

# ***West African Power Sector Regional Regulation Project***



## ***Establishment of the ECOWAS Regional Electricity sector Regulatory Authority (ERERA)***

*Issa M. DIAW, RRDO*

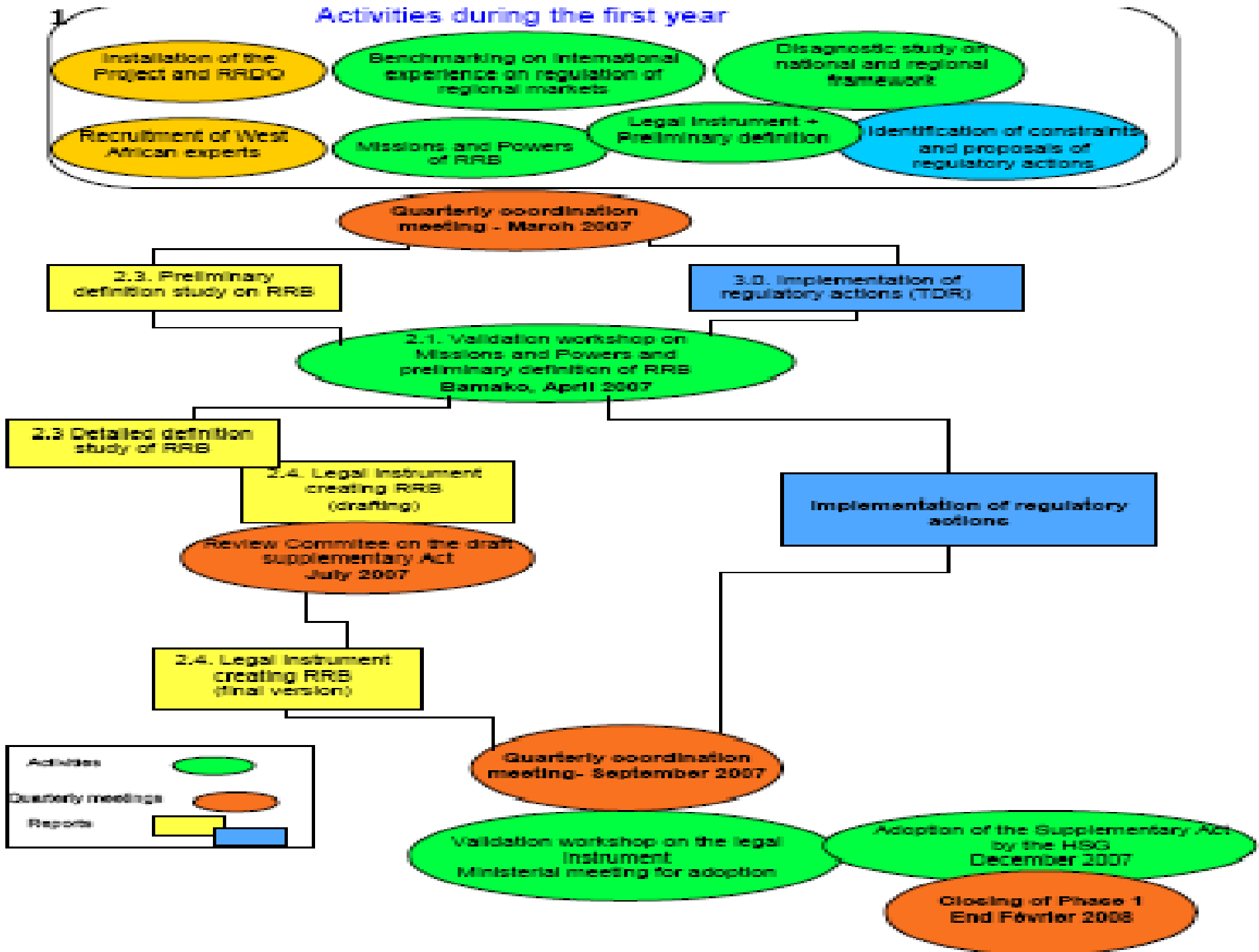
*WAPP Donors Meeting  
Abuja, 23 October 2007*



# Outline

- **Activities so far**
- **Reminding of Missions and Powers adopted in Bamako**
- **Organization**
- **Supplementary Act on Regional Regulation**
- **Budget & Financing**
- **Next steps**

