREE AS FOLLOWS:

Article 1 – Establishment and denomination

A regional structure charged with regulating cross border electricity exchanges between ECOWAS member States and designated as the "ECOWAS Regional Electricity Regulatory Authority (ERERA)" is hereby established.

Article 2

1. The ERERA shall be a Specialised Institution of ECOWAS and shall have the status of a legal entity, the independence and the autonomy necessary for carrying out its missions and exercising the powers granted it by the Regulation relating to its composition, organisation, functions and operation.
2. The ERERA shall, across the entire territory of all ECOWAS member States, have the legal capacity to exercise its functions as provided for by this Supplementary Act.

Article 3 – Headquarters

The Authority of Heads of State and Government shall determine the Headquarters of ERERA.

Article 4 – Scope of application

1. All signatory States and legal persons governed by public or private law operating in the regional market shall be subject to this Supplementary Act, whether or not their headquarters is located on the territory of one of the Member States.
2. The ERERA shall have jurisdiction over the territory of all ECOWAS member States in their relations in the area of cross-border exchanges of electricity through the power transmission network.
3. The implementation regulations, resolutions, decisions and any other Community Act taken by ERERA within the framework of the execution of the said missions, shall be binding on the territory of all ECOWAS member States.

Article 5 – Publication

This Supplementary Act shall be published by the Commission in the Official Journal of the Community within thirty (30) days of the date of its signing by the Authority. It shall also be published by each Member State in its Official *Gazette* within the same time frame.

Article 6 – Entry into force

1. This Supplementary Act shall enter into force upon its publication. Consequently, the signatory Member States and Institutions of ECOWAS pledge to commence the implementation of its provisions immediately upon its entry into force.
2. This Supplementary Act shall be annexed to the ECOWAS Treaty, of which it shall form an integral part.

Article 7 – Depository authority

This Supplementary Act shall be deposited with the Commission, which shall transmit certified copies thereof to all the Member States and shall ensure its registration with the African Union, the United Nations Organisation and any other organisation designated by the Council.

IN FAITH WHEREOF WE, the heads of state and Government of the Economic Community of West African States, have signed this supplementary Act

Done at Ouagadougou, this 18th day of January, 2008

In a single original, in English, French and Portuguese, all texts being equally authentic