# Activities during the first year



# Activities so far

- March 2006: Launching of RRDO
- June 2006: Diagnosis of the national power sector & exchanges between ECOWAS countries
- July 2006: Review of legal and regulatory framework at national and regional level + Identification of constraints
- September 2006: Proposal of Regulatory actions;
- September 2006: Benchmarking Regional Regulation mechanisms;
- November 2006: Proposal of Missions and Powers for ERETA + Definition of the legal instrument to create ERETA;
- April 2007: Regional Validation Forum in Bamako  
(Missions and Powers / Regulatory actions);
- Quarterly coordination meetings (ECOWAS Commission-AFD-WAPP) +2 coordination meetings with WAPP Secretariat in Cotonou

# CONCLUSIONS OF THE BAMAKO FORUM

1. Recommendation on the market
2. Adoption of general principles on the EREERA Competence
3. Adoption of thge proposed EREERA missions
4. Adoption of the type of legal instrument
5. Validation of proposed regulatory actions

# CONCLUSIONS OF THE BAMAKO FORUM

## *Adoption of the proposed ERETA Missions*

- 1. Contribute to setting up a regulatory and economic environment suitable to the development of public and private investments (Energy protocol)**
- 2. Ensure regulation of regional electricity exchanges**
  - *Respect of regulations and condition for network access and entry into the market*
  - *Prevention and sanction of anti-competitive practices*
  - *Performance monitoring*
- 3. Assist ECOWAS Commission (regional policy / harmonization of policies and national power structures)**
- 4. Support the establishment of the regional market and its opening to competition**

# CONCLUSIONS OF THE BAMAKO FORUM

## *Adoption of the proposed EREERA Missions*

5. **Supervise regional market operation**
6. **Ensure communication with and between actors in the sector**
7. **Establish efficient procedures for dispute resolution between stakeholders (mediation, conciliation, arbitration), then control proper application**
8. **Assist national regulators at their request**
9. **Provide assistance and advice to actors who request it**

# POWERS OF ERERA

- ***Enact , set, specify or interpret technical and commercial rules on the cross-border power exchanges rules***
- ***Authorize, approve and control Market activities***
- ***Initiate investigations and audits***
- ***Sanction breaches and violation of established rules***
- ***Make recommendations***

# CONCLUSIONS OF THE BAMAKO FORUM

## *Adoption of demonstrative regulatory actions*

1. **Dissemination of best practices in IPP contracts and PPP projects (PPIAF)**
2. **Assistance to OMVS and OMVG on the facilitation of exchanges of energy from Manantali and the preparation of the integration to the regional grid; (External consultant)**
3. ***Assistance on transmission tariffs for the Ghana-Burkina Faso interconnection project;***
4. **OSMP Review (PPIAF)**
5. **Benchmarking (ICEA)**
6. **Assistance to OMVS regulators in the Implementation of TPA (ICEA)**

# Activities so far

- July 07: Detailed design Part A (Organization) + Draft Supplementary Act
- July 30-August 1<sup>st</sup> 07: Review Committee on the draft legal instrument
- Sept 07: Detailed design Part B (Budget & Ressources).

# ORGANIZATION OF ERERA

## ***WAPP Steering Committee Resolution***

***(Accra 5 April 2002):***

- ***«The regional regulatory entity to formed shall be adequately staffed and comprise a five member decisional body of the highest level of expertise available in the professional fields relevant ».***
- ***«The entity shall reflect a balance of these relevant fields and the different parts of the ECOWAS region».***

# ORGANIZATION OF ERERA

## *General Principles*

***Regulatory authorities or bodies comprise of :***

- ***a decision-making authority composed of regulators, and***
- ***a support structure made up of staff responsible for administrative and financial management, preparation of decisions and implementation of daily regulatory activities.***

**BUT**

- ***Differences in the way they interact***
  - ***Permanent members or not***
  - ***Involvement in the daily management or not***
- ***Organization based on functions or area of competence***

# ORGANIZATION OF ERERA

## *Decision making body*

### **NON PERMANENT**

- ***Lower Cost of operation***
- ***Conflict of interest excluding most of the sector expert***
- ***Limited independence of members***
- ***Delays in the decision making process***

### **PERMANENT**

- ***High cost of operation***
- ***Better and speedy reaction***
- ***Difficulty to mobilize highly qualified expertise***
- ***Easier to build legitimacy***
- ***Independence and conflict of interest easier to ensure***

***Permanent Council was recommended provided budget resources are available***

# ORGANIZATION OF ERERA

## Supporting Body

*3 three essential functions :*

- *Provide expertise to assist the decision-making body*
- *Daily administrative and financial management of the resources*
- *External relations (management of cooperative relations with other institutions & market participants) : communication, processing of complaints, exchange of information and documents, publication of decisions and reports...*

# ORGANIZATION OF ERERA

## Supporting Body

- *Organization by function*

*setting up units of experts to accomplish the principal tasks of the missions and powers assigned to RRB (Policy & Planning, technical regulation, regional market and competition, Information system, Dispute resolution)*

*=> enable proper preparation and implementation but require significant human resources without using them permanently. (or use of external consultants vs. internal experience).*

- *Organisation by area of competence*

*pooling experts according to areas of competence require for the performance of the regulatory task (Economist, Engineer, Legal, communication, Finance)*

*=> Fewer resources but strong coordination needed.*

# ORGANIZATION OF ERERA

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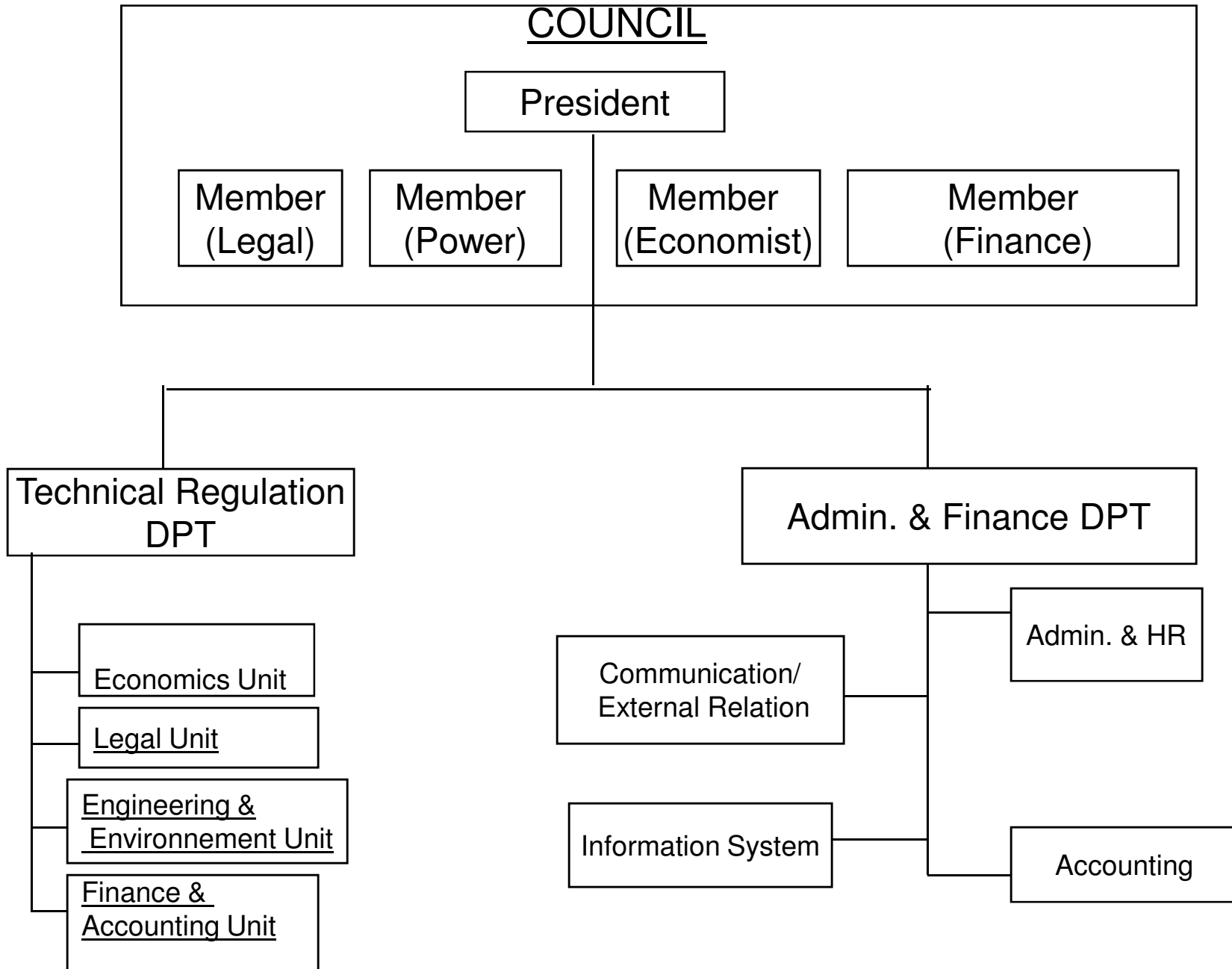
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- ***Organisation by area of competence***

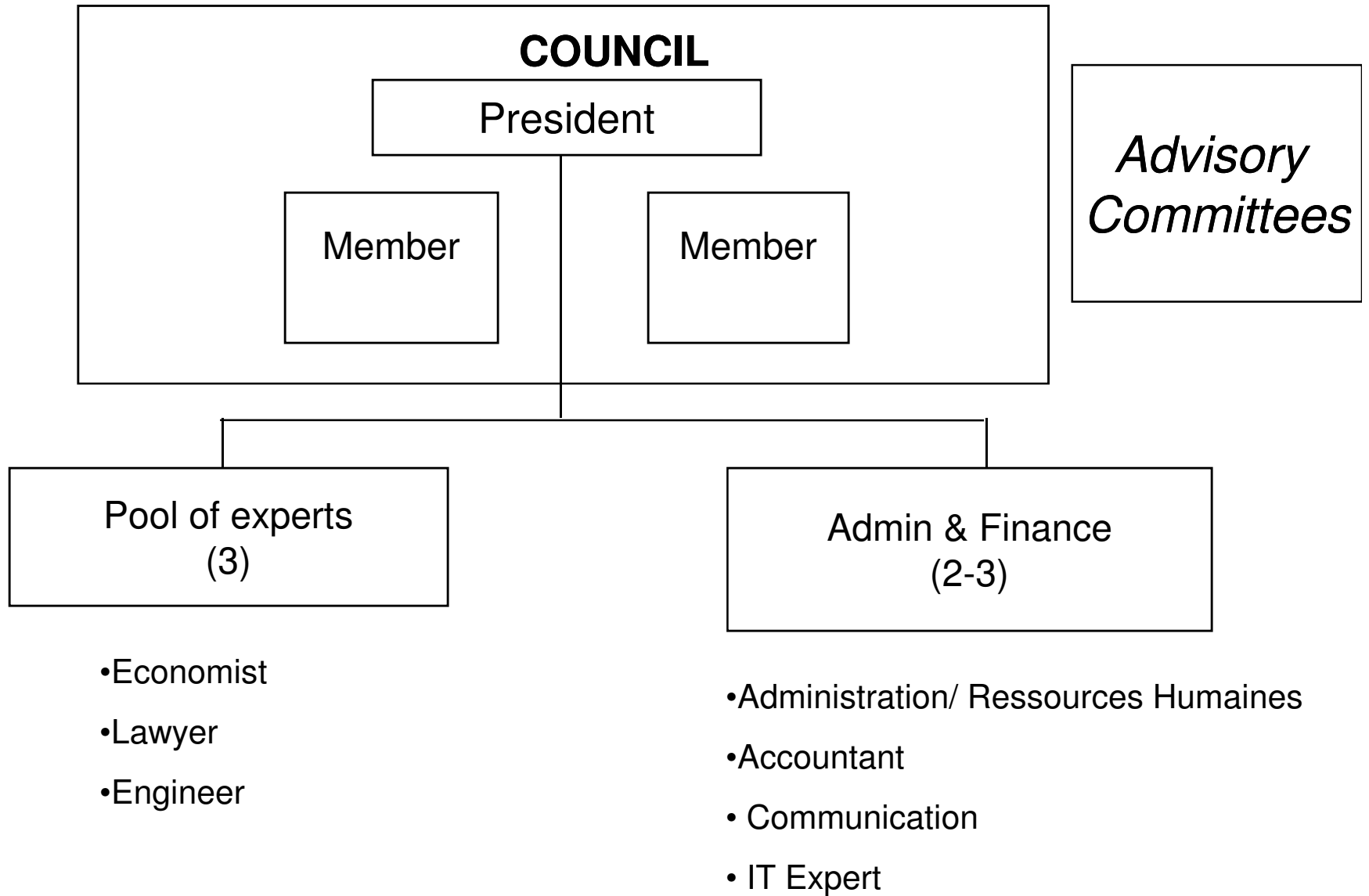
***pooling experts according to areas of competence require for the performance of the regulatory task (Economist, Engineer, Legal, communication, Finance)***

***=> Fewer resources but strong coordination needed.***

## TARGET ORGANIZATION OF ERERA (After audit)



**INITIAL ORGANIZATION OF ERERA**  
*(still under discussion)*



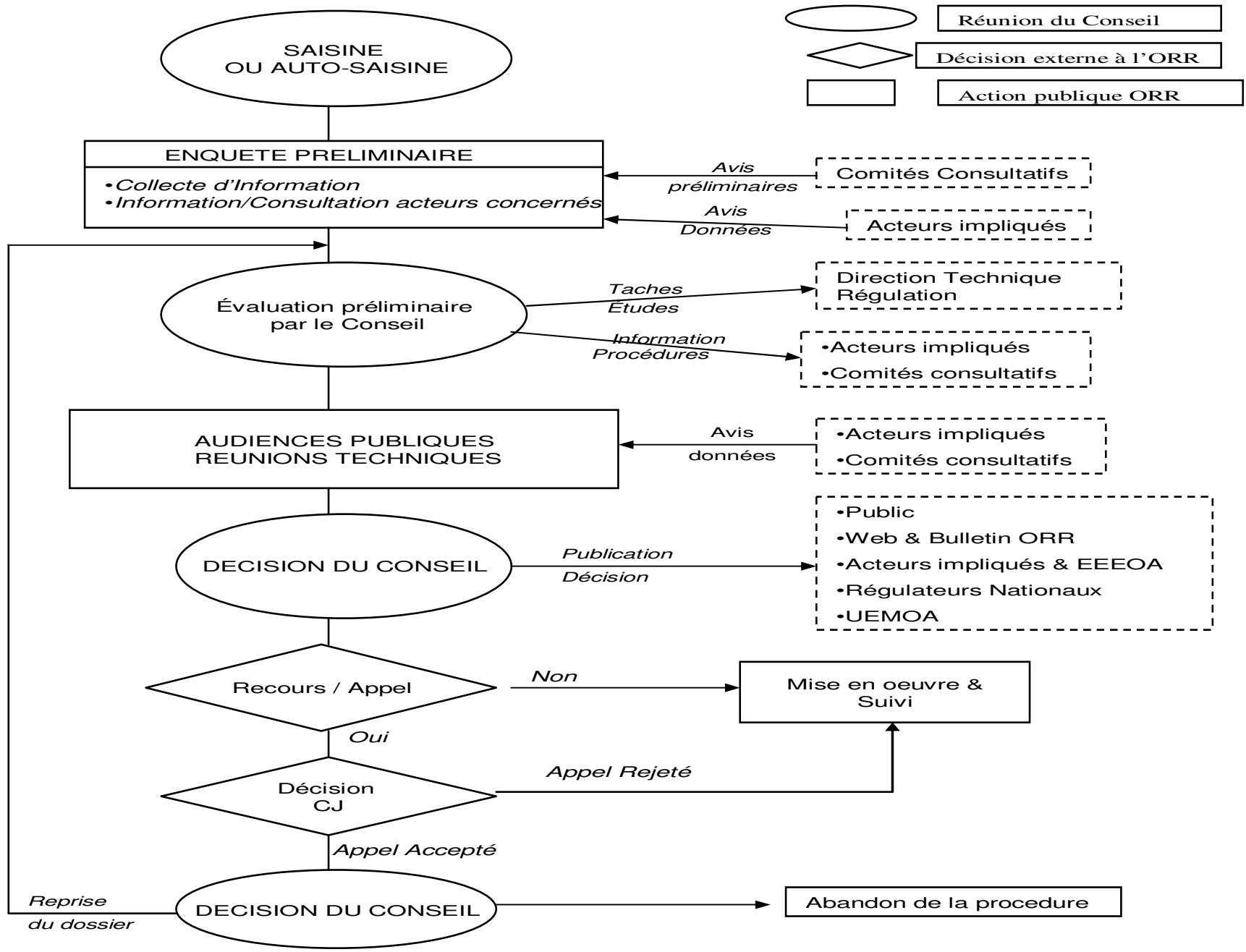
# Status of the Council Members

## Status vs. Decision Making Process

- Independence in decision making limited to the areas mentioned in the Act
- Autonomy balanced by a process of appeal which allow stakeholders to challenge Council decisions.
- Council Members shall be responsible and accountable for their decisions.

## Safeguard provisions in the Act

- Appointment by Head of States and Governments*
- Fixed tenure*
- *No dismissal except on ground of serious misconduct or conviction of criminal offence*
- *immunity*
- Incompatibility vs. conflict of interest*



# OUTLINE OF THE SUPPLEMENTARY ACT

- ***PREAMBLE***
- ***CHAPTER I : GENERAL PROVISIONS***  
*(Définitions, Market Principles and regulation principles)*
- ***CHAPTER II : ESTABLISHMENT OF THE REGIONAL REGULATORY BODY***  
*(Dénomination, Status, Headquarters location, area of application)*
- ***CHAPTER III : MISSIONS AND POWERS***
- ***CHAPTER IV : ORGANIZATION OF ERERA***
- ***CHAPTER V: FUNCTIONING OF ERERA***
- ***CHAPTER VI : RULES FOR PROCEEDINGS***
- ***CHAPTER VII : DISPUTE RESOLUTION, SANCTION AND APPEAL***
- ***CHAPTER VIII : FINANCIAL AND ACCOUNTING PROVISIONS***
- ***CHAPTER IX : FINAL PROVISIONS***

# Activity Program

*(Bamako Forum)*

## **Activity 1: Setting up of ERETA ( 2008-2011)**

- Recruitment of council members and support staff
- Establishment of its physical headquarters,
- Adoption of working tools (internal regulations and procedures)
- Continuation of the regulatory actions initiated by the RRDO.

# Activity Program

*(Bamako Forum)*

## **Activity 2: Organization & Setting up of the regional market**

### **2.1. improvement of the current market and preparation for market opening**

:

- Increasing reliability and rationalization of existing exchanges via adoption of more harmonized technical and commercial rules
- Definition of the market and preparation of ECOWAS Directives for its implementation ;
- Expansion of exchanges via preparation of a short-term market

### **2.2. Monitoring/supervision of the existing market and prepare for the establishment of the regional whole-sale market.**

- Improving and completing the current market
- preparing the launching of the whole-sale regional market and harmonizing rules and institutions.

# Budget

Rubrique	2008	2009	2010	2011
Activité 1	233 198	224 478	139 492	15 000
Activité 2	30 000	95 381	176 863	262 896
Charges de personnel	297772,08	741282,03	741282,03	741282,03
Equipement	105 735	117 330	13 000	13 000
Fonctionnement	172974	505985	421129	521129
Imprévus (5%)	41984	84223	74588	77665
<b>Total</b>	<b>881663</b>	<b>1768679</b>	<b>1566354</b>	<b>1630972</b>

# Tentative Financing Plan (Still under discussion)

Source	2008	2009	2010	2011
AFD	500 000	1 200 000,00	1 000 000	800 000
CEDEAO	0	200000	150000	100000
Autres bailleurs	381 663	368 679	216 354	330 972
Secteur	0	0,00	200 000	400 000
<b>Total Budget</b>	<b>881 663</b>	<b>1 768 679</b>	<b>1 566 354</b>	<b>1 630 972</b>

# Tentative Financing Plan

Estimation of contribution  
(Still under discussion)

## 2.1. Assumptions :

- 1/3 of the financing shared between market participants based on their capacity;
- 2/3 as a fixed tax on power energy export
- Average export quantity 2009-2011: 3156 GWh

## 2.2. Tax estimation

Optimistic scenario (AFD, ECOWAS and other donors on board)

Pessimistic scenario (AFD only on board):

¢€/MWh	2008	2009	2010	2011
Pessimistic	7,98	11,89	11,84	17,38
Optimistic	0	0	4,18	8,37

# Next Steps

- **Implementation Committee Meeting (Lomé 12-14 November 2007)**
- **Adoption of the Supplementary Act & Starting strategy by the ECOWAS Energy Ministers Meeting (Lomé, 16 November 2007)**
- **Adoption of the Supplementary Act by ECOWAS Heads of States and Governments (mid - December)**
- **2008 : Recruitment & Physical installation / Finalization of procedures**
- **End 2008 and early 2009: Council ready to operate**